



Planning and Strategy Committee of the Whole

AGENDA

13 October 2021

Commencing at 5.30pm

In light of the COVID-19, this meeting will be held remotely. Presentations can either be made in writing or by attending a Zoom meeting - see Public Involvement at Meetings on Council's website.

On-site Inspections - Nil

Council at its meeting of 23 November 2016 resolved (M/N 295/16) as follows:

The Planning and Strategy Committee of the Whole be delegated authority in accordance with Section 377 of the *Local Government Act 1993* to determine matters pursuant to the:

- *Environmental Planning and Assessment Act 1979*
- *Local Government Act 1993*
- *Swimming Pools Act 1992*
- *Roads Act 1993*
- *Public Health Act 2010*
- *Heritage Act 1977*
- *Protection of the Environment Operations Act 1997*

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Confidential - Not for Publication

13 REPORTS FOR CLOSED SESSION

- 13.1 Consideration of Legal Action Relating to Unauthorised Development at a Property in Googong

Item 13.1 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.

14 CONCLUSION OF THE MEETING

SUPPLEMENTARY REPORT:

Letter to Minister requesting Exemption to Local Government (General) regulation 2021 Caretaker Period

LIST OF ATTACHMENTS

Open Attachments

- Item 8.1 Review of Determination - REV.2021.1000 - Request for Review of Council's Refusal of DA.2020.1172 - Additions and Alterations to a Rural Supplies Premises - 121 Wallace Street, Braidwood
- Attachment 1 REV.2021.1000 - Amended Plans for S8.2 Review - 121 Wallace Street Braidwood (Under Separate Cover)*
- Attachment 2 REV.2021.1000 - Combined Submissions - Redacted - 121 Wallace Street Braidwood (Under Separate Cover)*
- Attachment 3 REV.2021.1000 - Draft Conditions fo Consent - 121 Wallace Street, Braidwood (Under Separate Cover)*
- Attachment 4 Original Council Report -16 December 2020 - DA.2020.1172 - 121 Wallace Street Braidwood (Under Separate Cover)*
- Attachment 5 Original Section 4.15 Assessment - DA.2020.1172 - 121 Wallace Street Braidwood (Under Separate Cover)*
- Attachment 6 Original Plans - DA.2020.1172 - 121 Wallace Street Braidwood (Under Separate Cover)*
- Item 8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra
- Attachment 1 DA.2020.1109 - Section 4.15 Assessment Report - Matters for Consideration - 128 Bicentennial Drive, Jerrabomberra (Under Separate Cover)*
- Attachment 2 DA.2020.1109 - Plans May 2021 - 128 Bicentennial Drive, Jerrabomberra (Under Separate Cover)*
- Attachment 3 DA.2020.1109 - Car Parking Plan May 2021 - 128 Bicentennial Drive, Jerrabomberra (Under Separate Cover)*
- Attachment 4 DA.2019.1109 - Submissions (Redacted) to original DA - 128 Bicentennial Drive, Jerrabomberra (Under Separate Cover)*

**QUEANBEYAN-PALERANG REGIONAL COUNCIL
PLANNING AND STRATEGY COMMITTEE OF THE WHOLE**

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- Item 8.5 IPART - Rate Peg Review with Population Growth
Attachment 1 Summary of Finding - IPART Review of Rate Peg (Under Separate Cover)
Attachment 2 RCNSW LGAs - Notional Population Peg Comparison (Under Separate Cover)
- Item 8.6 Long Term Financial Plan
Attachment 1 Financial Risk Assessment (Under Separate Cover)
Attachment 2 Proposed SRV - Information (Under Separate Cover)
Attachment 3 Draft Long Term Financial Plan 2021-31 (Under Separate Cover)
- Item 10.1 Minutes of QPRC Heritage Advisory September 2021
Attachment 1 Minutes of the QPRC Heritage Advisory Meeting held on 16 September 2021 (Under Separate Cover)

Closed Attachments

- Item 13.1 Consideration of Legal Action Relating to Unauthorised Development at a Property in Googong
Attachment 1 Letter from Lawyers Sent to Owners on 28 April 2021
Attachment 2 Notice of Entry Issued to Owners on 22 June 2021
Attachment 3 Letter from Lawyers Sent to Owners on 5 August 2021
Attachment 4 Lawyer Letter to Council
Attachment 5 Aerial Photo

ITEM 4 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.

8.1 Review of Determination - REV.2021.1000 - Request for Review of Council's Refusal of DA.2020.1172 - Additions and Alterations to a Rural Supplies Premises - 121 Wallace Street, Braidwood (Ref: ; Author: Thompson/Glouftsis)

File Reference: DA.2020.1172 / REV.2021.1000

Summary

Reason for Referral to Council

Council has received an application under Section 8.2 of the *Environmental Planning and Assessment Act 1979* to review DA.2020.1172. The DA was previously refused by Council at its meeting of 16 December 2020. As the previous determination was made by Council, only Council can determine the Review.

Proposal:	Section 8.2 Review of Determination: Additions and Alterations to a Rural Supplies Premises
Applicant/Owner:	Coe Planning Services / Scapefall Pty Ltd & Wallace Street Pty Ltd.
Subject Property:	Lots 1 & 2 DP 596527, Lot 1 DP 995410 & Lot 2 DP 1208847, No.121 Wallace Street, Braidwood, NSW, 2622
Zoning and Permissibility:	Part B2 Local Centre Zone, Part B4 Mixed Use Zone under <i>Palerang Local Environmental Plan 2014 (PLEP 2014)</i> .
Public Submissions:	Twenty One (21)
Issues Discussed:	Planning requirements Issues raised in submissions
Disclosure of Political Donations and Gifts:	Applicant Declared no Donations or Gifts to any Councillor or Staff have been made.

Recommendation

That:

1. Application REV.2021.1000 for Review of Determination for additions and alterations to a rural supplies premises (DA.2020.1172) on Lots 1 & 2 DP 596527, Lot 1 DP 995410 & Lot 2 DP 1208847, No.121 Wallace Street, Braidwood be approved subject to the recommended conditions of consent.
 2. Those persons who lodged submissions on the application be advised in writing of the determination of the review.
-

8.1 Review of Determination - REV.2021.1000 - Request for Review of Council's Refusal of DA.2020.1172 - Additions and Alterations to a Rural Supplies Premises - 121 Wallace Street, Braidwood (Ref: ; Author: Thompson/Glouftsis) (Continued)

Request for Review of Determination

The subject application seeks a review of determination of DA.2020.1172 under Section 8.2 of the *Environmental Planning and Assessment Act 1979* for a review of the refused determination for additions and alterations to a rural supplies premises at Lots 1 & 2 DP 596527, Lot 1 DP 995410 & Lot 2 DP 1208847, No.121 Wallace Street, Braidwood.

Background

Previous Applications

DA.2014.208 - Was approved by Council on 14 November 2014 for a boundary adjustment between former lots - Lots 2 DP 713618 and Lot 6 DP 519457 (133 Wallace Street). The application included a condition requiring a right of carriageway to be retained to allow access over the property to the rear of 82 Duncan Street. This development was subsequently registered under DP1208847 on 27 July 2015.

MOD.2018.122 – This application sought to delete condition 3 of the abovementioned DA.2014.208 which required the right of carriageway to Lot 1 DP 829063 over Lot 2 DP 713618. Council refused MOD.2018.122 at its meeting of 27 February 2019. The Applicant subsequently appealed this decision (Case number 2019/00294723).

During this process it became evident that the legal right for Lot 1 DP 829063 to obtain access over the site was uncertain. Nonetheless, as a result of the Section 34 mediation process, Court orders were issued granting a right of access to the current owners of Lot 1 DP 829063 over Lot 2 DP 1208847 in the following terms:

The Owner of Lot 2 DP 1208847, its successors and assigns, grants a Right of Access to the current occupiers of Lot 1 DP 829063 and every person authorised by those occupiers, to go, pass and repass at all times and for all purposes with or without animals or vehicles or both to and from the said Lot 1 DP 829063 or any such part thereof along that part of Lot 2 DP 1208847 shown in pink on the attached diagram being 3.605m wide (referred to hereinafter as "the access path"), with a key to any gate along the access path, together with a right to park along the easternmost 11 metres of the access path and a right to use for vehicle circulation purposes such other parts alongside the access path able to be utilised from time to time for that purpose and the totality of which the owner of Lot 2 DP 1208847 need not keep clear, for the period ending on the later of the following:

- 1. Transfer of Lot 1 DP 829063 from its current owner ... or*
- 2. Cessation of occupation of Lot 1 DP 829063 by both the current occupiers...*

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The location of the right of access is shown in Figure 1 below.



Figure 1 – Right of Carriageway

DA.2020.1172 - Development application DA.2020.1172 proposed alterations and additions to the existing rural supplies premises. The specific elements of the proposal were:

- Demolition of two shed structures,
- Addition of an awning structure to the northern elevation of an existing storage shed,
- Addition of a new shed structure containing:
 - A new office area,
 - Sanitary facilities,
 - Storage area,
 - Mezzanine area,
- Provision of six off-street car parking spaces including one accessible space,
- Alterations to the existing vehicular access ramps on Duncan Street to provide a consolidated double wide vehicular access ramp with associated access gates, and
- Landscaping and fencing along the site's Duncan Street frontage.

8.1 Review of Determination - REV.2021.1000 - Request for Review of Council's Refusal of DA.2020.1172 - Additions and Alterations to a Rural Supplies Premises - 121 Wallace Street, Braidwood (Ref: ; Author: Thompson/Glouftsis) (Continued)

Council subsequently considered the application at the meeting of 16 December 2020 and determined to refuse the application for the following reasons:

REASONS FOR REFUSAL

The development is not in keeping with the character and amenity of the locality and in particular:

- a. With reference to Section 4.15 (1) (b) of the EP&A Act, the nature and scale of the development is likely to lead to the intensification of activities that are not consistent with either the character, amenity or scale of other business activities in the area, nor with the mixed use residential development that is currently promoted through the relevant local planning instruments;
- b. With reference to Section 4.15 (1) (c) of the EP&A Act, the present site, on the main street of Braidwood and in the centre of the town, in a mixed use zone and immediately adjacent to a residential area, is not suitable for increased development on the scale being proposed;
- c. With reference to Section 4.15 (1) (e) of the EP&A Act, it is not in the public interest to encourage the expansion of this style of business in this particular location, in the centre of the town.

Nature of the Review Request

The application seeks a review of the refused determination under DA.2020.1172. The applicant states the following grounds for requesting the review:

The original application has been amended under this review request to address the reasons for refusal of DA.2020.1172. In particular the floor area of the existing development does not increase, therefore there is no intensification of the existing business. Rather, the revised application seeks to improve existing facilities for both the employee and the customer and ensure equitable access is available throughout the site.

Amended Development Proposal

This application is a request for the review of the determination that was issued by Council for alterations and additions to storage sheds to be used in conjunction with the existing business located on the site - Nutrien Braidwood, an agribusiness which has been in operation in this location for over fifty years. There is an existing access into Wallace Street and Duncan St.

The application has been amended so there is now no longer any increase in floor area, therefore no intensification of the business on-site. Rather, the application seeks to undertake the following works:

1. Removal of shed and improvements to the entrance into the property off Duncan St to create a safer entrance point into the business for both the customer and the public.
2. Replacement of existing storage shed which is in bad repair (new shed will take up the same footprint of 276m² and will be no higher than the existing shed).
3. Relocation of staff toilets and improvements in staff amenities (including the provision of an accessible toilet and kitchenette facilities).

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4. Replacement of storage shed area within the existing footprint and levelling of the floor height to create a safe, continuous path of travel (a well as creating a single roof pitch across the shed area).
5. Relocation of office space from where new toilets will be located to within the existing roofline.
6. Internal ramps throughout the site to ensure compliance with the Disability Access Code.

Subject Property

The subject site is legally described as Lot 1 and 2 DP 596527, Lot 1 DP 995410 and Lot 2 DP 1208847 and is commonly known as 121 Wallace Street Braidwood. The site is located on the north-eastern side corner of the intersection of Wallace Street and Duncan Street and has an area of 3,537.1m².

Existing development on the site comprises the heritage listed Dalgety building located on the north-eastern corner of the intersection of Wallace Street and Duncan Street. A series of other attached structures extend east along the site's Duncan Street frontage from the Dalgety building and also along the site's western boundary (adjoining the rear of 123 and 125 Wallace Street). Two further detached sheds front the site's Duncan Street frontage.

Vehicular access is provided to the site via a driveway from the site's Wallace Street frontage and a pair of driveways on the site's Duncan Street frontage. Existing development within the locality consists of a range of commercial uses, several dwelling houses, and a school. The subject site is burdened by a series of rights of carriageways benefiting Lot 1 DP 1208847 (133 Wallace Street) and Lot 1 DP 713618 (125 Wallace Street) and a right of access under a court order (2019/00294723) (82 Duncan Street).



Figure 2 – Subject Site & Locality

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Planning Requirements

Section 8.2 Environmental Planning and Assessment Act 1979 Requirements.

