



## MEETING NOTICE

<b>COMMITTEE</b>	<b>PLANNING ENVIRONMENT AND DEVELOPMENT COMMITTEE MEETING</b>
<b>DIRECTORATE</b>	<b>Planning and Environmental Services</b>
<b>DATE</b>	<b>2 November 2022</b>
<b>TIME</b>	<b>4:00pm</b>
<b>VENUE</b>	<b>Council Chambers</b>
<b>ATTACHMENTS</b>	<b>Director Planning and Environmental Services Report</b>

### AGENDA

1. Present/Apologies
2. Declarations of Interest  
*In accordance with Council's Code of Meeting Practice and specifically Section 451 of the Local Government Act, 1993 declarations of interest are required by Councillors and designated staff attending the meeting.*
3. Report of the Director Planning and Environmental Services
  - 3.1 Addendum Report Development Application No. 2022/019 – Construction of Double Storey Dwelling House and Front Boundary Fence – Lot 59 DP514051  
8 Greys Place, Gunnedah. .... 3
  - 3.2 Development Application No. 2022/079 – Construction of Outbuilding (Shed)  
Lot 15 Sec 56 DP758492 – 10 Johnston Street, Gunnedah..... 24
  - 3.3 Development Application No. 2022/081 – Construction of Outbuilding (Shed)  
Lot 4 Sec 4 DP758723 – 23 Nombi Street, Mullaley..... 35

Andrew Johns  
DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES

*Apologies to: 02 6740 2115*

***The ordinary, extraordinary and committee open meetings of Council will be audio recorded for minute-taking purposes and may be broadcast live over the internet.***

**\* Local Government Act 1993 – Definition of Closed Meeting Items**

**10A Which parts of a meeting can be closed to the public?**

- (1) A council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises:
- (a) the discussion of any of the matters listed in subclause (2), or
  - (b) the receipt or discussion of any of the information so listed.
- (2) The matters and information are the following:
- (a) personnel matters concerning particular individuals (other than councillors),
  - (b) the personal hardship of any resident or ratepayer,
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret,
  - (e) information that would, if disclosed, prejudice the maintenance of law,
  - (f) matters affecting the security of the council, councillors, council staff or council property,
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
  - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.
  - (i) alleged contraventions of any code of conduct requirements applicable under section 440.

## VISION

***TO BE A FOCUSED COMMUNITY VALUING GUNNEDAH'S IDENTITY AND QUALITY LIFESTYLE.***

## MISSION

***TO PROMOTE, ENHANCE AND SUSTAIN THE QUALITY OF LIFE IN GUNNEDAH SHIRE THROUGH BALANCED ECONOMIC, ENVIRONMENTAL AND SOCIAL MANAGEMENT IN PARTNERSHIP WITH THE PEOPLE.***

## ORGANISATIONAL VALUES

***In partnership with the community:***

- 1. EQUITY***
- 2. INTEGRITY***
- 3. LEADERSHIP***
- 4. OPENNESS & ACCOUNTABILITY***
- 5. CUSTOMER SATISFACTION***
- 6. COMMITMENT TO SAFETY***
- 7. EFFICIENT & EFFECTIVE USE OF RESOURCES***

## Director Planning and Environmental Services Report

<b>ITEM 1</b>	<b>Addendum Report Development Application No. 2022/019 – Construction of double storey Dwelling House and front boundary fence – Lot 59 DP 514051 – 8 Greys Place, Gunnedah</b>
<b>MEETING</b>	Planning, Environment and Development Committee Meeting – 02 November 2022
<b>DIRECTORATE</b>	Planning and Environmental Services
<b>AUTHOR</b>	Senior Development Officer
<b>POLICY</b>	Nil
<b>LEGAL</b>	Environmental Planning and Assessment Act, 1979 Gunnedah Local Environmental Plan, 2012 Gunnedah Development Control Plan, 2012
<b>FINANCIAL</b>	Nil
<b>STRATEGIC LINK</b>	Community Strategic Plan 4.1.2 Ensure Development does not negatively impact on flooding. Operational Plan 4.1.2.2 Implement Council’s Development Control Plan.
<b>ATTACHMENTS</b>	Nil

### OFFICER’S RECOMMENDATIONS:

That the Development Application No. 2022/019, for the construction of a new dwelling house, at Lot 59 DP 514051, 8 Greys Place, Gunnedah, be approved subject to the following conditions of consent:

#### A. THAT DEVELOPMENT CONSENT BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

- A1.** The proposed development shall be carried out generally in accordance with the details set out in the following:
- Development Application form lodged 14 March 2022
  - Statement of Environmental Effects, prepared by Stewart Surveys, dated 17 February 2022, Ref: 5565;
  - Additional Information letter, dated 8 April 2022, Ref: 5565; and
  - Submitted plans:
    - Prepared by D & C Projects, dated 29/09/2022, Ref: 21139, Sheet WD1 (Cover Sheet), Sheet WD2 (Site Plan), Sheet WD3 (Shadow Diagrams), Sheet WD4 (Existing Garage Level), Sheet WD5 (Entry Floor Plan), Sheet WD6 (Upper Floor Plan), Sheet WD7 (Elevations), Sheet WD8 (Elevations), Sheet WD9 (Sections), Sheet WD10 (Sections);
    - Prepared by Stewart Surveys Pty Ltd, dated 8 April 2022, Ref: 5565, Drawing No. 1 of 1, Issue A (Landscape and Fencing Plan);
  - Supporting Documentation:
    - Aqualap Technical Information Pack, prepared by Vortex Spas, Ref: VSSTP240122;
  - BASIX Certificate number: 1274249S\_03

except as otherwise provided by the conditions of consent.

***Reason: To ensure compliance with application and plans.***

**B. PRESCRIBED CONDITIONS**

Note: The following conditions are prescribed conditions and may or may not relate directly to this development.

**B1. Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989**

(cf clauses 78 and 78A of EP&A Regulation 1994)

- (1) For the purposes of section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work—
  - (a) that the work must be carried out in accordance with the requirements of the *Building Code of Australia*,
  - (b) in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
  
- (1A) For the purposes of section 4.17(11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the *Building Code of Australia*.
  
- (2) This clause does not apply—
  - (a) to the extent to which an exemption is in force under clause 164B, 187 or 188, subject to the terms of any condition or requirement referred to in clause 164B(4), 187(6) or 188(4), or
  - (b) to the erection of a temporary building, other than a temporary structure to which subclause (1A) applies.
  
- (3) In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant—
  - (a) development consent, in the case of a temporary structure that is an entertainment venue, or
  - (b) construction certificate, in every other case.

**Note.** There are no relevant provisions in the *Building Code of Australia* in respect of temporary structures that are not entertainment venues.

**Reason:** *To ensure compliance with the statutory requirements.*

**B2. Erection of signs**

- (1) For the purposes of section 4.17(11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
  
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out—
  - (a) showing the name, address and telephone number of the principal certifier for the work, and

- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
  - (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
  - (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.
  - (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note. Principal certifiers and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

***Reason: To ensure compliance with the statutory requirements.***

### **B3. Notification of Home Building Act 1989 requirements**

- (1) For the purposes of section 4.17(11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- (2) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information—
  - (a) in the case of work for which a principal contractor is required to be appointed—
    - (i) the name and licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work to be done by an owner-builder—
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the updated information.

- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.

*Reason: To ensure compliance with the statutory requirements.*

#### **B4. Fulfilment of BASIX Commitments**

- (1) This clause applies to the following development:
- (a) BASIX affected development,
  - (b) any BASIX optional development in relation to which a person has made a development application that has been accompanied by a BASIX certificate or BASIX certificates (despite there being no obligation under clause 2A of Schedule 1 for it to be so accompanied).
- (2) For the purposes of section 4.17 (11) of the Act, fulfilment of the commitments listed in each relevant BASIX certificate for development to which this clause applies is a prescribed condition of any development consent for the development.

*Reason: To ensure compliance with the statutory requirements.*

#### **B5. Condition relating to shoring and adequacy of adjoining property**

- (1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense—
- (a) protect and support the building, structure or work from possible damage from the excavation, and
  - (b) where necessary, underpin the building, structure or work to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

*Reason: To ensure compliance with the statutory requirements.*

### **C. PRIOR TO COMMENCEMENT OF BUILDING WORKS**

- C1.** Prior to the commencement of any building works the developer is to apply to an Accredited Private Certifier or Council for a Construction Certificate for the erection of the building. **NO BUILDING WORKS SHALL COMMENCE WITHOUT FIRST OBTAINING A CONSTRUCTION CERTIFICATE.**

*Reason: To meet statutory requirements.*

- C2.** Prior to work commencing appropriate measures are to be implemented in relation to erosion and sediment control. Such measures are to be maintained during the construction of the development in accordance with Council's Gunnedah Development Control Plan 2012.

**Reason: To ensure erosion and sediment control on the development site.**

- C3.** Prior to the commencement of building works a "Peg Survey Report" indicating the location of the corners of the walls of the dwelling, is to be submitted to Council confirming the positioning of the dwelling relative to the allotments boundaries. The position of the dwelling is to be consistent with the development Site Plan, prepared by D & C Projects, dated 29/09/2022, Ref: 21139, Sheet WD2.

**Reason: To ensure compliance.**

- C4.** Prior to the commencement of building works, the name, address and contact details of the Principal Building contractor shall be provided to Council.

**Reason: To ensure compliance.**

**D. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

- D1.** Prior to issue of a Construction Certificate construction plans, specifications and documentation as required by conditions of this consent and being consistent with this development consent and the Building Code of Australia, are to be submitted to the Principal Certifier.

**Reason: To ensure compliance.**

- D2.** Prior to the issuing of a Construction Certificate by the Council or an Accredited Certifier, the Long Service Levy is to be paid.

**Reason: To comply with statutory requirements.**

- D3.** Prior to the issuing of a Construction certificate, the Developer shall pay to Council a levy as applicable at the time of payment, relative to the total project value, in accordance with the Council's Section 94A Contributions Plan 2013 under Section 7.12 of the Environmental Planning and Assessment Act 1979. The current levy payable is calculated at 1% of the development cost. The current calculated levy payable is \$6,500.00, revised construction cost may incur a varied levy fee.

Note: The Gunnedah Shire Council's Section 94A Contributions Plan 2013 can be viewed on Council's web site at: <http://www.gunnedah.nsw.gov.au>

**Reason: To make provision for public amenities and services within the community.**

- D4.** Prior to the issuing of a Construction certificate, the Developer shall obtain from Council approval under Section 68 of the Local Government Act, 1993 to:
- (a) Carry out water supply works
  - (b) Carry out sewerage works
  - (c) Carry out stormwater drainage works

Note: All works are to be carried out by an appropriately licensed contractor in accordance with NSW Code of Practice for Plumbing and Drainage-2006.

**Reason: To ensure environmental health standards are met.**

- D5.** Prior to the issue of a Construction Certificate an updated landscaping plan is to be provided and approved by Gunnedah Shire Council, which updates the Landscape and Fencing Plan, prepared by Stewart Surveys Pty Ltd, dated 8 April 2022, Ref: 5565, Drawing No. 1 of 1, Issue A to being consistent with the approved development Site Plan, prepared by D & C Projects, dated 29/09/2022, Ref: 21139, Sheet WD2.

***Reason: To ensure that the landscaping is conducted consistent with the approved development plans.***

- D6.** Prior to issuing a Construction Certificate, a Water Meter Application shall be lodged with Council.

***Reason: To ensure a water service is provided to the site in accordance with Council's requirements.***

#### **Stormwater**

- D7.** Prior to the issue of a Construction Certificate a Stormwater Management Plan prepared by a suitably qualified and experienced engineer or registered surveyor is to be submitted to Council for assessment and approval.

The Stormwater Management Plan is to include detailed calculations and supporting drawings/documentation, which demonstrate that stormwater can be intercepted, drained and lawfully discharged for the purpose of preventing stormwater from entering the building in the designed storm event and not create nuisance to any downstream neighbours.

Any proposed works (e.g. diversion banks, drains etc) must be designed in accordance with Australian Rainfall and Runoff to cater for the 1 in 20 year storm.

***Reason: To ensure satisfactory drainage whilst ensuring that the surface water is not diverted onto adjoining properties.***

- D8.** Prior to the issue of a Construction Certificate structural Engineer's details demonstrating the adequacy of the existing retaining walls and garage structure are to be submitted to the Principal Certifier.

***Reason: To ensure compliance.***

#### **E. GENERAL**

- E1.** No permanent structures are to be placed on any easement.

***Reason: To ensure legal requirements.***

- E2.** Street numbers of minimum height of 75mm are to be displayed in a prominent position so as to be legible from the street. Your street number will be 8 Greys Place.

***Reason: To ensure proper identification of premises in case of emergencies.***

- E3.** Excavated material from the lot is not to be placed on or used to alter the level of Council's footpath, with no earth batters are to extend beyond the property boundary line.

***Reason: Implementation of Council policy.***



- E4.** Roof water to be discharged to the street gutters in sealed stormwater pipes. If these works necessitates the cutting of the kerb and guttering the works shall be carried out in accordance with Council's footpath, kerb and gutter construction standards. No stormwater is to be directed as to discharge onto adjoining properties so as to cause a nuisance.

***Reason: To ensure efficient dispersal of storm water.***

- E5.** Any damage caused to kerb, guttering and/or footpath during building operations, shall be rectified by the developer in accordance with Council's Driveway crossing standards and specifications.

***Reason: To ensure the integrity of Council's road infrastructure is maintained in an acceptable standard.***

- E6.** Before erection of any permanent structures such as fences, concrete car drives, garages etc. adjacent to street boundaries, correct street levels must be ascertained from the Council's Infrastructure Services Section.

***Reason: To ensure compliance efficient construction.***

#### ***Access - Urban***

- E7.** Vehicular access shall be from Greys Place and will require the construction of a concrete driveway across the footpath in accordance with Council's standards and specifications. A copy of the concrete crossover specification sheet can be downloaded or viewed on Council's website at:<http://www.gunnedah.nsw.gov.au>
- a) Before commencement of this work, construction levels are to be obtained from Council's Infrastructure Services. A security bond being half of the estimated cost of the construction work is to be lodged with Council, before work on the driveway is commenced.
- b) Upon the satisfactory completion of the driveway by the developer, the security bond will be released.

Note: Council promotes a nominal cross-fall across the footpath from the kerb top to the boundary line of 2-3%. Internal driveway grades shall be in accordance with AS 2890 – 2004. Council's Infrastructure Services can be contacted on 02 6740 2130.

***Reason: To implement Council's policy.***

- E8.** The parking areas and internal driveway from the vehicle access on Greys Place to the attached garage is to be constructed of an all-weather hardseal material, being hard sealed of either bitumen seal, asphaltic concrete, concrete or interlocking pavers or other alternative product which has been approved by Council.

***Reason: To ensure compliance with the Gunnedah Development Control Plan 2012.***

#### **F. DURING CONSTRUCTION WORKS**

- F1.** A stamped copy of the development consent, the approved plans and specifications are to be kept at the construction site at all times during the construction period.

***Reason: To ensure compliance with approved application and plans.***

- F2.** The storage of all building materials shall be confined within the boundaries of the allotment.

***Reason: To ensure site safety.***

- F3.** Excavated material from the lot is not to be placed on or used to alter the level of Council's footpath, with no earth batters are to extend beyond the property boundary line.

***Reason: Implementation of Council policy.***

- F4.** From the commencement of building works and in perpetuity, the entire property shall be managed as an inner protection area in accordance with the following requirements of Appendix 4 of Planning for Bush Fire Protection 2019:

- a) tree canopy cover should be less than 15% at maturity;
- b) trees at maturity should not touch or overhang the building;
- c) lower limbs should be removed up to a height of 2m above the ground;
- d) tree canopies should be separated by 2 to 5m; and
- e) preference should be given to smooth-barked and evergreen trees.
- f) create large discontinuities or gaps in the vegetation to slow down or break the progress of fire towards buildings should be provided;
- g) shrubs should not be located under trees;
- h) shrubs should not form more than 10% ground cover; and
- i) clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- j) grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height); and
- k) leaves and vegetation debris should be removed.

***Reason: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

- F5.** The entire roof and the southern, eastern and western elevations of the dwelling shall comply with Sections 3 and 8 (BAL 40) Australian Standard AS3959-2018 'Construction of buildings in bushfire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). The entire roof and the southern, eastern and western elevations of the dwelling shall also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.

***Reason: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

- F6.** The northern elevation shall comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 'Construction of buildings in bushfire-prone areas' or the relevant requirements of the NASH Standard – Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). The northern elevation shall also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.

***Reason: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

- F7.** Any new fences and/or gates shall comply with Section 7.6 of Planning for Bush Fire Protection 2019. New fences and gates are to be made of either hardwood or non-combustible material. Where a fence or gate is constructed within 6m of a dwelling or in areas of BAL-29 or greater, they shall be made of non-combustible material only.

***Reason: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

- F8.** The provision of water, electricity and/or gas shall comply with the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019:
- a) reticulated water is to be provided to the development where available,
  - b) all above-ground water service pipes external to the building are metal, including and up to any taps,
  - c) where practicable, electrical transmission lines are underground,
  - d) where overhead electrical transmission lines are proposed they shall comply with the requirements/guidelines of the local electricity authority.
  - e) reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used,
  - f) all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side,
  - g) connections to and from gas cylinders are metal,
  - h) polymer sheathed flexible gas supply - lines are not used, and
  - i) above-ground gas service pipes are metal, including and up to any outlets.

***Reason: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

- F9.** Landscaping within the required asset protection zone is to be designed and managed in accordance with the following:
- a) compliance with the NSW RFS 'Asset Protection Zone Standards' and Appendix 4 of 'Planning for Bush Fire Protection 2019';
  - b) a clear area of low-cut lawn or pavement is maintained adjacent to the house;
  - c) trees and shrubs are located so that:
    - i. the branches will not overhang the roof; and
    - ii. the tree canopy is not continuous.

***Reason: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

**F10. Excavations and backfilling**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

***Reason: To ensure compliance.***

**F11. Retaining walls and drainage**

If the soil conditions require it:

- (a) Retaining walls associated with the erection or demolition of a building or other approved methods preventing movement of the soil must be provided, and
- (b) adequate provision must be made for drainage.

Should a retaining wall be proposed to be constructed above a height of 600mm the applicant shall have the structure designed by a practicing Structural Engineer and a copy of the design plans are to be provided to council before work commences on the site. The retaining wall is to be completed in accordance with the design provided prior to any occupation or use of the building.

***Reason: To ensure site stability.***

**F12. Protection of public places**

If the work involved in the construction of a building:

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- (b) building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

***Reason: To ensure site safety.***

**F13. Toilet facilities**

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- (a) must be a standard flushing toilet, and
- (b) must be connected:
  - (i) to a public sewer, or
  - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
  - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced. In this clause:

*accredited sewage management facility* means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the Regulation.

*approved by the Council* means the subject of an approval in force under Division 1 of Par 3 of the *Local Government (Approvals) Regulation 1993*.