The applicant has requested a review of determination of refusal for DA.2020.1172. 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). It is important to note that the determination will need to be made at this meeting or before (16 December 2021) or the period for the review will lapse.

The applicant has requested a review of the determination and in accordance with Section 8.3(1) it is considered 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 or for modification of 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 'alterations and additions to a rural supplies premises'.

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

Assessment of Review of 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. *Removal of shed and improvements to the entrance into the property off Duncan St to create a safer entrance point into the business for both the customer and the public.*

The amended plans do not deviate from DA.2020.1127 in this regard. The demolition of the shed and improvements to the entrance off Duncan Street will make ingress and egress to the site safer.

2. *Replacement of existing storage shed which is in bad repair (new shed will take up exactly the same footprint of 276m² and will be no higher than the existing shed).*

The replacement of the shed on the south eastern portion of the lot is noted. It is considered reasonable to propose its replacement, with the original awning extension under DA.2020.1172 now removed. The reasons for refusal of DA.2020.1172 included the development resulting in the intensification of activities that are not consistent with the character, amenity, and scale of other business activities in the area and that it is not suitable for increased development on the scale as was originally proposed.

It is considered that this amendment to the existing development (the replacement of a shed with the same floor area) will negate the previous reasons for refusal relating to intensification of use.

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3. *Relocation of staff toilets and improvements in staff amenities (including the provision of an accessible toilet and kitchenette facilities).*

There are no implications of the relocation of staff toilets and improvements in staff amenities. The change will not have a material impact on the reasons for refusal of DA.2020.1172.

4. *Replacement of storage shed area within the existing footprint and levelling of the floor height to create a safe, continuous path of travel (a well as creating a single roof pitch across the shed area).*

The replacement of the storage shed to the same floor area is considered appropriate. The single roof pitch across the shed will assist in creating a better overall outlook to the streetscape.

5. *Relocation of office space from where new toilets will be located to within the existing roofline.*

The relocation of the office space is an internal change and has no impact on site coverage, setbacks, and overall design of the building. This component does not provide a contravention to the initial reasons for refusal for DA.2020.1172. It will not result in a direct intensification of the land use.

6. *Internal ramps throughout the site to ensure compliance with the Disability Access Code.*

This change is noted. There is no unreasonable impact associated with this proposed change. It will allow for compliance of the site with the Disability Access Code.

Additional Comments from Assessing Officer

The amendments proposed under the Section 8.2 Review are generally consistent with the relevant controls contained within the *Palerang Local Environmental Plan 2014* and the Braidwood Development Control Plan, as well as relevant State Environmental Planning Policies. The amendments seek to address the reasons for refusal reducing what could be considered an expansion of the premises. The changes reflect upgrading the site to allow its continued operation and fix existing issues with access to the site from Duncan Street.

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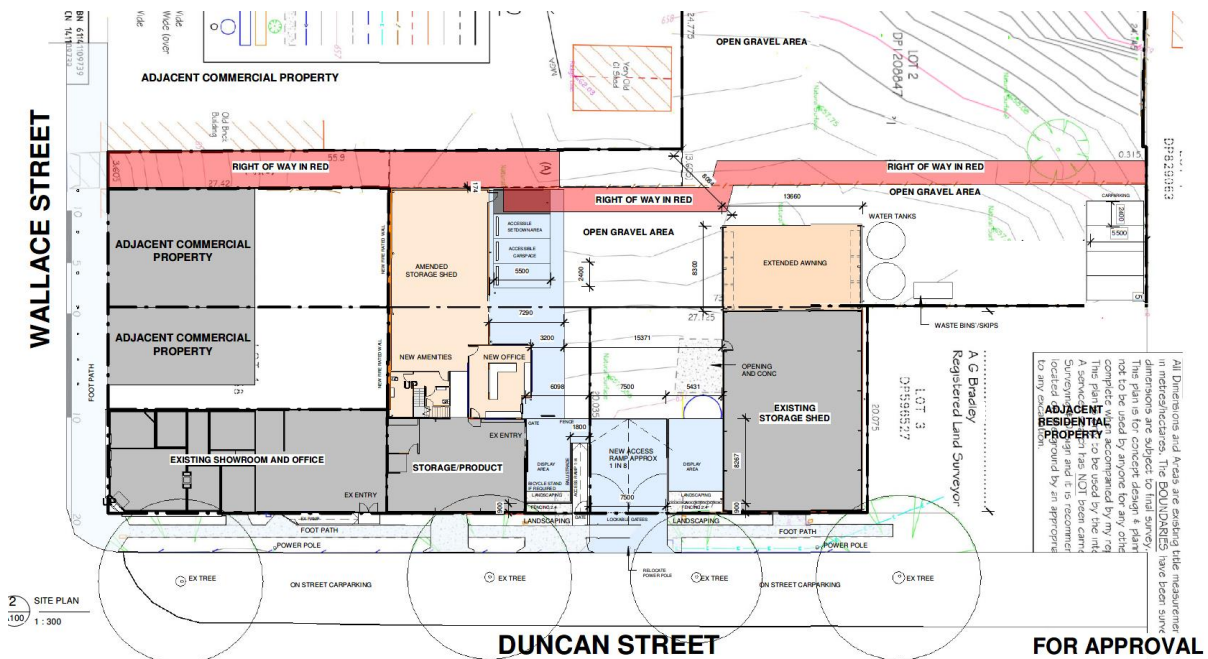


Figure 2 – Site Plan Original Proposal Under DA.2020.1172

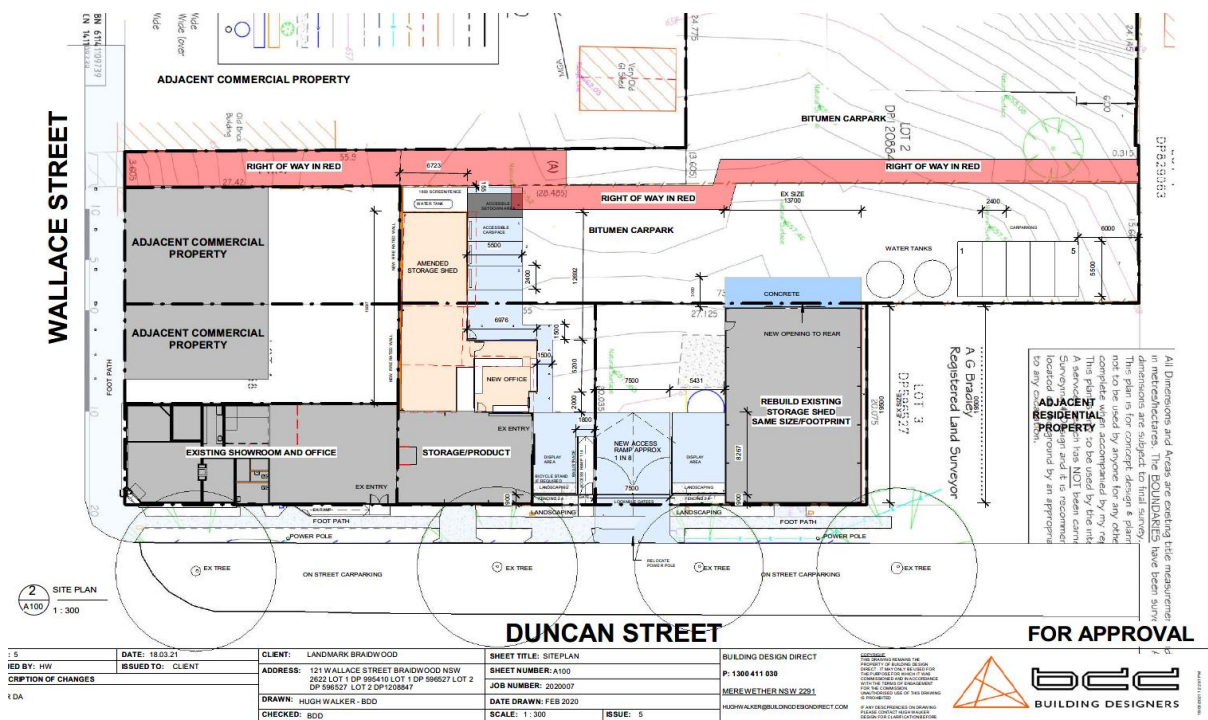


Figure 3 - Proposed Amended Site Plan Under Section 8.2 Review

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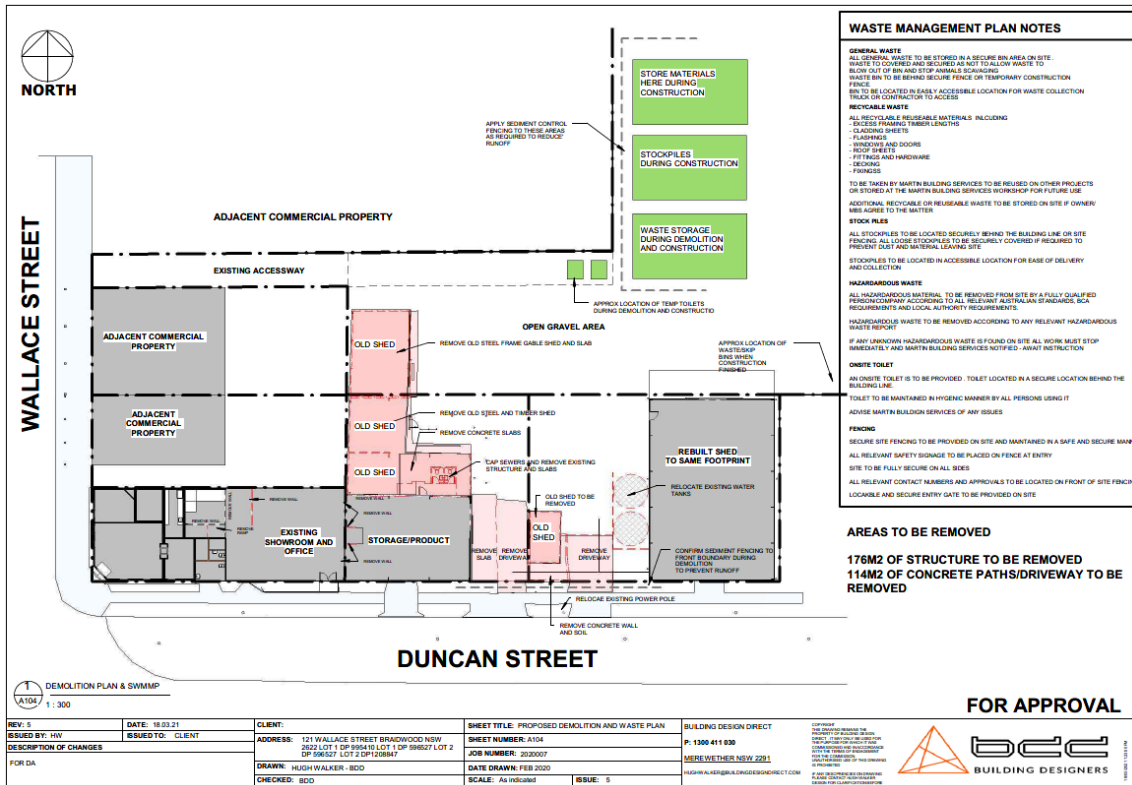