*public sewer* has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

*sewage management facility* has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

***Reason: To ensure environmental health standards are met.***

- F14.** Work on the development shall be limited to the following hours to prevent unreasonable disturbance to the amenity of the area:-

Monday to Friday - 7.00am to 5.00pm;  
Saturday - 8.00am to 1.00pm if audible on other residential premises, otherwise 7.00am to 5.00pm;

No work to be carried out on Sunday or Public Holidays.

Note: The builder shall be responsible to instruct and control sub-contractors regarding the hours of work.

Council will exercise its powers under the Protection of the Environment Operations Act, 1997, in the event that the building operations cause noise to emanate from the property on Sundays or Public Holidays or otherwise than between the hours detailed above.

***Reason: To ensure amenity of the neighbourhood is maintained.***

## **G. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

- G1.** Occupation of the building is not to occur until all work has been completed, the conditions of consent satisfied and an Occupation Certificate issued by the Principal Certifying Authority.

***Reason: To meet statutory requirements.***

## **PURPOSE**

This Development Application is being referred to Council for determination as the determination of this development was deferred by Council, pending further consultation between the developer and Council staff. The original determination was referred to Council for determination as the original development included a request for variation to Council's development control plan and the recommendation for determination for the development was for refusal. The amended development proposal retains a request for variation to Council's building line setback, which in this instance, is supported by Council for the reasons outlined herein.

Applicant: M B Racz  
c/- Stewart Surveys  
Owner: Mr M B Racz  
Property Description: Lot 59 DP 514051  
8 Greys Place, Gunnedah

*Proposed Development*

The development proposes the construction of a new double storey dwelling house and brick column front boundary fence.

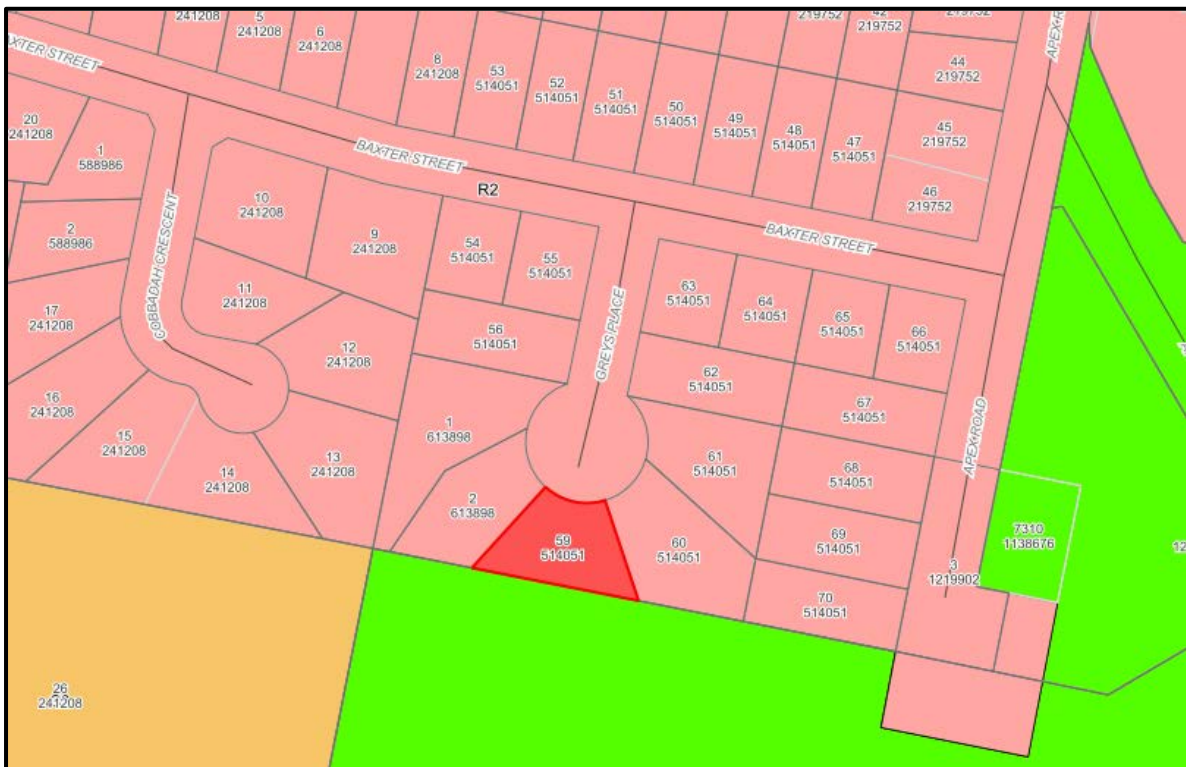


Figure 1 – Site Location

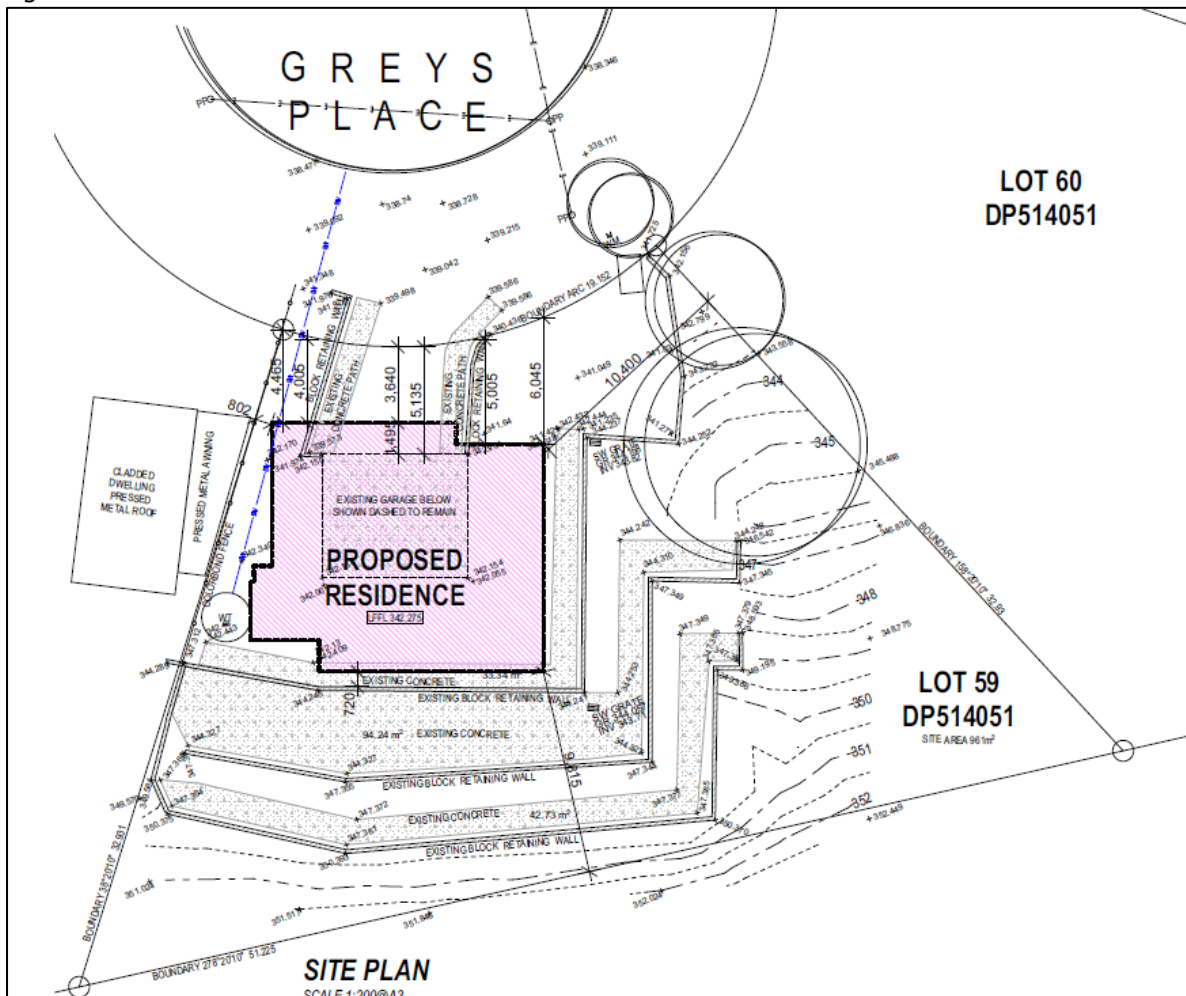


Figure 2 – Proposed Site Plan

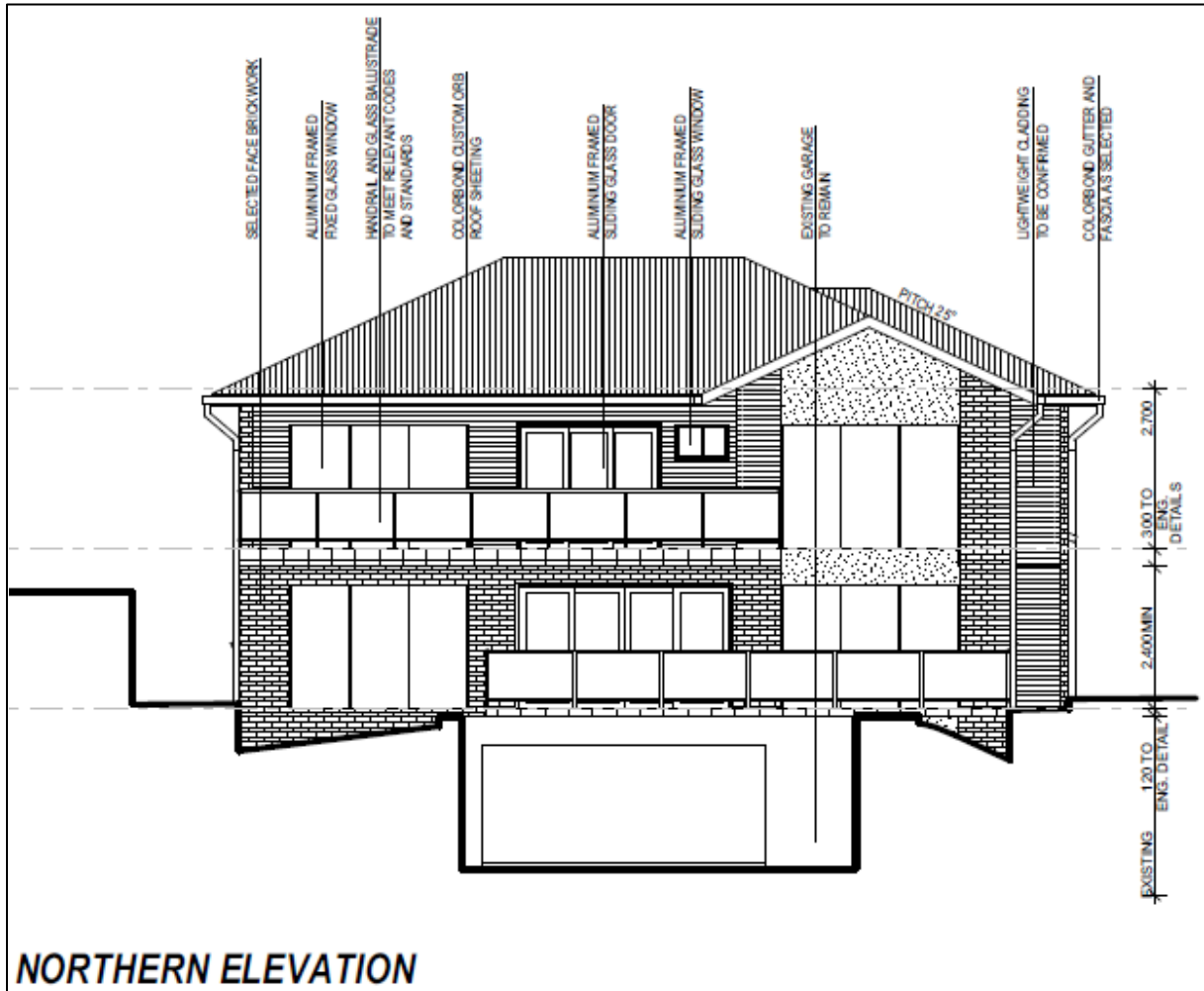


Figure 3 – Proposed Elevations Plan

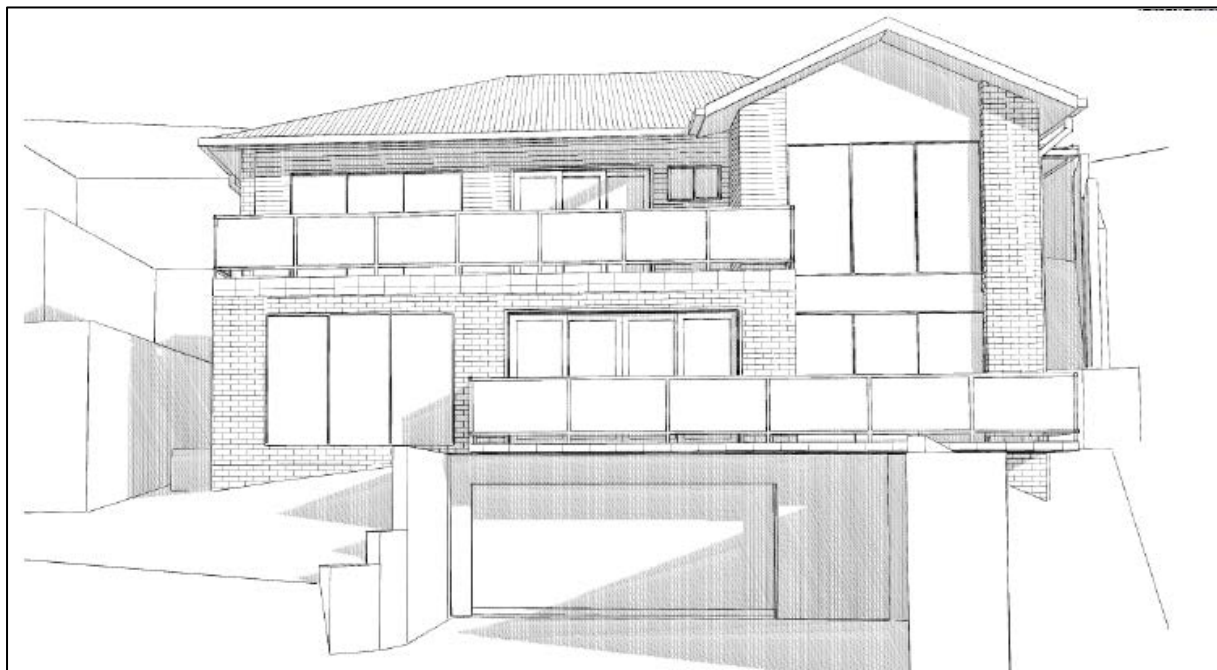


Figure 4 – Proposed Perspective

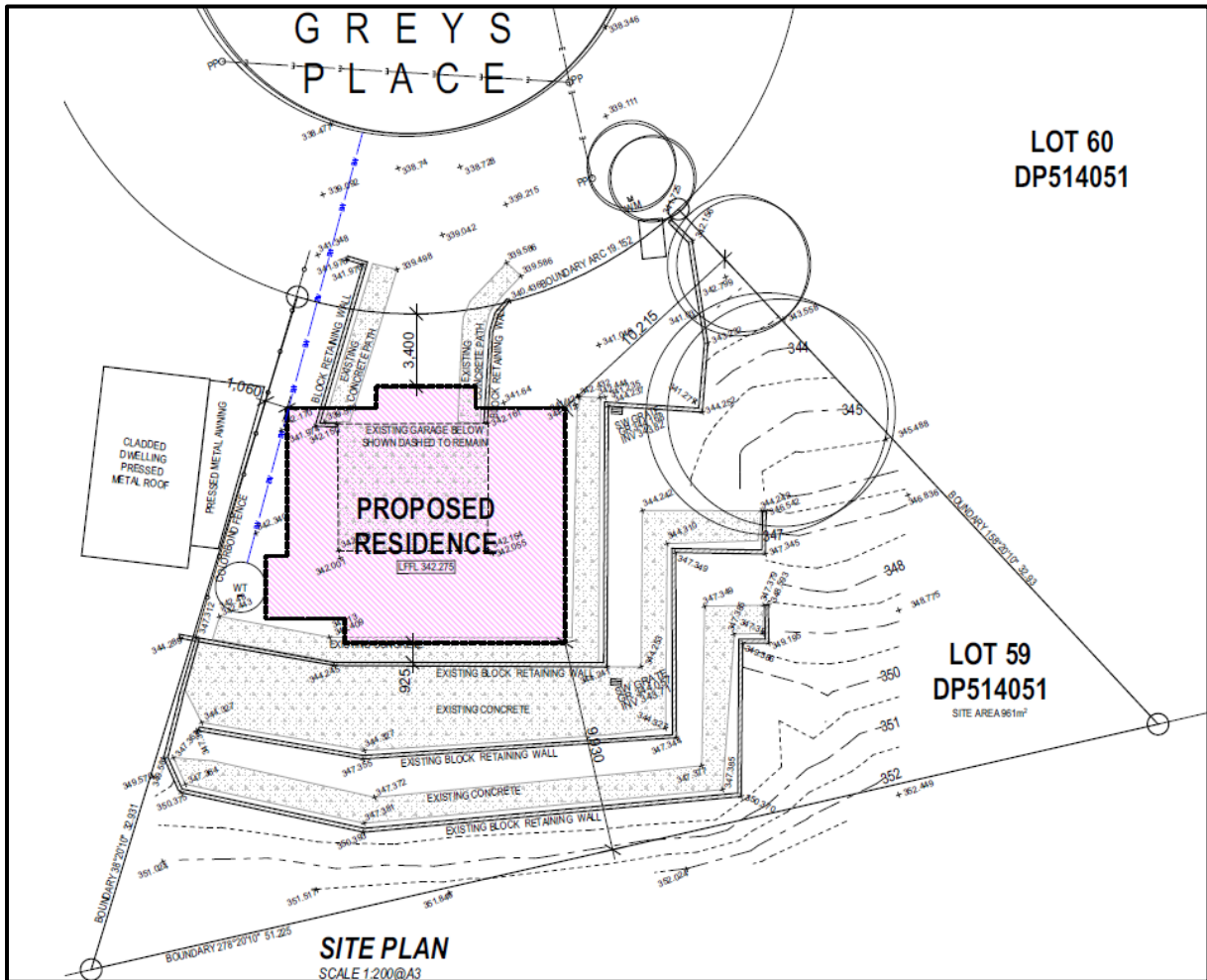


Figure 5 – Previous Site Plan

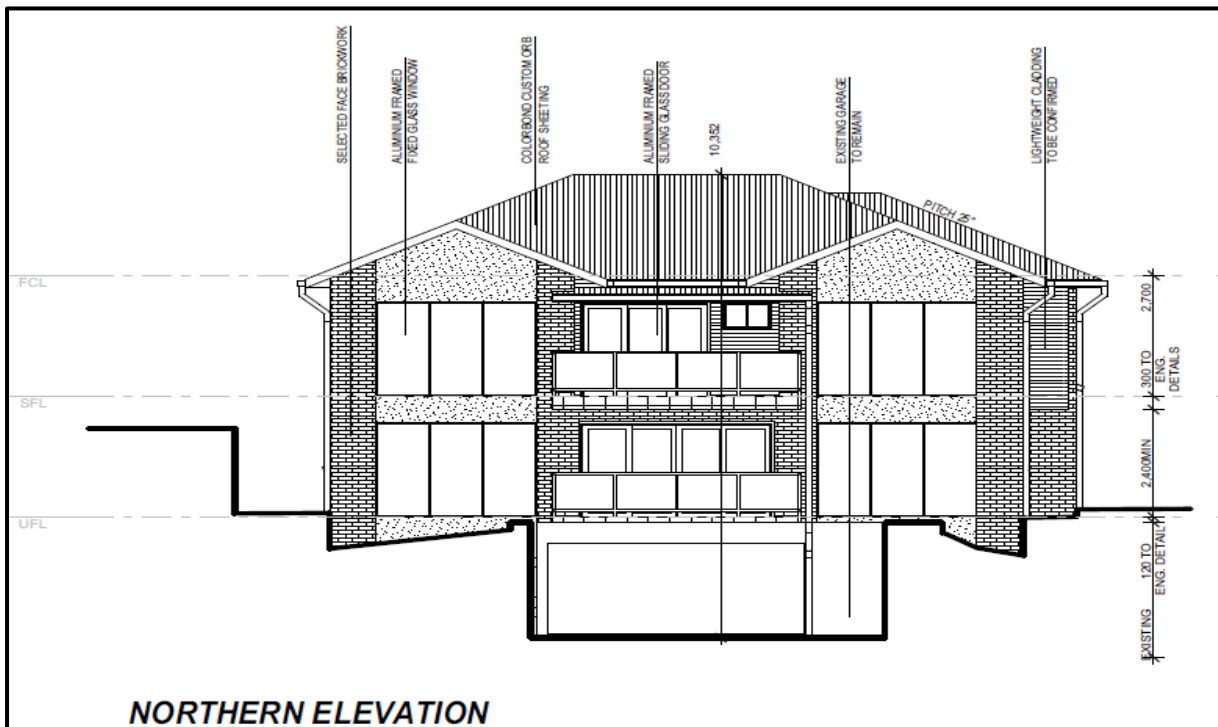


Figure 6 – Previous Elevations Plan



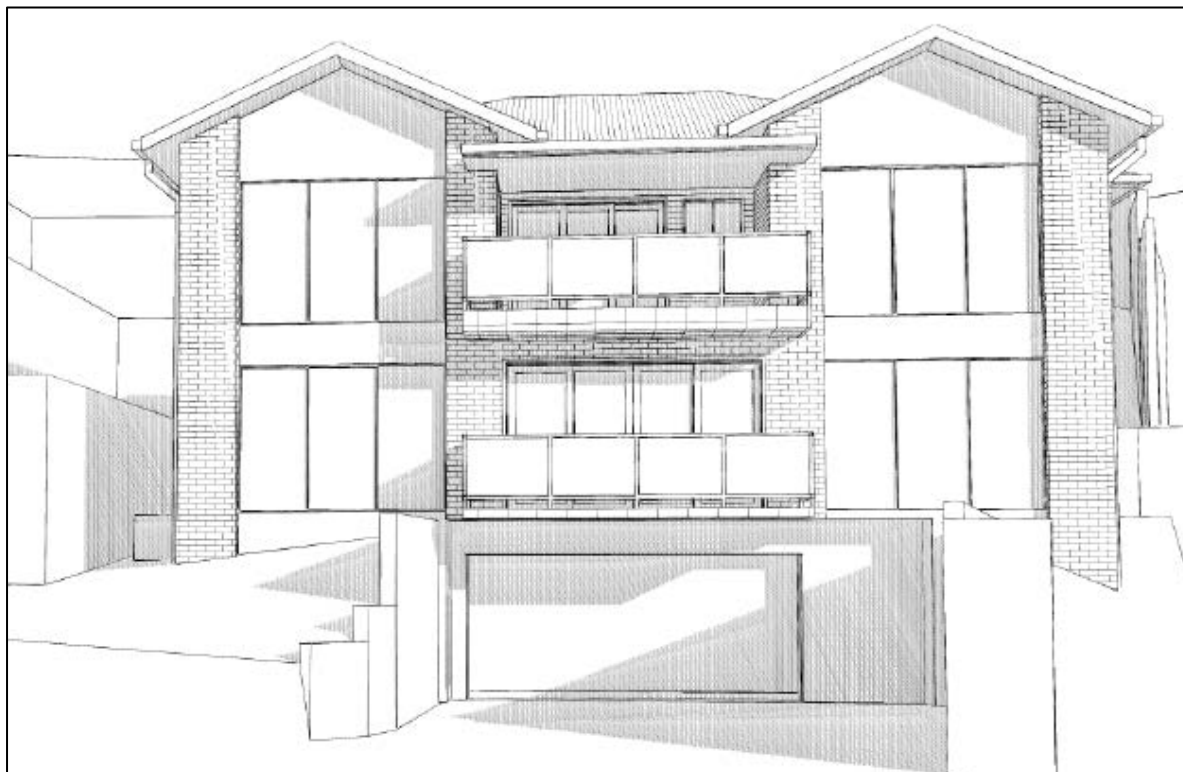


Figure 7 – Previous Perspective

## BACKGROUND

Initial excavation work of the site was undertaken in 1998 without the knowledge or approval of Gunnedah Shire Council. At the time Council issued orders under the *Local Government Act 1993* which required rectification and stabilisation works to be initiated.

Council issued a Development Consent (DA 0074.1998) for the erection of a small 6 metre long retaining wall in the North West corner of the site. A Construction Certificate for these works was issued on 26 November 1998. The retaining wall referred to in this consent was from the proposed dwelling location to the front boundary of the property. No development consent was granted for the remaining earthworks, constructed retaining walls or garage.

Stormwater runoff during heavy rain around 2000-2001 resulted in the failure of the stabilisation works conducted as a result of orders issued in 1998. Council issued further orders for works including the need for a more specific geotechnical and engineering design work to stabilise the site. In response to Council's issued orders, the developer has constructed various retaining walls.

In July 2022 Council resolved (Resolution No. 2.07/22P) '*that the decision of the Development Application for 8 Greys Place be deferred to a future Council meeting to allow the proponent an opportunity to comply with Gunnedah Shire Council's planning requirements*'. In response to this resolution the applicant met with Council staff and provided Council with an amended development layout.

## COMMENTARY

***Environmental Planning and Assessment Act 1979 (EPA Act)***

***S4.15(1)(a)(i) the provisions of any environmental planning instrument***

## Gunnedah Local Environmental Plan, 2012

### 2.3 – Zone Objectives and Land Use Table

The amendment to the development does not impact on the permissibility of the development. The development is consistent with the R2 zone objectives, as it creates additional residential accommodation within the Gunnedah community.