Figure 4 – Amended Demolition and Waste Plan

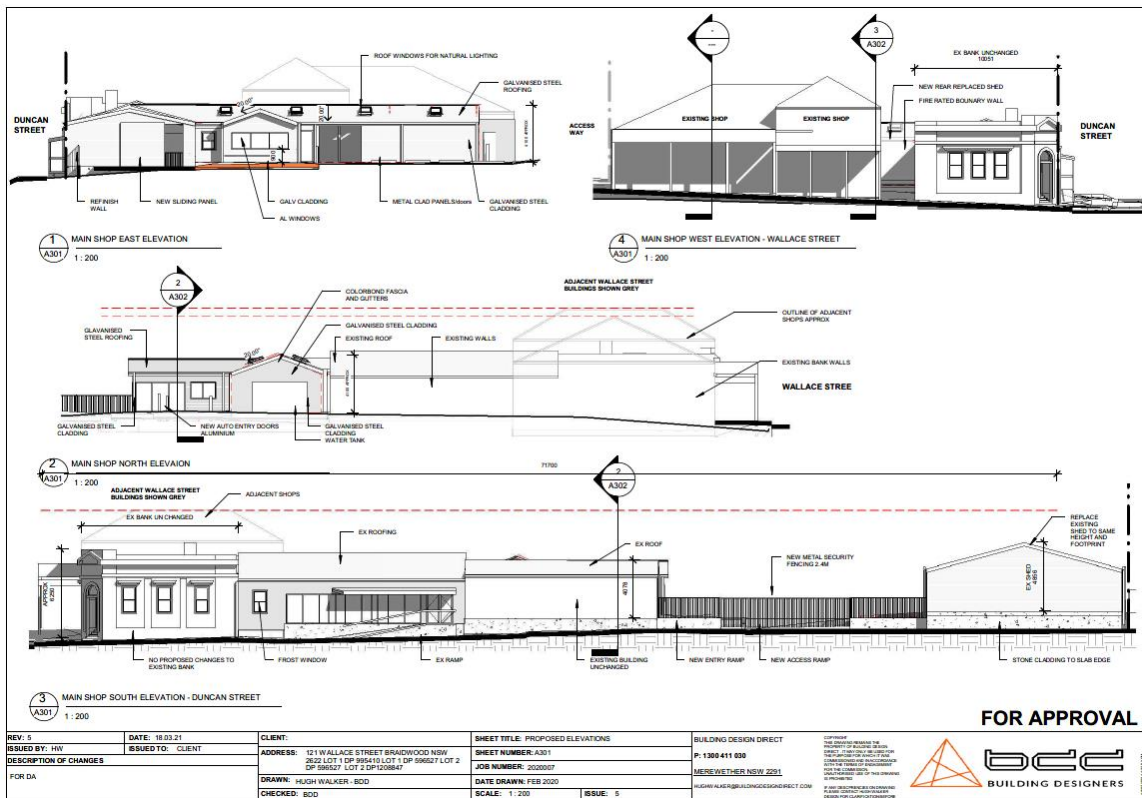


Figure 5 – Amended Elevation Plans

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REV: 5	DATE: 18.03.21	CLIENT:	SHEET TITLE: PROPOSED 3D VIEWS	BUILDING DESIGN DIRECT	<p>FOR APPROVAL</p> 
ISSUED BY: HW	ISSUED TO: CLIENT	ADDRESS: 121 WALLACE STREET BRAIDWOOD NSW 2822 LOT 1 DP 8954 19 LOT 1 DP 58627 LOT 2 DP 58627 LOT 2 DP 105847	SHEET NUMBER: A500	P: 1300 411 030	
DESCRIPTION OF CHANGES		DRAWN: HUGH WALKER: BDD	JOB NUMBER: 2020007	MEMBER WITHIN NSW 2281	
FOR DA		CHECKED: BDD	DATE DRAWN: FEB 2020	MEMBER WITHIN NSW 2281	
			SCALE:	ISSUE: 5	

Figure 6 – Architectural Perspectives

Heritage Advisor’s Comments

The storage shed and office at the west side of the development has been reduced to single storey height and will now have no significant heritage impact.

The large shed at the east side of the driveway will be rebuilt to existing dimensions, but with walls clad in galvanised iron. Confirm that wall cladding is corrugated custom orb profile.

The Heritage Committee previously expressed the desire for the front fence and gates to be specific to this site i.e. manufactured locally to local design, rather than using mass-produced componentry. Gate and fence design should be reflected on the approved plans.

On the Duncan Street elevation, stone cladding is indicated for the base of the eastern shed. The same stone cladding should be applied under the metal fence either side of the entry gates.

The existing large sign on the wall facing Duncan Street is not consistent with Braidwood’s historic character and may not have been approved. If this DA is approved, the assumption will be that the sign has also been approved. The DA approval should be conditional on the large Nutrien-Harcourt sign being reduced in size.

8.1 Review of Determination - REV.2021.1000 - Request for Review of Council's Refusal of DA.2020.1172 - Additions and Alterations to a Rural Supplies Premises - 121 Wallace Street, Braidwood (Ref: ; Author: Thompson/Glouftsis) (Continued)

Assessing Officer's Comments - If development approval is granted pursuant the outcome of the Section 8.2 Review it is recommended that an additional condition be added to the consent ensuring the use of a corrugated custom orb profile for the cladding of the proposed shed on the east boundary of the allotment in accordance with the Heritage Advisor's advice. Additionally, the requirement should also apply to the stone cladding proposed for under the metal fence on either side of the entry gates, which can also be enforced through an amended condition.

It is recommended that if consent is granted pursuant the Section 8.2 Review, that an additional condition be incorporated requiring consultation with Council's Heritage Advisor to inform the final design of the gate and fence.

Pending Council granting consent under the Section 8.2 Review, it is also recommended that the sign referred to in the Heritage Advice be denoted with a red amendment by Council's Planning Officer advising that approval for this aspect is not provided under DA.2020.1172.

Engagement

The review of determination was notified under the *Environmental Planning and Assessment Regulation 2000*. The application was notified and advertised from the 31 May 2021 to the 16 June 2021 and a total of twenty-one submissions were received during the notification period. One submission received was a petition in support of the proposal with 15 signatures. The applicant has also submitted a response to submissions which is provided in an attachment to this report. The relevant issues raised are as follows:

Issue: Safety and the storage of chemicals and hazardous materials

Comment: These comments relate to the existing operations of the site. The management of day to day risks and hazards resulting from operation of the site is the responsibility of the owner and regulated by SafeWork NSW. Conditions of consent as proposed under DA.2020.1172 are recommended requiring that the storage of any flammable/ combustible liquids be in accordance with the relevant Australian Standard. If Council approves the determination under Section 8.2 this condition will be placed on the consent.

Issue: Delivery and types of vehicles entering and exiting the site

Comment: DA.2020.1172 was accompanied by swept path drawings demonstrating the ability of a 19m vehicle to enter and exit the site in a forward direction. These drawings were reviewed by Council's Development Engineer who raised no objection to the proposal. The proposed development will significantly improve the existing ingress and egress to the premises. There are no major changes to this arrangement proposed within the plans submitted in support of the review. If the application is not approved access problems will remain.

Issue: Land use and intensification

Comment: A rural supplies business is permissible in the zone and they are typically located close to town in most rural towns and villages. Council is required to consider the application upon the subject site and its permissibility within the applicable zone.

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Issue: Dust

Comment: Council's Development Engineers recommended conditions of consent for DA.2020.1172 requiring the yard area to be sealed with an asphalt or concrete finish. With the implementation of such measures impacts from dust are expected to improve. This condition will be imposed on the consent if the development is determined for approval under the review. If the application is not approved dust problems will remain.

Issue: Noise

Comment: In representations at the previous meeting concerns were raised by the applicant regarding a recommended condition relating to hours of operation for the business. Presently there are no hours of operation relating to the premises. The draft condition read:

Hours of Operation

The hours of operations of the premises are to be limited as follows:

<i>Weekdays:</i>	<i>8:00am to 5:30pm</i>
<i>Saturdays:</i>	<i>8:30am to 12:00pm</i>
<i>Sundays:</i>	<i>NIL</i>

The applicant has raised concerns that the proposed hours of operation would be incompatible with the existing delivery arrangements upon the site. To resolve this issue the applicant has previously requested that Council consider allowing deliveries upon the site within a limited area away from residential interfaces without limitation on hours of operation. Council staff have reviewed the proposed amendment and do not support the request as it is likely the main loading and unloading area for the business will be too close to neighbouring residential occupancies, particularly as delivery vehicles will still be required to use the remainder of the site to turn around.

Given that the issue of noise resulting from early or late hours of operation was raised in submissions it is reasonable and appropriate to include a restriction on the hours of operation.

However, to facilitate the practical operation of the business generally in line with present operations it is recommended the condition be amended to read as follows:

Hours of Operation

The hours of operations of the premises are to be limited as follows:

<i>Weekdays:</i>	<i>7:00am to 6:00pm</i>
<i>Saturdays:</i>	<i>8:00am to 4:00pm</i>
<i>Sundays:</i>	<i>NIL</i>

If the application is not approved the operators will continue to be able to set their own operating hours.

Issue: Overshadowing

Comment: In recognition of the increased height of the proposed development, the subject application DA.2020.1127 was accompanied by shadow diagrams demonstrating that the proposed development retains a minimum of 3 hours of solar access to all adjoining properties on the winter solstice (21 June). As such, the proposal is considered to retain an acceptable level of solar access to adjoining properties. The shed to the south east of the allotment, which is to be replaced is consistent in height with the existing structure and will not have any additional impacts.

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Issue: Duncan Street footpath

Comment: The proposed development would require the temporary closure of the footpath throughout the construction period, during this period temporary access arrangements will need to be in place in accordance with an approved traffic management plan. Further, the proposed access arrangements from Duncan Street will improve line of site from the access point and therefore improve pedestrian safety. As such, the proposal is considered unlikely to result in any significant impacts upon pedestrian safety.

Issue: Demolition of the shed

Comment: Issues have been raised with the demolition of the shed between the access points on Duncan Street. The shed is not deemed to be a significant structure for heritage purposes. Council's Heritage Advisor has offered no objection to its demolition. Its removal will greatly improve ingress and egress to the site.

Issue: Right of Way/ Right of Access

Comment: As per the comments provided within the assessment of DA.2020.1172 the proposed development will retain existing rights of way upon the site and the right of access that is required to be established upon the site under court order (2019/00294723). A condition of consent is recommended requiring that no goods be stored within these burdened areas to ensure the proposal does not result in any impacts upon the access to adjoining sites. The proposed amendments under the Section 8.2 review will not have any additional impacts on this arrangement.

Financial Implications

Following the review the assessment has determined that there are no significant planning reasons to refuse this application on the basis of permissibility or that it is intensifying the use. If Council does reaffirm its previous determination to refuse the application there is a substantial risk that the application will be appealed by the applicants. If this occurs likely costs in defending the appeal are between \$30,000 and \$40,000.






Conclusion

Following the assessment of the Section 8.2 Review, there appears to be no substantial planning reason to refuse the application. The items raised by Council which resulted in refusal of the application have generally been addressed within the re-submission of amended plans by the applicant.

Items raised in submissions have been addressed and outstanding issues can be overcome by conditions of consent. Indeed, without Council granting consent it is likely several of the existing matters of concern will continue unabated. Approval of the proposed development will allow Council further control over any potential environmental impacts caused by the development. It is a permissible land use and the development generally complies with all relevant standards and controls in Council's environmental planning instruments and policies.

8.1 Review of Determination - REV.2021.1000 - Request for Review of Council's Refusal of DA.2020.1172 - Additions and Alterations to a Rural Supplies Premises - 121 Wallace Street, Braidwood (Ref: ; Author: Thompson/Glouftsis) (Continued)

Attachments

- | | |
|--|---|
| Attachment 1 | REV.2021.1000 - Amended Plans for S8.2 Review - 121 Wallace Street Braidwood (<i>Under Separate Cover</i>) |
|  Attachment 2 | REV.2021.1000 - Combined Submissions - Redacted - 121 Wallace Street Braidwood (<i>Under Separate Cover</i>) |
|  Attachment 3 | REV.2021.1000 - Draft Conditions fo Consent - 121 Wallace Street, Braidwood (<i>Under Separate Cover</i>) |
|  Attachment 4 | Original Council Report -16 December 2020 - DA.2020.1172 - 121 Wallace Street Braidwood (<i>Under Separate Cover</i>) |
|  Attachment 5 | Original Section 4.15 Assessment - DA.2020.1172 - 121 Wallace Street Braidwood (<i>Under Separate Cover</i>) |
|  Attachment 6 | Original Plans - DA.2020.1172 - 121 Wallace Street Braidwood (<i>Under Separate Cover</i>) |

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans)

File Reference: DA.2019.1109

Summary

Reason for Referral to Council

This application has been referred to Council following its meeting of 10 February 2021 where it deferred a determination to allow the Applicant to submit further information.

Proposal:	Change of Use - Dwelling House to Place of Public Worship
Applicant/Owner:	Michael Charles Dunlop / John Arnold Myhill, Harry Richard Woodbury, Michael Charles Dunlop
Subject Property:	Lot 166 DP786394, No.128 Bicentennial Drive, Jerrabomberra
Zoning and Permissibility:	R2 Low Density Residential under <i>Queanbeyan Local Environmental Plan 2012</i>
Public Submissions:	35
Issues Discussed:	<ul style="list-style-type: none">• Planning Requirements• Compliance with <i>Queanbeyan Local Environmental Plan 2012</i>• Compliance with Draft <i>Queanbeyan Palerang Local Environmental Plan 2020</i>• Compliance with <i>Queanbeyan Development Control Plan</i>• Submitter issues
Disclosure of Political Donations and Gifts:	Applicant Declared no Donations or Gifts to any Councillor or Staff have been made

Recommendation

That:

1. Development application DA.2020.1109 for a Place of Public Worship on Lot 166 DP786394, No.128 Bicentennial Drive, Jerrabomberra be refused on the following reasons:

- (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***
-

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)

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 Queanbeyan Development Control Plan 2012 as it is not considered able to maintain and improve the amenity of Queanbeyan.
 - (e) The proposed development is inconsistent with Part 2.3.6 Objective 1 of 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*:
 - I. Context & Setting
 - II. Access, Transport & Traffic (relating to onsite car parking and tree management)
 - III. Noise
 - IV. Site design and internal design
 - V. Cumulative impacts
 - VI. Suitability of the site
 - VII. The public interest.
2. Those persons who lodged submissions on the application be advised in writing of the determination of the application.
-

Background

Proposed Development

A development application has been lodged with Council seeking approval for a Place of Public Worship at 128 Bicentennial Drive, Jerrabomberra.