### 4.4 – Floor Space Ratio

The amended development plans result in a reduction in the floor area of the building by 9.4m<sup>2</sup>. Hence, as the previous assessment concluded that the development did not exceed the site Floor Space Ratio (FSR) of 0.5:1, the amended development does not exceed the FSR.

### 6.5 – Essential Services

The amendment to the development does not impact on the provision of essential services previously assessed.

## STATE ENVIRONMENTAL PLANNING POLICY

- **State Environmental Planning Policy (Biodiversity Conservation) 2021**
  - **Chapter 2 Vegetation in Non-Rural Areas**  
The amendment to the development does not introduce vegetation removal in difference to the previous assessment.
  - **Chapter 4 Koala Habitat Protection 2021**  
The development site is still less than 1 hectare and does not trigger any further assessment.
- **State Environmental Planning Policy (Resilience and Hazards) 2021**
  - **Chapter 4 Remediation of Land**  
The amended development proposal does not alter the previous assessment of potential soil contamination.

### S4.15(1)(a)(iii) provisions of any development control plan

## Gunnedah Development Control Plan 2012 (Gunnedah DCP)

### 2.1.1 – Building Setbacks

The proposed development does not comply with the primary street building setback of the R2 zone, with the development including a request for a variance to this development standard. It is noted that the existing garage, which forms part of the retaining wall existing onsite, is set 5.14 metres from the frontage to Greys Place. The existing garage is located within the building setback. The proposed building setbacks are listed within Table 1.

	Required	Provided	Compliance
<b>Primary Street (Greys Place)</b>	7.5m	3.64m	X
<b>Rear</b>	*BCA	9.815m	✓
<b>Side</b>	*BCA	802m	✓

Table 1: Proposed Outbuilding Setbacks

\*single dwellings 900mm or greater from property boundaries do not require fire rated external walls. As the dwelling is proposed within the setback the external walls, where encroaching, are to be fire rated to satisfy the Building Code of Australia (BCA).

The development is set a suitable distance from rear lot boundaries to comply with setbacks required by the Building Code of Australia as the development does not include any fire rated external walls.

The dwelling is proposed to be positioned 3.64 metres from the street frontage of Greys Place at the closest point due to the frontage being curved. The encroached section of the dwelling is an external balcony with balustrade which is indicated to be glass, enabling visibility through the balustrade. This balcony does not have a covered roof which reduces the presence of this section of the dwelling.

The external wall of the dwelling will be set 5.005 metres from Greys Place at the closest point out to 6.045m further along the boundary arc. The encroachment of the ground floor of the dwelling constitutes 100% of the frontage of the building. The building design includes a setback of sections of the second floor of the dwelling. The second floor will be positioned between 4.96 metres from Greys Place to 8.145 metres. The setback does not achieve the required 50% elevation setback by 2.1.1a – Discretionary Development Standard. However, as the development includes variation to the building elevation, which creates visual intrigue in the appearance of the building when viewed from Greys Place, the overall encroachment does not present an intimidating visual impost to the streetscape. The amended development plans have enabled the building to be positioned further into the allotment to be closer to achieving compliance. The previous development design proposed a building elevation that was 4.4 metres for both floors of the dwelling with no articulation within the building elevation.

Council's compromise on the building setback, coupled with the amended development design which provides diversity in the appearance of the building elevation enables a more favourable development design and in the unique circumstances of the development and the unique constraints of the site result in a development which is supported by Council's planning staff.

#### ***2.1.1a – Discretionary Development Standard***

The amended development proposal does not result in a compliance with this discretionary development standard. Refer to previous comments which address reason for support of building line variation.

#### ***2.1.2 – Building Height of a Dwelling***

The amendment to the development plans does to appear to result in a change to the overall height of the proposed dwelling. As the previous height was compliant the amended plans do not exceed the permitted development height.

#### ***2.1.3 – Utilities***

The resulted amendment to development plans do not result in the proposed dwelling being positioned over any easement line or any Council Infrastructure where no easement exists. The development retains a water connection.

#### ***2.1.4 – Privacy***

The amendments to the development proposal do not present any additional privacy issues. The amendments do not remove the obligation for provision of landscaping between the boundary and the adjoining dwelling to the West of the site. It was previously determined that this vegetation could provide a screen between the two dwellings for privacy of the existing dwelling at maturity. An updated landscaping plan would be required to ensure that the landscaping plans are consistent with the amended development layout.

#### ***2.1.5 – Design and Solar Access***

The amended dwelling design does not propose blank walls being created along road frontages with windows presenting to Greys Place and the amendments to the internal design does not prevent solar access to internal living spaces as they will retain solar access from the northern aspect of the building.

The amended development plans included an amended shadow diagram which reflected the amended building design. The amended shadow diagram is included as Figure 8 below. This diagram indicates shadows cast from the proposed dwelling. It is anticipated that the development would not cast unacceptable shadowing which would restrict solar access of adjoining properties as shadows are not expected to extend beyond the boundaries of the allotment.

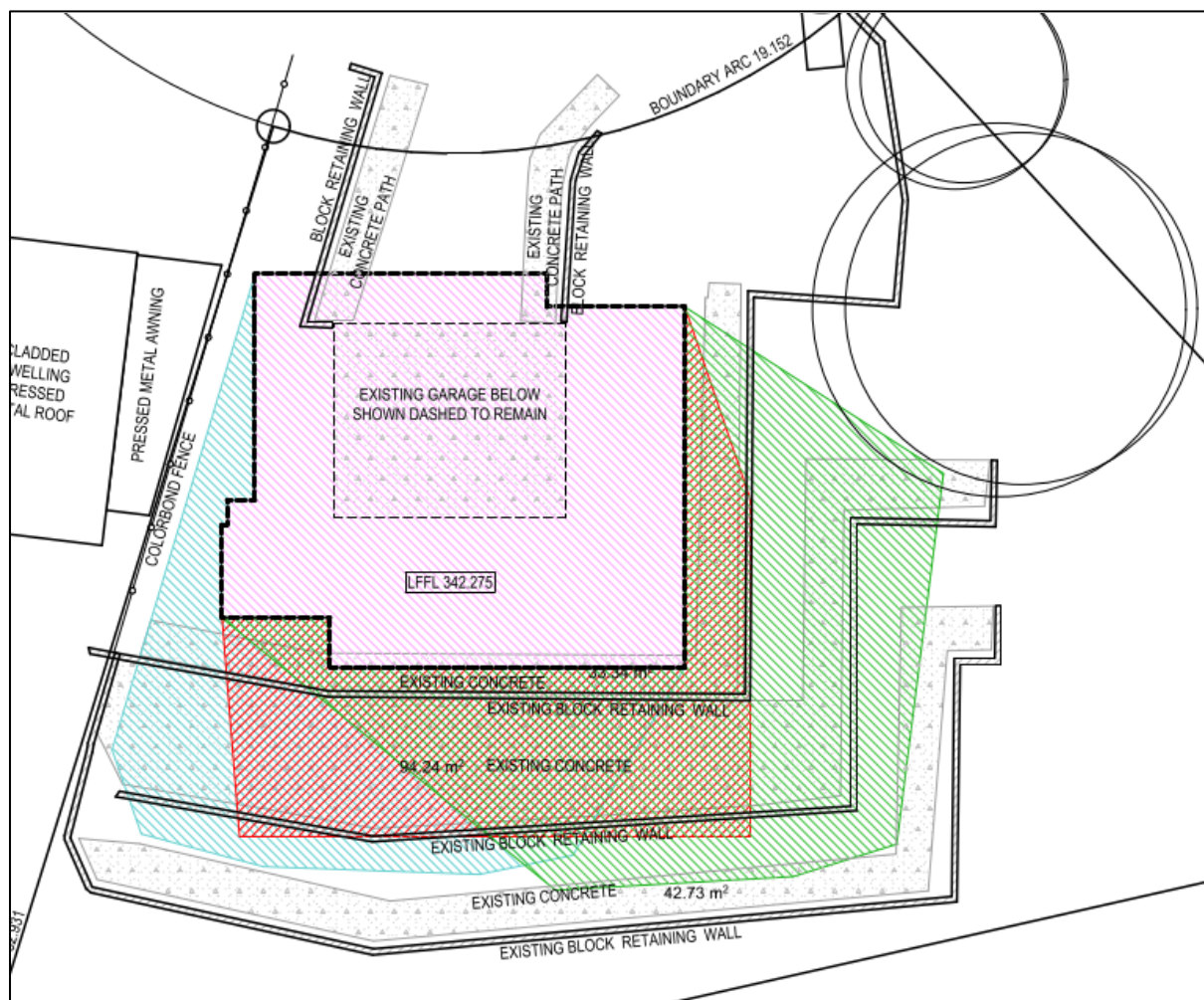


Figure 8 – Amended Shadow Diagram

### 2.1.6 – Street Fencing

The amended development design does not propose to amend the fence design.

### 2.1.10 – Access

The amended development does not affect the previous assessment of access provisions to the site. A condition has been recommended that a new access and internal access shall be constructed.

### 2.1.11 – Ridgelines

The amended development plans do not result in a change to the position of the building onsite or change to building height such that it would penetrate above the ridgeline of Porcupine Reserve, located behind the dwelling house.

### 2.1.12 – Slope

The amended development plans do not change the previous assessment conducted. The previous provided Engineering Inspection Report does not require update as it refers to the structural adequacy of the existing retaining walls.

The development will require the provision of a Stormwater Management Plan to address the drainage of stormwater through the site including natural flow.

**2.1.13 – Pools and Spas**

The amended development proposal does not result in any change to the type or position of the proposed pool and spa previously addressed within the previous report to Council. Hence, no amended assessment is required.

**6.6.1 – Environmental Effects**

The amended development plans do not change the assessment previously undertaken with regards to the environmental effects on Traffic, Flood Liability, Slope, Construction Impacts, Solid and Liquid Waste, Air Quality (odour and pollution), Noise Emissions, Water Quality and Sustainability.

**S4.15(1)(b) the likely environmental impacts on the natural and built environments and social and economic impacts in the locality****Context & Setting**

The previous development design was not supported by Council due to the visual impact on the streetscape and the bulk and scale of the dwelling design. Council's previous position was not due to the development being multi storey, but was due to the bulk and scale of the development and its prominent position at the head of Grey Place due to the slope up to the site from the intersection of Greys Place and Baxter Street.

Amended development plans were provided which change the internal and elevation design of the development so as to address the appearance of the dwelling from the public road reserve, especially due to the prominence of the development site within the surrounding locality. Figure 4 illustrates an artist's impression of the final visual outcome of the dwelling house.

As addressed within the previous report to Council the development site is located within a prominent location along the hillside of the Porcupine Hill and is the dominant visual feature within Greys Place, being the main location visible and is the main initial feature present when you enter the street. The amended development layout and varied use of materials proposed, provides a breakup of the building elevation with the positioning of external walls, balcony and alfresco to break-up the visual appearance of the façade to reduce the presence on the streetscape. Approximately 65% of the second floor of the dwelling is setback in an alternate alignment to the remaining external elevation of the dwelling. The introduction of the alfresco setback realigns the building roofline creating setback sections of roofline, creating further variation in the elevation reducing the overall bulk and scale of the development, whilst still achieving a similar outcome with regards to the floor area of the dwelling.

The development site is located within the R2 low density residential zone of the Gunnedah township, but is located on the edge of the residential zone. The site is located to the South of the Gunnedah CBD. The surrounding area is predominately residential allotments containing dwelling houses and ancillary outbuildings. The Porcupine Reserve is located to the South of the site, which is a heavily vegetated area.

The development does not create any overshadowing issues, despite being two storey, with the shadowing projecting from the building being to the south of the allotment. Due to the site slope the shadow projects into the slope and does not leave the site. The adjoining lot is a public reserve and is unlikely to be affected by overshadowing.

The proposed use of the site is not considered to be inconsistent with the surrounding area. Hence, the amended development design is expected to have reduced bulk and scale and is thus does not have a negative environmental impact in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

***Access, Transport and Traffic***

The amended development proposal does not change the previous assessment of the developments impact on transport and traffic previous report to Council. The development will require the creation of a new vehicle access and sealed internal driveway.