The proposal seeks to change the use from a dwelling house to a proposed use which will have no continuing residential component.

The site is located in an established suburban area on a lot with an area of 787m² which currently has a dwelling house on it. Dwelling houses adjoin two sides with a multi-unit development on the third side (Figure 4).

The site is also located within the R2 Low Density Residential Zone under the *Queanbeyan Local Environmental Plan 2012*. The development is currently permissible with the consent of Council but is proposed to become prohibited under draft *Queanbeyan Palerang Local Environmental Plan 2020*.

The application suggests services will commence from 6.00am – 7.00am on a Sunday morning and 7.00pm – 8.00pm on a Monday evening. The use is proposed to cater for up to 50 patrons at any time. No other events are proposed.

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)

Council was presented with a report on the development proposal at its meeting of 10 February 2021 (Item No. 8.1). Due to a number of issues of non-compliance the assessment report recommended refusal.

At this meeting it was resolved (PLA004/21) that ‘*This item be deferred to receive further information*’.

The Applicant has since provided a Traffic Impact Assessment, Social Impact Assessment, amended Acoustic Assessment, Arborist Report and amended plans. Some of the issues raised by Council have been addressed. However, given the proposed development cannot meet the relevant statutory and non-statutory objectives and controls as outlined in this report and the Section 4.15 assessment attached, refusal is again recommended.

Figures 1 and 2 below show the floor plans as presented to Council on 10 February 2021 and the final proposal plans now for consideration. Figure 3 shows the proposed carparking and manoeuvring plan.

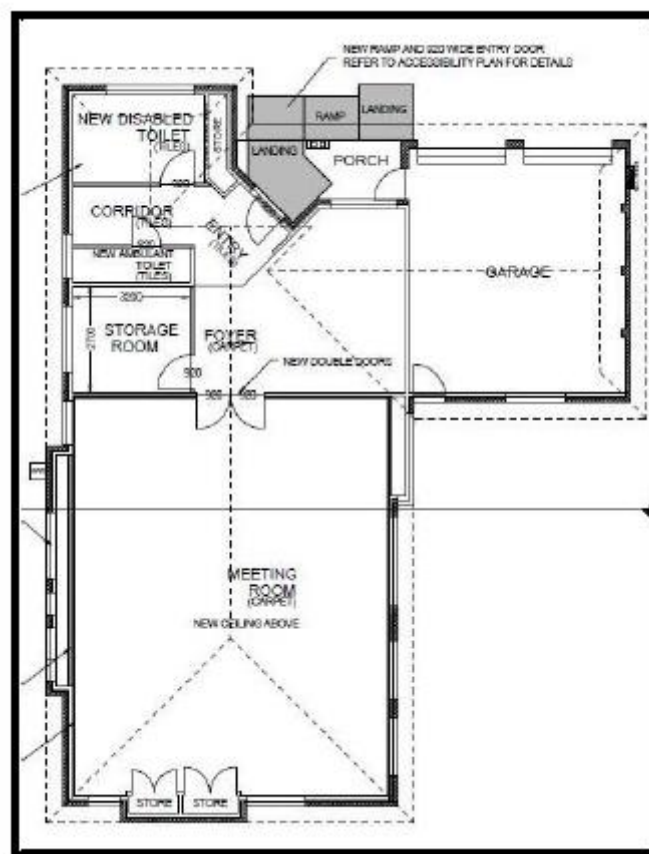


Figure 1 – Floor Plan proposed February 2021

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)

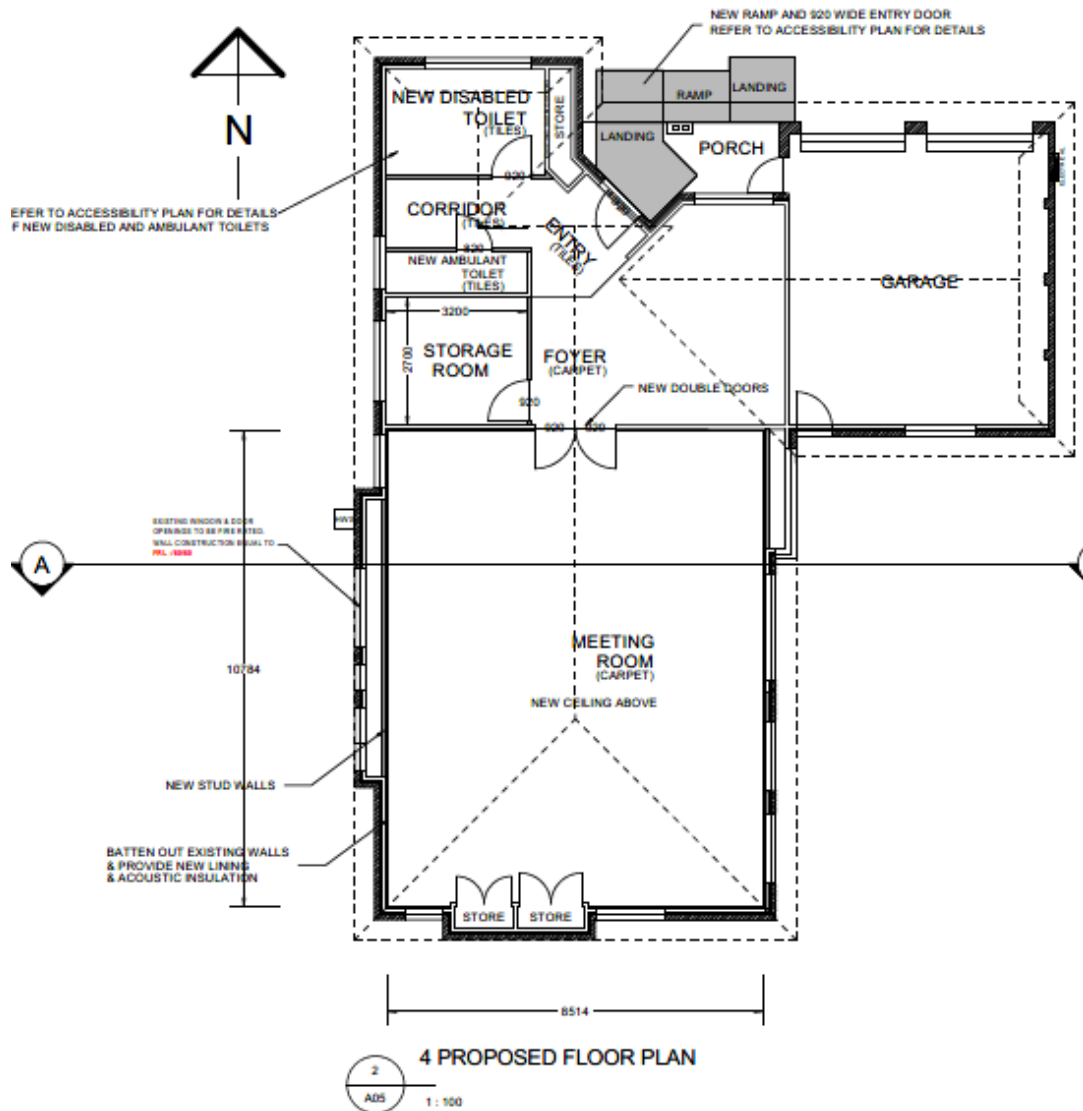


Figure 2 – Proposed Floor Plan May 2021

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)

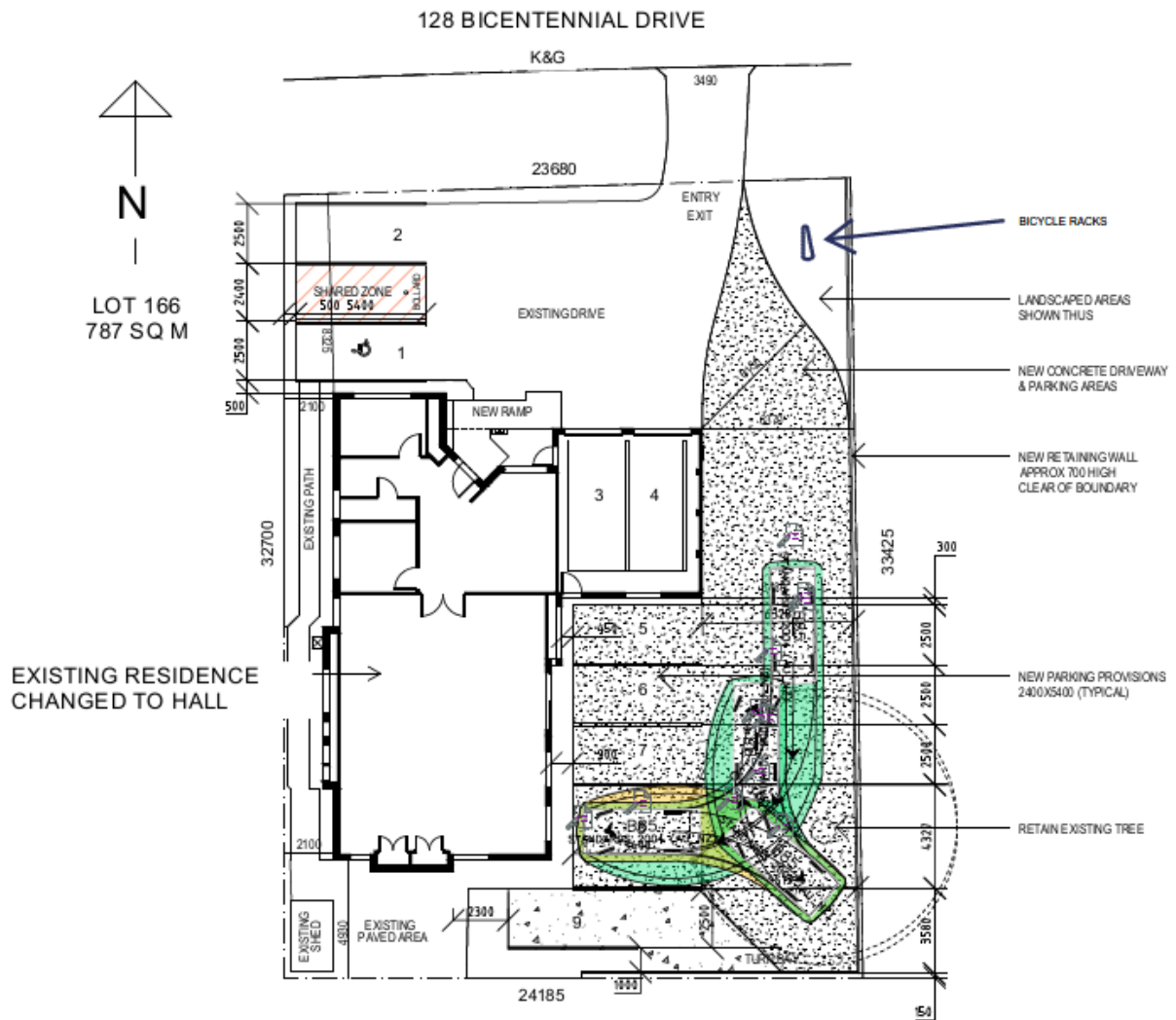


Figure 3 – Proposed Car Parking Plan May 2021

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)

Subject Property

The subject site is known as 128 Bicentennial Drive, Jerrabomberra being Lot 166 in DP 786394. The land is in the R2 Low Density Residential Zone and accommodates an existing single storey brick dwelling house. Figure 4 below shows the subject site.



Figure 4 - Subject Site



Figure 5 – Elevation view to street of existing dwelling

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)



Figure 6 – Elevation view to street of existing dwelling

Planning Requirements

Assessment of the application has been undertaken in accordance with Section 4.15 of the *Environmental Planning and Assessment Act (EPAA) 1979*, as amended.

The matters that are of relevance under Section 4.15 are summarised in the attached *Section 4.15 Table – 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 Policy No 55 -Remediation of Land*
2. *State Environmental Planning Policy (Infrastructure) 2007*
3. *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
4. *Queanbeyan Local Environmental Plan 2012 (QLEP)*
5. *Draft Queanbeyan Palerang Local Environmental Plan 2020 (QPLEP)*
6. *Queanbeyan Development Control Plan 2012 (DCP)*

The development generally satisfies the requirements of the relevant *State Environmental Planning Policies*.

The proposal is considered unable to achieve the relevant objectives and controls of the *Queanbeyan Local Environmental Plan 2012 (LEP)* and the relevant objectives and controls of the *Queanbeyan Development Control Plan 2012 (DCP)*.

The proposal is also inconsistent with the Land Use Table for the R2 Low Density Zone as proposed in the *Draft Queanbeyan Palerang Local Environmental Plan 2020*.

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)

The significant issues relating to the proposal for the Council's consideration are detailed below.

(a) State Environmental Planning Policy

The *SEPP (Vegetation in Non-Rural Areas) 2017* aims to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The proposal does not include the removal of native vegetation. The SEPP relies on the local development control plan for the retention and protection of regulated trees to support the aims of this Policy. This is considered later in the report.