***Public Domain***

The amended development proposal does not change the previous assessment of public domain within the previous report to Council.

***Heritage***

The amended development proposal does not result in impact on items of heritage.

***Other Land Resources***

The amended development proposal does not result in changed impacts on primary resources previous considered within the previous report to Council.

***Water***

The amended development proposal does not change the previous assessment of water services within the previous report to Council.

***Flora and Fauna***

The amended development plans does not impact the previous assessment of the development which determined that the development did not impact on threatened species or areas of biodiversity value.

***Waste***

The amended development proposal does not change the previous assessment of waste services within the previous report to Council.

***Natural Hazards***

The amended development plans do not alter the natural hazard threat to the development previously assessed. Recommended conditions from the NSW RFS have been included within the recommended conditions.

**S4.15(1)(c) Suitability of the Site**

The development site is not constrained by the land use of adjoining allotments. The development would not result in unmanageable transport demand within the road network. Gunnedah has provision of adequate recreational space and public recreation spaces for use by residents. The development would not be expected to create any air emissions or impact on the surrounding microclimate.

The site is subject to bushfire and it is necessary that the development include significant threat mitigating measures to reduce threat to inhabitants. The site is not subject to any other known natural hazards. The development would not prevent the use of primary production agricultural land or access to primary resources. The site is considered to be suitable for the development of a Dwelling House.

**S4.15(1)(d) any submissions made in accordance with this Act or the regulations**

The development was notified to adjoining land holders in accordance with the Gunnedah Community Participation Plan (CPP), prior to the development being referred to Council previously. No submissions were received during the previous notification period.

Council notified the amended development plans to adjoining land holders to make them aware of the amendment to development plans and the amended development design. Council received one (1) submission during the second public exhibition period. Details of the submission are addressed as follows:

- *Misleading shadow diagram, should consider 4 seasons*  
Consideration of shadow diagram is made for the 22 June as the shortest day of the year at which a development would create the longest shadows and potentially create the greatest impact to availability of solar access. The development proposal includes a shadow diagram which maps projected shadows entirely within the property. Hence, the consideration of shadows during other days within the year would not project as far from the dwelling and would impact less area.
- *Height of the dwelling and proximity to adjoining dwelling*  
The amended development plans do not alter the dwelling height. The reposition of the dwelling on the site has resulted in the dwelling being 240mm further from the Greys Place property boundary. However, the dwelling will be 258mm closer to the side property boundary. Due to the proximity of the dwelling to the boundary the external wall will require fire rating due to its proximity to the side property boundary. Council's controls have no building setback from side boundaries if the development complies with the BCA. A condition has been recommended that requires the development to comply with the BCA.
- *Loss of views*  
The existing residence has no exclusive right to views and vistas currently being experienced. The proposed dwelling is positioned to the East of the site and will not prevent access to views experienced to the North and West of the site. It is expected that the proposed dwelling will block minimal views available from the rear yard of the adjoining property, a view already partially block by the adjoining allotments own residence.



*Figure 9 – Extract from submission of view to be impeded (dwelling considered to occur between dwelling and existing dense vegetation on right of image).*

**S4.15(1)(e) the public interest**

The development application is not regarded as being Integrated or Designated Development. Council is not aware of any relevant Local, State or Federal planning studies, strategies or management plans that are applicable to the proposed development which needs to be considered for this development.

**Conclusion**

The development application is seeking consent for the construction of a new multi storey dwelling house. The development application has been assessed under the provision of the *Environmental Planning and Assessment Act 1979*. The evaluation of this development application has concluded that the proposed development is compliant with the legislative requirements for this development, except where the variation has been considered.

As per the recommendation of this report, it is concluded that Development Application No. 2022/019, Lot 59 DP 514051, 8 Greys Place, Gunnedah, should be approved subject to conditions.

<b>ITEM 2</b>	<b>Development Application No. 2022/079 – Construction of Outbuilding (Shed) – Lot 15 Sec 56 DP 758492 – 10 Johnston Street, Gunnedah</b>
<b>MEETING</b>	Planning, Environment and Development Committee Meeting – 02 November 2022
<b>DIRECTORATE</b>	Planning and Environmental Services
<b>AUTHOR</b>	Senior Development Officer
<b>POLICY</b>	Nil
<b>LEGAL</b>	Environmental Planning and Assessment Act, 1979 Environmental Planning and Assessment Regulation, 2021 Gunnedah Local Environmental Plan, 2012 Gunnedah Development Control Plan, 2012
<b>FINANCIAL</b>	Nil
<b>STRATEGIC LINK</b>	Community Strategic Plan 4.1.2 Ensure Development does not negatively impact on flooding. Operational Plan 4.1.2.2 Implement Council’s Development Control Plan.
<b>ATTACHMENTS</b>	Nil

**OFFICER’S RECOMMENDATIONS:**

**That the Development Application No. 2022/079, for the construction of an outbuilding, at Lot 15 Sec 56 DP 758492. 10 Johnston Street, Gunnedah, be approved subject to the following conditions of consent:**

**A. THAT DEVELOPMENT CONSENT BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

- A1.** The proposed development shall be carried out generally in accordance with the details set out in the following:
- Development Application form lodged 01/09/2022;
  - Statement of Environmental Effects, prepared by Guy and Rozlyn Carlyon, dated 25/08/2022;



- Submitted plans:
  - Prepared by Great Value Garages, dated 24 August 2022, Revision 5, Reference 394143, Sheet No. 1 (Site Plans), Sheet 3 (Site Plan);
  - Prepared by Great Value Garages, dated 23 August 2022, Reference GRVG59079, Sheet 1 (Foundation and Member layout), Sheet 2 (Elevations / bracing plan), Sheet 3 (Section), Sheet 6 (Elevations);

except as otherwise provided by the conditions of consent.

***Reason: To ensure compliance with application and plans.***

- A2.** To confirm and clarify the terms of this development determination, the outbuilding must not be occupied as a dwelling and is not to be used for any commercial or industrial use without the prior written consent of Council.

***Reason: To ensure compliance.***

## **B. PRESCRIBED CONDITIONS**

Note: The following conditions are prescribed conditions and may or may not relate directly to this development.

### **B1. Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989**

(cf clauses 78 and 78A of EP&A Regulation 1994)

- (1) For the purposes of section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work—
  - (a) that the work must be carried out in accordance with the requirements of the *Building Code of Australia*,
  - (b) in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
  
- (1A) For the purposes of section 4.17(11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the *Building Code of Australia*.
  
- (2) This clause does not apply—
  - (a) to the extent to which an exemption is in force under clause 164B, 187 or 188, subject to the terms of any condition or requirement referred to in clause 164B(4), 187(6) or 188(4), or
  - (b) to the erection of a temporary building, other than a temporary structure to which subclause (1A) applies.
  
- (3) In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant—
  - (a) development consent, in the case of a temporary structure that is an entertainment venue, or
  - (b) construction certificate, in every other case.

Note: There are no relevant provisions in the *Building Code of Australia* in respect of temporary structures that are not entertainment venue.

**Reason: To ensure compliance with the statutory requirements.**

## **B2. Erection of signs**

- (1) For the purposes of section 4.17(11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out—
  - (a) showing the name, address and telephone number of the principal certifier for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note. Principal certifiers and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

**Reason: To ensure compliance with the statutory requirements.**

## **B3. Notification of Home Building Act 1989 requirements**

- (1) For the purposes of section 4.17(11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- (2) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information—

- (a) in the case of work for which a principal contractor is required to be appointed—
  - (i) the name and licence number of the principal contractor, and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder—
  - (i) the name of the owner-builder, and
  - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.

***Reason: To ensure compliance with the statutory requirements.***

#### **C. PRIOR TO COMMENCEMENT OF BUILDING WORKS**

- C1.** Prior to the commencement of any building works the developer is to apply to an Accredited Private Certifier or Council for a Construction Certificate for the erection of the building. **NO BUILDING WORKS SHALL COMMENCE WITHOUT FIRST OBTAINING A CONSTRUCTION CERTIFICATE.**

***Reason: To meet statutory requirements.***

- C2.** Prior to work commencing appropriate measures are to be implemented in relation to erosion and sediment control. Such measures are to be maintained during the construction of the development in accordance with Council's Gunnedah Development Control Plan 2012.

***Reason: To ensure erosion and sediment control on the development site.***

- C3.** Prior to the commencement of building works, the name, address and contact details of the Principal Building contractor shall be provided to Council.

***Reason: To ensure compliance.***

#### **D. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

- D1.** Prior to the issuing of a Construction certificate, the Developer shall obtain from Council approval under Section 68 of the Local Government Act, 1993 to:
  - (a) Carry out water supply works
  - (b) Carry out stormwater drainage works

Note: All works are to be carried out by an appropriately licensed contractor in accordance with NSW Code of Practice for Plumbing and Drainage-2006.

***Reason: To ensure environmental health standards are met.***

- D2.** Prior to the issuing of a Construction Certificate by the Council or an Accredited Certifier, the Long Service Levy is to be paid.

***Reason: To comply with statutory requirements.***

**E. DURING CONSTRUCTION**

- E1.** A stamped copy of the development consent, the approved plans and specifications are to be kept at the construction site at all times during the construction period.

***Reason: To ensure compliance with approved application and plans.***

- E2.** The storage of all building materials shall be confined within the boundaries of the allotment.

***Reason: To ensure site safety.***

**E3. Toilet facilities**

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- (a) must be a standard flushing toilet, and
- (b) must be connected:
  - (i) to a public sewer, or
  - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
  - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced. In this clause:

*accredited sewage management facility* means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the Regulation.