(b) Compliance with QLEP

Clause 1.2 - Aims of the Plan – Subclause (2)(a) seeks to facilitate the orderly and economic use and development of land in Queanbeyan based on ecological sustainability principles.

The Application has not been able to demonstrate to Council's satisfaction that the use can operate in an orderly way based on ecological sustainability principles.

Clause 2.3 – Zone Objectives – Objective 3 encourages development that considers the low density amenity of existing and future residents.

The Application has not demonstrated to Council's satisfaction that noise impacts on the amenity of existing or future residents can be ameliorated.

(c) Draft Queanbeyan Palerang Local Environmental Plan

Section 4.15 of the Act requires Council to consider the provisions of any draft planning instrument that has been subject to public consultation. The draft *Queanbeyan Palerang Local Environmental Plan* has been notified and is in the public arena. As a result, staff are required to have regard to it in this assessment.

A place of public worship is proposed to be a prohibited use in the R2 Low Density Zone.

(d) Compliance with QDCP*Part 2 All Zones Objectives*

Part 2.1.2 of the DCP includes general objectives for all development in the Queanbeyan area.

The objectives are:

- 1) *To provide controls on general matters that do not relate to a specific zone or type of development,*
- 2) *To maintain and improve the amenity of Queanbeyan.*

The proposal is unable to meet Objective 2 given that potential amenity issues have not been addressed to Council's satisfaction.

Part 2.3.6 Noise and Vibration

Part 2.3.6 Objective 1 seeks to ensure the development provides effective management of noise. This has not been demonstrated to Council's satisfaction.

Part 2.3.6 controls (a) seeks development be designed to minimise the potential for offensive noise. Further, control (f) seeks to ensure development is designed so noise and vibration from noise generating activities do not unacceptably affect the amenity of nearby residential

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)

and other noise sensitive uses. Controls (a) and (f) have not been met to Council's satisfaction.

Part 2.12 Tree and Vegetation Management

Objective 3 seeks to preserve existing biodiversity values where possible through the preservation of trees and other vegetation that contribute to these values. Given the anticipated impact on a significant native tree this objective is not considered to be met.

Objective 4 seeks to minimise the loss of trees and other vegetation that contribute to the scenic character of Queanbeyan. Given the anticipated impact on a significant native tree this objective is not considered to be met.

(e) Other Matters

Under Section 4.15 of the *Environmental Planning and Assessment Act*, in determining a development application, a consent authority is to take into consideration a range of general planning matters. These are detailed in the attached Section 4.15 report (Attachment 1).

Council's evaluation of the application under Section 4.15 has found that the proposed use on this site is able operate in accordance with many controls, however cannot achieve compliance due to the potential impact of noise and the impact on a regulated tree.

Other Comments(a) Building Surveyor's Comments

Council's Building Surveyor has assessed the proposal. Council's Information Request sought further assessments to demonstrate compliance with the *Building Code of Australia* in terms of a change of use from building class 1a to 9b. This included a BCA Compliance Report, Section J of the National Construction Code Compliance Report, Fire requirements plan including fire rating to 60/60/60, services & equipment, and evacuation plan, and Accessibility plan.

The Applicant has advised that these assessments would be undertaken at the Construction Certificate stage. These can be sought through subsequent approvals should consent be issued. Relevant conditions have been suggested in the event that this application is approved.

(b) Development Engineer's Comments

Access & Car Parking - The existing dwelling has two crossovers and a circulating internal driveway with double garage.

Eight parking spaces are required in accordance with Council's DCP, which specifies 1 space per 20m² GFA. The DCP doesn't stipulate disabled parking requirements, however at least one space should be accessible. Additionally, car parking areas are to be sealed and clearly line marked/signposted in accordance with AS2890.

The amended car parking plan dated May 2021 complies with the requirements of Council's DCP and AS2890. Turning diagrams have also been supplied with the car parking plan and shows compliance.

Roads – The applicant has provided a Traffic Assessment Study addressing the concerns raised by Council.

The development proposes a Place of Worship with restricted hours on Sundays and Mondays. The report states that the meetings are weekly and that the meetings will be limited to 50 parishioners, including children.

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)

The report does not mention that any special events are being proposed. Should any events be planned that will exceed the limit of 50 people, then a Traffic Management Plan will need to be submitted to Council for approval prior to that event being held.

No on-street parking will be allowed on Bicentennial Drive. The Traffic Management Plan should provide off-street parking arrangements for any special event if proposed. A Traffic Management Plan is not required for the normal operations of the development.

Water, sewer and stormwater infrastructure is likely to be able to cater to the proposed use.

(c) Environmental Health Comments

A Noise report prepared by SLR Consulting of May 2021 has been provided. The report found that noise disturbance as a result of the congregation using the meeting room would impact on two of the three sensitive receptors adjoining the proposed use, however made recommendations to the treatment of the building to minimise disturbance.

Vehicles operating within the carpark would also have the potential to create a noise disturbance to nearby residents. This was raised with the Applicant who provided an amended Noise Assessment dated September 2021.

Council's Environmental Health Officers note that while the noise report supports this proposal, it does not consider the potential for offensive noise.

The EPA's Noise Guide for Local Government (2013) is used to determine whether the noise from the premises could be deemed offensive. For the offensive noise test, the criteria include:

- the loudness of the noise, especially compared with other noise in the area
- the character of the noise
- the time and duration of the noise
- whether the noise is typical for the area
- how often the noise occurs
- the number of people affected by the noise.

Intrusive Noise is also a consideration. Noise that is noticeably louder than the background noise and considered likely to disturb those who can hear it is automatically deemed as offensive. If activities associated with the Sunday morning service, including cars entering the site and patrons arriving prior to commencement at 6.00 am, could be considered loud compared to background noise it may be deemed offensive.

This is possible as it would occur at a time when neighbouring properties would be expecting peace and quiet. Being a residential area that has previously been used as a residence, the type of noise would not be typical for the area and as it would occur regularly / weekly, it may meet the criteria for offensive noise.

The acoustic report states that car park noise is unlikely to cause an awakening reaction due to the noise level. However, noise of those in the carpark may still be able to be classed as offensive even though the sound is below what is listed for sleep disturbance.

It is therefore possible that noise from the premises could be deemed as offensive. Whether noise would be offensive does not appear to be covered in the noise assessment.

Should Council receive complaints regarding noise it will be very limited to take action under the *Protection of the Environment Operations Act 1997* (POEO Act) for an approved and otherwise compliant development.

Council's Environmental Health Officer is unable to support the proposal due to potential noise issues.

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)

(d) Tree Management Officer Comments

The site includes trees which are proposed to be removed or would be affected by the proposed development. Accordingly, the application was referred to Council's Tree Management Officer.



Figure 6 - Aerial view of trees on site

Trees 1 and 2 are a pair of *Gleditsia* street trees in the front verge. Tree 3 is a large eucalypt in the rear yard and Tree 4 is a cluster of small trees along the eastern boundary in the front yard including a Crepe Myrtle and some Privet.

Conditions could be imposed to protect the public asset trees (Tree 1, 2 & 4) should the proposal be approved.

Tree 3, a *Eucalyptus blakelyi*, is an excellent and very attractive specimen. Bird nests were observed in the canopy and hollows observable from ground level. The tree has been heavily lopped in the past and canopy is formed with mature epicormics. The tree has a squat, robust appearance.

The tree exhibits nests and hollows and no study or monitoring has been conducted to determine what species of animal is using the hollows. If the hollows provide habitat to threatened species or a threatened ecological community it is an offence under Section 63 of the *Biodiversity Conservation Act 2016* to damage it. It is recommended that the tree be retained and protected.

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)



Figure 7 - Images of Tree 3

With this in mind the applicant has lodged an amended car parking plan that seeks to retain this tree.

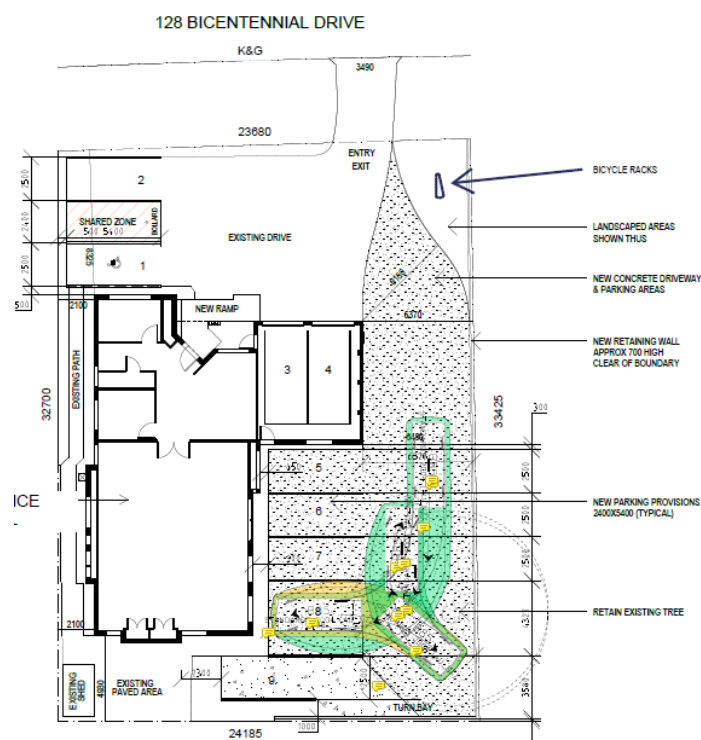


Figure 8 – Car Parking Plan

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)

The car parking design will impact on the tree given the area to be disturbed and sealed in close proximity to it and the need for a retaining wall along the boundary. The design also relies on the area under the tree canopy and close to the trunk for maneuvering of cars in the car park.

The Applicant was asked to provide a Tree Management Plan or Arboricultural Impact Assessment be prepared to outline how the development will protect the tree in accordance with relevant Australian Standards.

An Arborists report dated August 2021 was provided by the Applicant prepared by Gold Leaf Tree Services. That report assessed the retention of the tree based on the original outdated proposed plans and was unsatisfactory.

An amended report was received on 23 September. However, the Tree Management Plan is inconsistent with the car parking plan. It recommends that the existing retaining wall be removed with a new one in the same location. This cannot be achieved with the car parking plan and maneuvering areas sought.

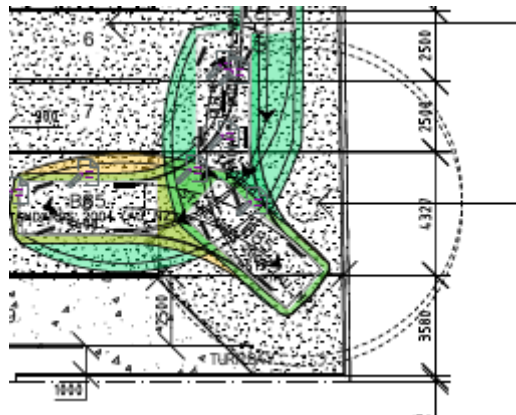


Figure 10 – Detail of manoeuvring area required under tree canopy (tree protection zone)

The Tree Management Plan also outlines restricted activities within the TPZ including parking of vehicles. Also, that soil compaction caused by repeated vehicle or foot traffic is one of the biggest causes of declining health and premature death of trees on development sites.

Council's Tree Management Officer does not support the proposal. The applicant has not provided a satisfactory Tree Management Plan consistent with the proposed development.

The application has been unable to demonstrate the proposed development will not have a satisfactory impact on a regulated tree. The site works required to achieve the proposed car park design is likely to destabilize or kill the tree over time.

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)



Figure 11 – Photo of existing retaining wall (Gold Leaf Arborist Report)

Financial Implications

Regardless of whether Council refuses or approves this application there is the possibility that the Council determination may be subject to appeal by either the applicant or one of the many submitters.

Engagement

Consultation with the Applicant - Council officers met with the Applicant on 4 June 2020 to highlight areas of significant concern or non-compliance. These related to on site car parking numbers and design, potential traffic impact on the efficiency of the local road network in terms of access and egress, pedestrian movements, safety and sight distance, acoustic assessment and various reports to demonstrate compliance with the *Building Code of Australia*.

The applicant has provided additional information following the resolution of Council on 10 February 2021.

In addition to those noted above, the Applicant provided a Social Impact Assessment and examples of some positive local media attention and social media posts.

The Social Impact Assessment prepared by Elton Consulting of 25 May 2021 was submitted to Council in support of the application.

Consultation for that assessment consisted of letters to seven (7) immediate residents and three (3) interviews. It found that two (2) residents were opposed and one was in support of the proposal.

The Applicant's response also suggested support for this proposal given similar uses by this organisation have been approved by Council in the past.

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)

Council records indicate an approval for a Place of Worship was issued by Council over land at 137 Cooma Street, Karabar. That development is not considered comparable in terms of scale or potential amenity concerns as proposed at the subject site.

The proposed development at 128 Bicentennial Drive would cater to more parishioners than Cooma Street, would require works under the canopy of a significant tree, attracted 35 submissions as opposed to two and is proposed on land R2 low density zone, whereas the Cooma Street site is zoned R3 Medium Density where higher residential density and resulting amenity impacts could be anticipated by local residents.

The approved development on Cooma Street was also decided under a now repealed Local Environmental Plan and is not considered directly comparable to the proposed development at 128 Bicentennial Drive Jerrabomberra.

Public Notification - The proposal required notification under Queanbeyan DCP 2012. Thirty five (35) submissions were received within the notification period 27 April 2020 to 18 May 2020.

A review of the submitted issues were presented in the report to Council at the February 2021 meeting and are not reproduced here. The redacted submissions are however, provided in Attachment 4. Generally, submitter issues included potential amenity impacts, access, parking and traffic impacts, on site car parking design, potential noise impacts, servicing and irreversible changes to the building fabric, the opportunity to use an existing Community Facility in the local area and potential impact on property values.

The Applicant has more recently been able to address car parking design and traffic impact concerns to Council's satisfaction, however amenity and biodiversity issues remain.

The amended plan was not re-notified given the proposal remained unable to meet the relevant Objectives.

Compliance or Policy Implications

The proposed development has not been able to satisfactorily demonstrate compliance with relevant statutory and non-statutory provisions.

Conclusion

The submitted proposal for a Place of Public Worship on Lot 166 DP786394 at 128 Bicentennial Drive, Jerrabomberra is a local development and is supported by a Statement of Environmental Effects. The proposal was notified to adjoining owner/occupiers and 35 submissions were received.





Since this time an amended application has been submitted with a number of supporting reports/plans. This has been assessed under Section 4.15 *Environmental Planning & Assessment Act 1979* including the relevant provisions of *Queanbeyan Local Environmental Plan 2012* and *Queanbeyan Development Control Plan 2012* and *Draft Queanbeyan Palerang Local Environmental Plan 2020*.

The development does not sufficiently address the requirements or achieve the objectives of these instruments.

The proposed development is recommended for refusal.

8.2 Development Application - DA.2020.1109 - Change of Use from a Dwelling to a Place of Public Worship - 128 Bicentennial Drive, Jerrabomberra (Ref: ; Author: Thompson/Yeomans) (Continued)

Attachments

- Attachment 1  DA.2020.1109 - Section 4.15 Assessment Report - Matters for Consideration - 128 Bicentennial Drive, Jerrabomberra (*Under Separate Cover*)
- Attachment 2  DA.2020.1109 - Plans May 2021 - 128 Bicentennial Drive, Jerrabomberra (*Under Separate Cover*)
- Attachment 3  DA.2020.1109 - Car Parking Plan May 2021 - 128 Bicentennial Drive, Jerrabomberra (*Under Separate Cover*)
- Attachment 4  DA.2019.1109 - Submissions (Redacted) to original DA - 128 Bicentennial Drive, Jerrabomberra (*Under Separate Cover*)

8.3 Proposed Amendments to South Jerrabomberra Development Control Plan 2015 (Ref: ; Author: Thompson/Tonner)

File Reference: 26.1.1-06

Summary

The purpose of this report is to provide Council with advice in respect of minor amendments required to be undertaken to South Jerrabomberra Development Control Plan 2015 (DCP) to correct errors and unclear wording in the DCP in respect of zero lot line requirements for dwellings.

Recommendation

That Council:

- 1. Exhibit the proposed amendments to the South Jerrabomberra Development Control Plan 2015 for a period of 28 days.**
 - 2. Grant a variation to dwelling applications in the South Jerrabomberra urban release area, allowing them to be assessed against the corrected provisions of Tables 6.3 and 7.1 of the DCP until Council considers its formal adoption.**
-

Background

The South Jerrabomberra Development Control Plan 2015 (DCP) contains controls in respect of zero lot lines for dwellings. These controls enable a dwelling to be built to the side boundary without side boundary setbacks and manage the extent of the bulk and scale of solid walls built along those boundaries.

Currently there are administrative errors in Tables 6.3 and 7.1 of the DCP that create confusion for developers and staff when applying these controls. These errors were discovered following the assessment of the first group of DA's for homes in the new South Jerrabomberra urban release area.

In Table 6.3 the existing wording of the DCP creates uncertainty about what length of wall can be built to the zero lot line particularly in relation to the second storey of a dwelling. In Table 7.1 the existing wording of the DCP incorrectly references the depth of a 'dwelling', rather than the depth of the 'lot'. It is also not clear under what circumstances a merit assessment may occur in respect of the zero lot line for the second storey portion of any dwelling. The proposed corrections for each table as shown in red below will correct the errors/confusion.

In order to finalise the assessment of the applications already lodged, staff are also requesting Council endorse a variation to the DCP to provide an interim measure to allow existing DA's to be approved in a manner consistent with the proposed changes before the corrected DCP is formally adopted. Otherwise, these DA's will not be able to be finalised until the amended DCP is adopted.

8.3 Proposed Amendments to South Jerrabomberra Development Control Plan 2015
(Ref: ; Author: Thompson/Tonner) (Continued)

Table 6.3 – Single dwelling requirements.

Lot size	330< 450m ²	450 < 600m ²	600< 900m ²	900 < 1500m ²	>1500m ²
Zero Lot Line requirements (Maximum length of zero lot line wall)	70% of the depth of the lot for single storey dwellings only. 50% of the depth of dwelling—the the lot for the single storey portion of a two storey dwelling, and, 30% of the depth of the lot for the second storey portion of the dwelling.	70% of the depth of the lot for single storey dwellings only. 50% of the depth of dwelling the lot for the single storey portion of a two storey dwelling, and 30% of the depth of the lot for the second storey portion of the dwelling.	Not permissible.	Not permissible.	Not permissible.

Table 7.1 – Controls for Small Lot Housing

Lot size	130<170m ²	170<250m ²	250<330m ²
Zero lot line	Zero lot line to both side boundaries is accepted for internal lots but must only extend 60% of the lot length for the ground floor. The extension of The zero lot line for the 2nd storey will be assessed on merit. Note: Detached garages are not included in calculations.	70% of the depth of the lot for single storey. 50% of the depth of the lot for 2 storeys. The extension of The zero lot line for the 2nd storey will be assessed on merit. For lots that have a width measured at the building line of at least 6m but less than 8m, the building may be built to both side boundaries.	70% of the depth of the lot for single storey. 50% of the depth of the lot for 2 storeys. The extension of The zero lot line for the 2nd storey will be assessed on merit. For lots that have a width measured at the building line of at least 6m but less than 8m, the building may be built to both side boundaries

**8.3 Proposed Amendments to South Jerrabomberra Development Control Plan 2015
(Ref: ; Author: Thompson/Tonner) (Continued)**

Implications***Policy***

The amendments are to give effect to Council's long-term development plans for South Jerrabomberra.

Strategic

In the event that the proposed amendments are eventually adopted, the DCP will be updated and notified in accordance with the *Environmental Planning and Assessment Act 1979*.

Engagement

The corrections to the South Jerrabomberra DCP will be exhibited for a period of 28 days.

Resources (including staff)

The amendment will be undertaken in house by staff. Administrative costs associated with this will come from the relevant budget.

Conclusion

The benefits of correcting and clarifying the wording in Tables 6.3 and 7.1 of the South Jerrabomberra DCP 2015 will provide clarity for both developers and staff in designing and assessing development applications in the South Jerrabomberra area.

It is recommended that Council agree to exhibit the amended DCP for a minimum period of 28 days.

In the interim Council is requested to vary the existing requirements of Tables 6.3 and 7.1 to allow dwellings in the South Jerrabomberra urban release area to be assessed in accordance with the corrected wording.

Attachments

Nil

8.4 Captains Flat Road Grant Works Program Review (Ref: ; Author: Hansen/Hansen)

File Reference: 31.1.4-01

Summary

The Captains Flat Road is a Regional Road that connects the village of Captains Flat to the Kings Highway. The 27km section of the Captains Flat Road from Briars Sharrow Road to Captains Flat has deteriorated over time and needs to be repaired.

Council has successfully obtained a \$10m grant for this work from the NSW State Government with funding phased over 4 years.

Following the adoption of an initial program of work by Council on 22 September 2021, a revised program of work is now provided for consideration.

Recommendation

That Council consider the revised program for the grant works proposed on Captains Flat Road.

Background

In 2020 a grant from the State Government of \$10m was announced for the upgrade and repair of the Captains Flat Road from Briars Sharrow Road.

Council will receive the funds from Transport for NSW across 4 years as follows:

Year	2020/2021	2021/2022	2022/2023	2023/2024
Amount	\$1,000,000	\$3,000,000	\$3,000,000	\$3,000,000

Following a workshop, Council resolved at the meeting held 22 September 2021 to undertake the following work:

Year	Grant Amount	Project Description	Length	Cost
20/21	\$1m	Design and Approvals and Contingencies		\$1.0m
21/22	\$3m	Pavement Stabilisation and Drainage Widening: <ul style="list-style-type: none"> • Chainage 0.3 km to chainage 4.4 km • Chainage 9.2 km to chainage 14.4 km 	4.1km 5.2 km	\$1.44m \$1.56m

8.4 Captains Flat Road Grant Works Program Review (Ref: ; Author: Hansen/Hansen) (Continued)

22/23	\$3m	Realign and Reconstruct: <ul style="list-style-type: none"> Chainage 4.4 km to 5.8 km 	1.5 km	\$3.0m
23/24	\$3m	Pavement Stabilisation and Drainage Widening: <ul style="list-style-type: none"> Chainage 14.4 km to chainage 15.4 km Chainage 18.2 km to chainage 19.2 km Realign and Reconstruct <ul style="list-style-type: none"> Chainage 21.3 km to Chainage 22.3 km Reconstruct, Improve Safety, Resurface <ul style="list-style-type: none"> Chainage 24.6 km to chainage 26.9 km 	1.0 km 1.0 km 1.0 km 2.3 km	\$0.35m \$0.35m \$1.0m \$1.3m
		Total:		\$10.0m

Note: All chainages commence from Briars Sharrow Road.

While the reconstruction works near Woolcara Ln intersection was proposed to assist Black Spot funding works, councillors also contemplated further pavement stabilisation to extend the improvement to the sealed surface, rather than realign a 1.5km section only.

As discussed, it may be possible to bring forward the out years of grant funding subject to TfNSW concurrence, but may still be constrained with access to limited resources to undertake the works and extended traffic control arrangements.

The following alternative program is now submitted for consideration for Captains Flat Road, to effectively provide 21km of resurfacing:

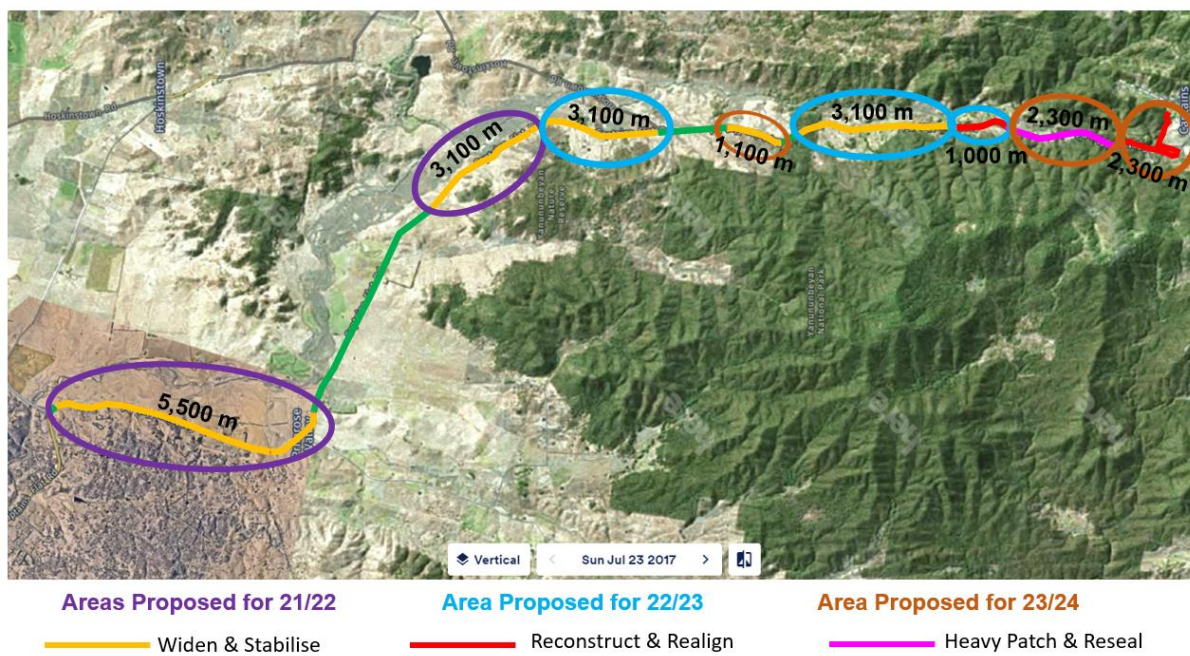
Year	Grant Amount	Project Description	Length	Cost
20/21	\$1m	Design and Approvals and Contingencies		\$1.0m
21/22	\$3m	Pavement Stabilisation and Drainage Widening: <ul style="list-style-type: none"> Chainage 0.3 km to chainage 5.8 km Chainage 9.2 km to chainage 12.3 km 	5.5 km 3.1 km	\$1.925m \$1.075m
22/23	\$3m	Pavement Stabilisation and Drainage Widening:		

8.4 Captains Flat Road Grant Works Program Review (Ref: ; Author: Hansen/Hansen) (Continued)

		<ul style="list-style-type: none"> Chainage 12.3 km to chainage 15.4 km Chainage 18.2 km to chainage 21.3 km Reconstruct and Realign (level crossing section)	3.1 km	\$1.085m
		<ul style="list-style-type: none"> Chainage 21.3 km to chainage 22.3km 	1.0 km	\$1.0m
23/24	\$3m	Pavement Stabilisation and Drainage Widening: <ul style="list-style-type: none"> Chainage 16.7 km to chainage 17.8 km Heavy Patch and Reseal: <ul style="list-style-type: none"> Chainage 22.3 km to chainage 24.6 km Reconstruct, Improve Safety, Resurface <ul style="list-style-type: none"> Chainage 24.6 km to chainage 26.9 km 	1.1 km	\$0.52m
			2.3 km	\$0.81m
			2.3 km	\$1.5m
		Total:		\$10.0m

Note: All chainages commence from Briars Sharrow Road.

The diagram below illustrates the extent and type of works, per year.



8.4 Captains Flat Road Grant Works Program Review (Ref: ; Author: Hansen/Hansen) (Continued)

Implications

Asset

Pavement stabilisation relies on suitable material existing in the current pavement. Some lengths of the road will require additional pavement material to be added and existing road shoulders will require pre-treatment and additional material in some locations.

Drainage structures will also need to be widened to accommodate the wider pavement and longitudinal drainage will need to be re-established to ensure proper drainage.

The pavement is designed for a 20 year life. The surface should be resealed every 10 years.

Financial

All work is fully funded from the Grant

Program Code	Expense Type	Funding source	Amount
		State Government Grant	\$ 10,000,000

Resources (including staff)

The works will be delivered using both staff and contract resources.

Attachments

Nil

8.5 IPART - Rate Peg Review with Population Growth (Ref: ; Author:
Tegart/Tegart)

File Reference: 43.2.1-14

Summary

IPART have published the Final Report in its review of the rate peg to include population growth. IPART released an issues paper in March, a draft report in June and held an online public hearing in July. The Minister for Local Government announced the Government's acceptance of the recommendations on 5 October, citing its commitment to allow rating incomes to grow in line with population growth to generate additional revenue for councils based on any increase in residents.

Many of the matters raised in Council, RCNSW and CRJO submissions were deemed outside the scope of the review.

This report outlines the key recommendations and effect on Council's financial plan, and proposes the matters deemed outside the scope of the IPART review, continue to be advocated. The summary of key findings is attached.

Recommendation

That Council:

- 1. Note the Final Report on the IPART review of the population rate peg.**
 - 2. Incorporate the rating options into the refresh of the Long Term Financial Plan.**
 - 3. Continue to advocate to Government, with RCNSW and CRJO, the further consideration of the matters deemed outside the IPART scope.**
-

Background

As reported to Council in the previous few months, IPART undertook a review of the rate peg to consider the impacts of population growth on NSW council finances. Council made a submission to the review and participated in several online workshops. IPART developed a methodology that draws on the Estimated Resident Population (ERP) published annually by ABS. IPART will also true-up the difference between the estimate of population growth with the next census data for all councils, and then true-up the difference based on a materiality threshold going forward. The approach aims to balance the NSW Government's commitment to protecting ratepayers from sudden or excessive rate rises, while improving the financial sustainability of local governments.

However, the approach is to include a population factor in the rate peg that is calculated as the change in residential population *less* any increase in general revenue from supplementary valuations.

The Report acknowledged the recommended adjustment to the rate peg for population growth does not include an adjustment for past growth. The need for and quantum of any catch up would need to be determined on a case-by-case basis through a SRV.

**8.5 IPART - Rate Peg Review with Population Growth (Ref: ; Author: Tegart/Tegart)
(Continued)**

Ironically, the ambition of the review was to ensure each council’s general income on a per capita basis should be maintained as its population grows. Council’s submission indicated the revenue gained and expenses made per capita moved in a reverse trajectory.

Key findings of the Final Report include:

- a. the costs of growth are not being fully met for NSW councils in general, with faster growing councils tending to be unable to recover additional revenue through general income in proportion to their growth
- b. Councils with fast growing populations have had slower growth in total revenue per capita. Councils experiencing high population growth will consequently observe a reduction in rates per capita as their population grows
- c. the under-recovery of the costs of growth will mean growing councils will be unable to maintain their service levels. This may result in councils relying on special variations to fund growth or exploring other forms of revenue raising
- d. the structure of a council’s rates, and the type of development that occurs with population growth, ultimately determines how much new ratepayers pay
- e. recent legislative changes to rating subcategories will provide some additional flexibility for councils to set rates to ensure new ratepayers pay their fair share, but only in limited circumstances

Implications

Legal

To prepare for this reform, an amendment was made to the *Local Government Act* earlier this year to allow multiple rate pegs to be set (ie per LGA).

Under the *Local Government Act* and other funding arrangements councils may increase revenues outside the rate peg by:

<p style="text-align: center;">Special variations</p> <p style="text-align: center;">Councils can apply to IPART for a special variation to increase their general income above the rate peg</p>	<p style="text-align: center;">Supplementary valuations</p> <p style="text-align: center;">When the Valuer General issues a supplementary valuation due to changes in land value (e.g. when land is rezoned or subdivided)</p>	<p style="text-align: center;">Infrastructure contributions</p> <p style="text-align: center;">Contributions from developers to fund infrastructure necessary to serve the needs of the development</p>	<p style="text-align: center;">Government grants</p> <p style="text-align: center;">Councils can apply for federal and state government grants</p>
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8.5 IPART - Rate Peg Review with Population Growth (Ref: ; Author: Tegart/Tegart)
(Continued)

Policy

The Report acknowledged many of the issues raised in submissions and workshops were outside the scope of the review, and may be pursued independently, including:

- uncoupling reform of the rate peg from the developer contributions reforms
- inequities in the NSW ratings system. Examples include how pensioner rebates are funded, the structure of rates (i.e. minimum and base/ad-valorem rates), and the benefits of basing the ratings system on the improved, rather than the unimproved, value of land
- regulatory burden and cost shifting, incl emergency services levy
- linking a population factor with depreciation costs, incl significant depreciation costs associated with ageing assets, or grant and developer gifted assts
- cost burden of non-rateable properties, incl secondary dwellings, community housing, Crown land and retirement villages under single title
- rating categories are not sufficiently flexible to account for different uses, incl holiday lets and energy installations
- review of LGCI, to reflect PPI and remove productivity factor
- cost burden of increasing pensioner rebates
- rate increases and affordability

It is suggested these matters continue to be the subject of advocacy by Council with RCNSW and CRJO.

Strategic

In workshops, IPART took on board the QPRC ‘narrow the gap’ principle to the rating structure, assigning ad valorem general rates to infrastructure maintenance and renewal (together with relevant grants, contributions and debt) and the base charge to services (together with relevant grants, fees and charges), suggesting that as a suitable model to redesign rating structures.

The LG Act determines how rates are calculated in NSW, as shown below



a May be subject to a minimum rate

b The base amount cannot constitute more than 50% of the total rates in that rating category or subcategory. Source: Local Government Act 1993.

**8.5 IPART - Rate Peg Review with Population Growth (Ref: ; Author: Tegart/Tegart)
(Continued)**

Financial

The earlier reports by IPART concluded:

- historically, council costs have increased with population growth. For every 1% increase in population, IPART estimated NSW councils' operating expenditure increases by 0.85%
- increased costs are driven by extra people, extra rateable and non-rateable properties, and the increase in community expectations of the functions and services councils provide
- council costs from population growth varies depending on:
 - whether the council is a metropolitan, regional or rural council
 - the demographics of the population in the council area
 - the type of development that occurs with population growth; that is, greenfield or infill development or an increase in secondary dwellings (such as granny flats)
 - the cost mix (increases in capital or operating costs)
- councils are currently recovering about 60% of the costs of population growth through supplementary valuations. The amount recovered varies between councils, depending on rate structure, land values and the type of development.

Each year, IPART will determine and publish a rate peg for each council based on the following methodology:

Rate peg = change in LGCI – productivity factor + other adjustments + population factor

In this formula, change in LGCI means the change in the local government cost index (LGCI), but still is reduced by a 'productivity factor'.

The population factor is equal to the annual change in its residential population, adjusted for revenue received from supplementary valuations

Population factor = max(0, change in population – supplementary valuations percentage)

No council will receive less income under the new rate peg arrangements including those not experiencing population growth.

As workshopped and reported, while the QPRC LGA population may grow around 1.5% pa on average, potentially yielding \$600k on the notional general rate yield, the average annual supplementary valuations for the 340+ new rateable properties each year, yield a budgeted \$513k per annum. Accordingly the nett effect is around \$100k pa – a figure confirmed by IPART in Appendix D that noted QPRC cumulative increase over the past 4 years (should the population peg have applied) would be \$497k. Attached is a table comparing QPRC to RCNSW councils.

**8.5 IPART - Rate Peg Review with Population Growth (Ref: ; Author: Tegart/Tegart)
(Continued)**

It is noted:

- the change in population for each council is calculated using ABS estimated residential population data.
- councils with negative growth will have a population factor of zero. Such councils will receive a rate peg that is determined in the same manner as it is now.
- the supplementary valuations percentage will be calculated using supplementary valuations revenue and notional general income yield for the same time period as the ERP data.
- if a council's supplementary valuations percentage exceeds its change in population, indicating the council has recovered more revenue through supplementary valuations than is necessary to maintain per capita general income, the population factor will be zero

The actual amount of rate growth that councils can receive from supplementary valuations depends on the:

- rate structure used by a council – for example, councils with:
 - a larger part of rates from minimum rates will receive a larger increase from supplementary valuations
 - larger differences between rates for land being rezoned (such as farmland to residential) will receive a larger increase from supplementary valuations
- land value increase from the rezoning – where there is a larger land value increase, then councils will receive a larger rate increase from supplementary valuations

Without an alternative model, supplementary valuations are the only mechanism that allows the rate base to expand with population growth.

Councils can also fund the costs of population growth by applying to IPART for a special variation (SV) to increase their general income by more than the rate peg. IPART assesses these applications against criteria established by the NSW Office of Local Government. Councils have discretion to levy a special rate to meet the cost of any works, services, facilities or activities to be provided or undertaken in their area.

IPART suggested councils should use infrastructure contributions to fund infrastructure needed to service development. To ensure contributions plans are used most effectively, councils should regularly review and update their contributions plans. The Productivity Commission Review accepted by Government recommended community facilities (libraries, halls, swim centres) be excluded from the essential works list that activate infrastructure contributions, thereby requiring those facilities to be grant/debt funded and serviced by rates.

Conclusion

The IPART Report concluded the new methodology will reduce, but not eliminate, the need for special variations. IPART expect councils will continue to use the special variation process to address some population growth-related issues including:

**8.5 IPART - Rate Peg Review with Population Growth (Ref: ; Author: Tegart/Tegart)
(Continued)**



- to 'catch up' on past population growth, where this is significant and has reduced per capita general income over time
- where per capita general income does not accurately reflect the costs of servicing the population and a one-off adjustment to the rate base is required
- to fund capital costs of infrastructure to service population growth that cannot be met while maintaining per capita general income or through other revenue sources (such as infrastructure contributions)
- where increases in general income are needed to accommodate a large service population

IPART noted recent successful SRV requests cited:

- maintaining or improving service levels
- renewing infrastructure and deteriorating assets
- improving and ensuring financial sustainability
- delivering key priorities in a Community Strategic Plan and Delivery Program
- undertaking construction of large infrastructure projects such as aquatic facilities
- maintaining assets and infrastructure
- undertaking long-term maintenance and management of land dedicated by a developer

The options available to modify revenue settings further to the IPART Final Report, should be considered in the refresh of the financial plan.

Attachments

- | | |
|---|---|
| Attachment 1
 | Summary of Finding - IPART Review of Rate Peg (<i>Under Separate Cover</i>) |
| Attachment 2
 | RCNSW LGAs - Notional Population Peg Comparison (<i>Under Separate Cover</i>) |

8.6 Long Term Financial Plan (Ref: ; Author: Knight/Monaghan)

File Reference: PJT0063-04-02

Summary

The Long Term Financial Plan (LTFP) adopted at the August 2020 Council meeting is due for review. It has been prepared in accordance with the adopted *Financial Strategy and Policy* that outlines the principles adopted by Council designed to:

- achieve financial sustainability
- manage the asset backlog to prevent an infrastructure crisis,
- preserve essential public services in line with population growth
- keep rates, fees and charges affordable
- borrow at acceptable levels in line with intergenerational equity and
- meet the financial benchmarks outlined in the policy.

Given the changed timing of Council elections and the alignment of the CSP with the new Council term, consideration of the LTFP options was deferred for consideration by the new Council, expected to be at the October Council meeting. However, with the Council elections deferred again, the LTFP and associated revenue amendments require a decision before the end of the current Council term.

The purpose of the LTFP is to inform decision-making and to demonstrate how Council will achieve financial sustainability over the long term. It models the financial outcomes of three scenarios that have been presented to Council at a workshop held in September.

Scenario 3 is the recommended scenario and presents a pathway forward that incorporates a number of initiatives including an SRV to address the long term General Fund deficit. The draft Scenario 3 workshopped by Council in September also relied upon the outcomes of the Government's commitment to the Local Government Revenue Review, understood to include a rate peg that captured population growth to maintain rate revenues per capita. However, the position adopted by Government discounts the population peg by the value of supplementary levies for new properties (refer report on IPART in this business paper).

Now that the final IPART report has been released, and the ambition of the Review to increase Council's general income with population growth has not been fully realised, the SRV option within scenario 3 has been adjusted accordingly.

The recommended SRV option incorporated within scenario 3 is a cumulative increase in rates of 27.8% over 3 years, inclusive of the rate peg increase assumed to be 7.7%. The proposed annual rates increase is 6.15% (2022-23), 6.0% (2023-24), and 5.9% (2024-25), in addition to the assumed 2.5% rate peg per annum.

Recommendation**That Council:**

- 1. Endorse the draft Long Term Financial Plan for public exhibition, inclusive of Scenario 3 as the preferred Financial scenario.**
 - 2. Notify IPART of its intention to apply for a special variation.**
 - 3. Revise the Operational Plan to include information about the proposed Special Rate Variation option and endorse the draft revision for public exhibition for 28 days.**
-

Background

Council has followed the Financial Strategy prepared by Percy Allan and adopted by Council in 2017 focussing on renewal of assets to reduce backlog, pursuing grants, and raising debt. The ongoing General Fund deficit forecasts have not yet been addressed due to:

- Growth in asset base (and additional associated depreciation expense at ~\$2m pa) due to grant funded and development gifted infrastructure to levels not contemplated
- Rate path freeze imposed on merged councils. The 'responsible scenario' of the Financial Strategy proposed a 1% pa increase in rates above rate peg/CPI from 2017 (~ \$0.35m/yr)
- Delay in production and adoption of IWCMP, which enable ~\$1.2m pa dividends
- In the absence of those revenue streams, drew down on reserves and contributions to complement grant and developer funding obligations
- Growth from merger budget of ~\$180m (70/30% split opex to capex) to current budget of ~\$300m (50/50% split) due primarily to disaster stimulus and grants
- Shift in annual carried forwards from expected (80/20 split of completed capex from current FY and previous FY carried forward) to near 60/40 split, impacting attributions
- Service and FTE growth above the responsible scenario (2% v 0.5% pa)
- Higher population growth (and subsequent servicing costs) than expected – IPART rate peg review refers
- Reduction in general purpose revenues as portion of total revenues due to increased access to grants and use of contributions for assets.

8.6 Long Term Financial Plan (Ref: ; Author: Knight/Monaghan) (Continued)

The pathway forward has been defined in Scenario 3 of the refreshed LTFF that progresses the notification of a proposed SRV - for later endorsement by the new Council - in line with the timelines for IPART. The Draft LTFF proposes to:

- Retain current Financial Strategy levers (responsible scenario)
- Continue accessing low interest fixed term loans, moderated to benchmark levels
- Continue leveraging grants for existing priority projects (rather than new investments)
- Divest property (improving cash reserves), and converting part into long term revenue streams (eg QCCP and carspace leases)
- Advocate for changes to property tax systems (ESL, special levies, development contributions)
- Continued advocacy for rating options considered outside the scope of the recent IPART review (see separate report)
- Pursue SRVs to offset the foregone annual increases for population growth, and invest in functions identified as low satisfaction in community surveys (i.e. roads, environment, paths)
- Manage expenses through focus on energy and wastes consumption, service reviews, asset ratios, depreciation charges, staff absence/productivity, trainee ratios
- Continue to grow FTE at 7.5/1000 residents, weighted to new trainees and cadets, subject to new or increased revenue streams
- Maintain FTE at 80/20 ongoing to fixed term ratio
- Continue to quarantine merger/FTE/building savings to service debt for QCCP
- Present service and service cost reviews to new Council
- Stabilise the annual carry forwards to 80/20, in turn stabilising the capital attributions
- Renegotiate remaining terms for maturing loans that are above 3%
- Improve unrestricted cash (UCR), through property sales (~\$6m) and grant acquittals
- Reduce asset MRR/depreciation:
 - Transfer emergency assets to Government: \$0.6m pa
 - Transfer regional roads to Government: \$1.7m pa

Should the above materialise, then likely one-off and ongoing improvements include:

- From FY23
 - Increase to rate yield: \$2.5m (SRV)
 - Removal of reduction to rate yield: \$1.2m (ESL)
 - Reduction of emergency service costs: \$0.6m
- From FY24
 - Increase to rate yield: \$2.5m (SRV)
- From FY25
 - Increase to rate yield: \$2.4m (SRV)
 - Reduction of regional road costs: \$1.7m

8.6 Long Term Financial Plan (Ref: ; Author: Knight/Monaghan) (Continued)

The recommended SRV option incorporated within scenario 3 is a cumulative increase in rates of 27.8% over 3 years, inclusive of the rate peg assumed to be 7.7%. The proposed annual rates increase is 6.15% (2022-23), 6.0% (2023-24), 5.9% (2024-25), in addition to the assumed 2.5% rate peg per annum.

Additional future SRV increases may be required in a future year during the LTFP period, if Council's rates revenue continues to decline in real terms as a result of population growth. Scenario 3 modelling includes allowance for an additional 2 years x 2% increase to be considered in future years.

Implications***Engagement***

Council must follow the Integrated Planning and Reporting (IP&R) guidance material in applying for an SRV and develop a community engagement strategy to consult with the community on the proposal. The nature and extent of consultation should be appropriate, proportionate, and tailored to the purpose, extent and magnitude of the proposed rate increase, and the ratepayers who will primarily be affected.

Financial

The proposed SRV has been incorporated into Scenario 3 of the LTFP. It would impact all rate categories with a cumulative increase of 27.8% over 3 years, including an assumed rate peg increase of 2.5% per annum. The new Council may modify the rating structure (sub-categories, localities) to differentiate areas of new population and asset growth for example.

The estimated additional income from the proposed special variation is detailed in the following table.

	Year 1 2022-23	Year 2 2023-24	Year 3 2024-25
Additional Income	\$2,489,000	\$5,129,000	\$7,950,000

The tables in the attachment demonstrate the impact of the proposed SRV on averages rates assessments, for each category and sub-category of ratepayer.

A Financial Risk Assessment has been prepared by staff and is provided as an attachment for consideration in conjunction with Council's decision to proceed with an SRV application, as they relate to the Council's financial sustainability.

Integrated Plan

IPART have established timelines to undertake an SRV process, to commence in November each year to enable consultation, modelling, assessment and determination by the following March. While IPART may make a positive determination in full or part, a council may subsequently choose to take up that determination in full or part in its next Operational Plan. Hence the report to the current Council before November.




The new Council will consider the Delivery Program, Financial Plan, Resourcing Strategy, Revenue Policy and Operational Plan by June 2022, to apply from July 2022. The criteria against which IPART is to assess each application are based on what councils are required to do under IP&R. These criteria are:

8.6 Long Term Financial Plan (Ref: ; Author: Knight/Monaghan) (Continued)

1. The need for, and purpose of, a different revenue path for the council's General Fund (as requested through the special variation) is clearly articulated and identified in the council's IP&R documents.
2. Evidence that the community is aware of the need for and extent of a rate rise.
3. The impact on affected ratepayers must be reasonable, having regard to both the current rate levels, existing ratepayer base and the proposed purpose of the variation. The council's Delivery Program and Long Term Financial Plan should:
 - clearly show the impact of any rate rises upon the community,
 - demonstrate the council's consideration of the community's capacity and willingness to pay rates,
 - and establish that the proposed rate increases are affordable having regard to the community's capacity to pay.
4. The IP&R documents or the council's application must explain and quantify the productivity improvements and cost containment strategies the council has realised, and plans to realise.

It is proposed that the attached SRV information be put on public exhibition and considered for inclusion with a revised Operational Plan, to meet the IPR requirements of an SRV application.

Attachments

- | | |
|--|--|
| Attachment 1 | Financial Risk Assessment (<i>Under Separate Cover</i>) |
|  Attachment 2 | Proposed SRV - Information (<i>Under Separate Cover</i>) |
|  Attachment 3 | Draft Long Term Financial Plan 2021-31 (<i>Under Separate Cover</i>) |
|  | |

10.1 Minutes of QPRC Heritage Advisory September 2021 (Ref: ; Author:
Thompson/Grant)

File Reference: 26.5.1-08

Summary

The Minutes of the of the QPRC Heritage Advisory Committee Meeting of 16 September 2021 are presented to Council.

Recommendation

That Council note the minutes of QPRC Heritage Advisory Committee held on 16 September 2021.

Attachments

Attachment 1  Minutes of the QPRC Heritage Advisory Meeting held on 16 September 2021 (*Under Separate Cover*)

11.1 Exempt & Complying Development (Ref: ; Author: Harrison/Harrison)

File Reference: 13 October 2021 motions

Notice

Councillor Pete Harrison will move the following motion:

Motion

That, in conjunction with the finalisation of the Queanbeyan-Palerang LEP, Council receive a report on the extent to which Exempt and Complying Development in the Landuse Zones E4 Environmental Living, RU5 Village and RU1 Primary Production, as proposed under Planning Proposal PP_2015_PALER_002_00, have been addressed under the new QPLEP, or other planning legislation, and what provisions proposed in this Planning Proposal remain to be addressed.

Background

Following community feedback during the preparation of the Palerang Local Environmental Plan 2014 (PLEP), the then Palerang Council conducted a review of the provisions relating to exempt and complying development within the LGA. At its Ordinary Meeting of 5 March 2015, the then Palerang Council resolved to address this matter and Planning Proposal PP_2015_PALER_002_00 was subsequently developed to bring the new PLEP into line with provisions relating to exempt and complying development that were previously available under the former Yarrowlumla LEP.

The NSW Department of Planning and Environment issued a Gateway determination on PP_2015_PALER_002_00 on 4 May 2015 recommending clarification on what legislation was to be amended prior to going to public exhibition.

Progress on the Planning Proposal was hindered somewhat by the fact that, at the time, it was not clear where the most appropriate location for the proposed amendments would be - in the PLEP or in the relevant State Environmental Planning Policy (the Exempt and Complying Development Codes SEPP). Progress was subsequently delayed by the amalgamation of the Queanbeyan and Palerang Councils and the priority given to preparing a new LEP for the merged council.

At its meeting of the Planning and Strategy Committee of 8 May 2019, Council resolved, on staff advice, to abandon this Planning Proposal, given that it applied to the PLEP and that the finalisation of the new consolidated Queanbeyan-Palerang LEP (QPLEP) was imminent. The accompanying report also noted that there had been amendments to relevant planning legislation that might render elements of the Planning Proposal unnecessary.

Following recent communications from Council in relation to the proposed rezoning of land in the Wamboin/Bywong area, there has been renewed interest within the community in relation to the status of the Planning Proposal. The present motion arises from discussion at a recent community meeting convened to canvas views on the subject.

In responding to this community interest, a report is sought to outline what matters that were to be addressed by Planning Proposal PP_2015_PALER_002_00 have been embraced by

**11.1 Exempt & Complying Development (Ref: ; Author: Harrison/Harrison)
(Continued)**

subsequent changes in legislation - the consolidated QPLEP, the Codes SEPP, the Inland Code or other relevant legislation - and what matters remain to be addressed.

A more complete account of the motivation for, and the details of Planning Proposal PP_2015_PALER_002_00 are provided in the Business Papers for the Ordinary Meeting of Palerang Council on 5 March 2015. The relevant documents are not provided at this time but would be expected to be included with the report that is being requested.

Implications***Community Engagement***

The present motion arises directly from a request from within one of the communities potentially impacted by the proposed changes. Members of the community have registered their interest in the matter at hand and have requested clarification of Council's plans in this respect.

Financial

There will be a cost associated with staff time required to prepare the requested report.

Attachments

Nil

12 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 13.1 Consideration of Legal Action Relating to Unauthorised Development at a Property in Googong

Item 13.1 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.