*approved by the Council* means the subject of an approval in force under Division 1 of Par 3 of the *Local Government (Approvals) Regulation 1993*.

*public sewer* has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

*sewage management facility* has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

***Reason: To ensure environmental health standards are met.***

- E4.** Work on the development shall be limited to the following hours to prevent unreasonable disturbance to the amenity of the area:-

Monday to Friday – 7.00am to 5.00pm;  
Saturday – 8.00am to 1.00pm if audible on other residential premises, otherwise  
7am to 5.00pm;

No work to be carried out on a Sunday to Public Holidays

Note: The builder shall be responsible to instruct and control sub-contractors regarding the hours of work.

Council will exercise its powers under the Protection of the Environment Operations Act, 1997, in the event that the building operations cause noise to emanate from the property on Sundays or Public Holidays or otherwise than between the hours detailed above.

***Reason: To ensure amenity of the neighbourhood is maintained.***

**F. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

- F1.** Occupation of the building is not to occur until all work has been completed, the conditions of consent satisfied and an Occupation Certificate issued by the Principal Certifying Authority.

***Reason: To meet statutory requirements.***

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**PURPOSE**

This Development Application is being referred to Council for determination as the development includes a request for a variation to development control standards within the Gunnedah Development Control Plan 2012 (GDGP 2012), pertaining to the cumulative size of the proposed outbuilding.

Applicant: G L Carlyon & R W Carlyon  
c/- Great Value Garages  
Owner: G L Carlyon & R W Carlyon  
Property Description: Lot 15 Sec 56 DP 758492  
10 Johnston Street, Gunnedah

***Proposed Development***

The development proposes the construction of an outbuilding (shed).



Figure 1 – Site Location



Figure 2 – Site Plan

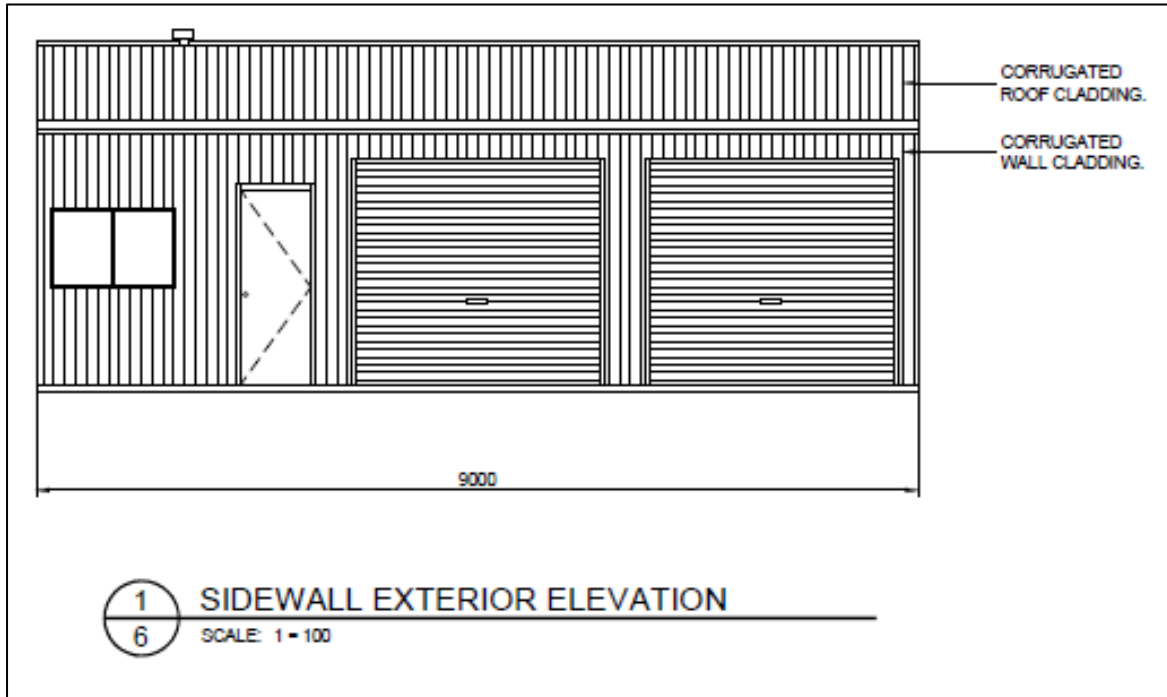


Figure 3 – Elevations Plan

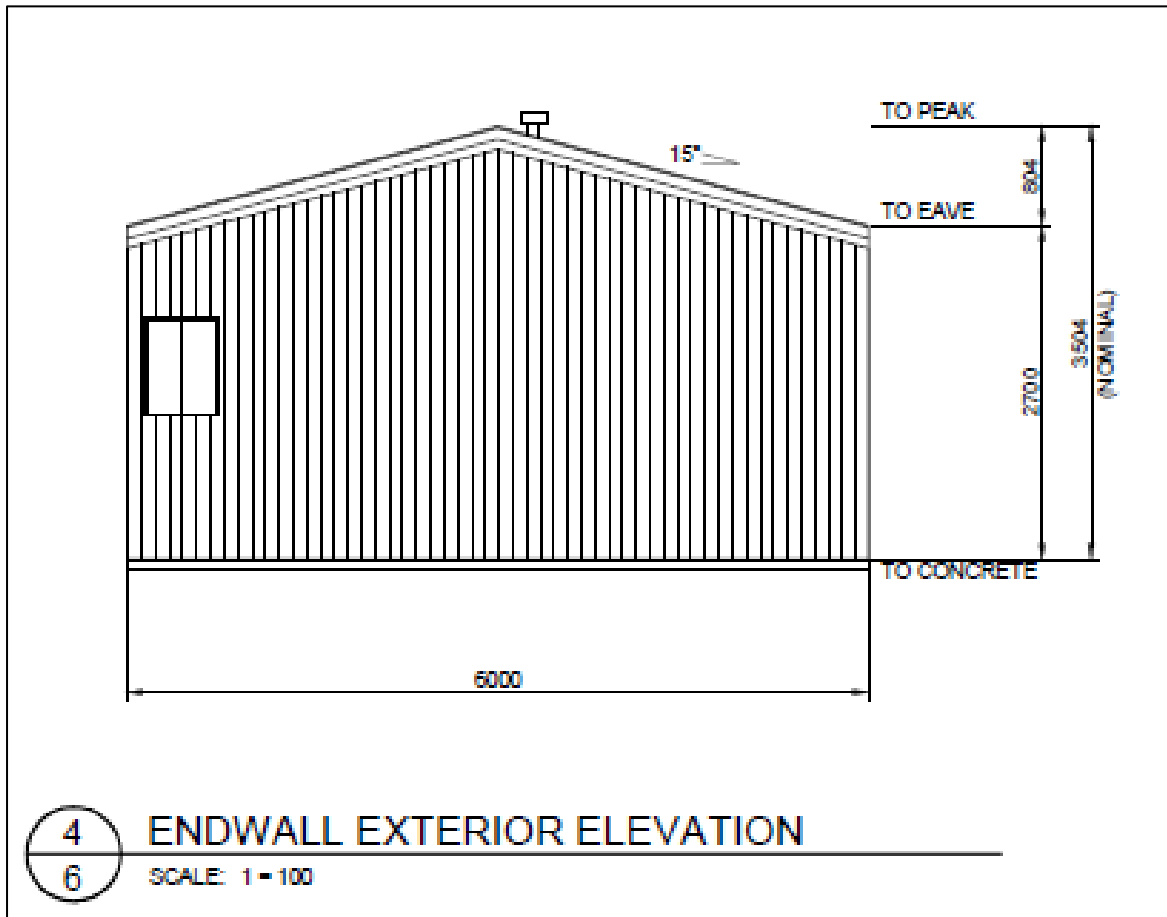


Figure 4 – Elevations Plan

**COMMENTARY**

*Issues*

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979*****S4.15(1)(a)(i) the provisions of any environmental planning instrument*****Gunnedah Local Environmental Plan, 2012*****2.3 – Zone Objectives and Land Use Table***

The development site is zoned R2 Low Density Residential (R2), under the provision of the Gunnedah Local Environmental Plan, 2012 (GLEP 2012). Residential Accommodation is permitted subject to consent within the R2 land zone. The proposed shed is to be ancillary to the existing dwelling house on the site. Hence, the proposed development is permitted subject to consent.

The development enables the development site to meet the needs of residents and provides residential occupation within the Gunnedah community. Hence, the proposed development is consistent with the zone objectives of the R2 land zone.

***6.5 – Essential Services***

The development site has the provision of the Council's water, stormwater and sewer services connected to the site. The site has provision of an electrical supply from overhead electrical transmission lines located within Johnston Street. The site has frontage to Johnston Street for vehicle access, which is a public road reserve.

**State Environmental Planning Policies (SEPPs)*****State Environmental Planning Policy (Biodiversity Conservation) 2021******Chapter 2 – Vegetation in Non-Rural Areas***

The development site is located within the R2 Low Density Residential zone, which is identified within this SEPP as being a land zoning to which this SEPP applies. The development proposal does not include the removal of any trees or vegetation from the site.

***Chapter 4 – Koala Habitat Protection 2021***

The Gunnedah Shire is listed within Schedule 2 as being subject to Chapter 4. The development site has an area less than 1 hectare and the land owner does not own any adjoining parcel of land. Hence, in accordance with Clause 4.9 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 4 of this SEPP does not apply and no assessment into the impact on Koala Habitat is required.

***State Environmental Planning Policy (Resilience and Hazards) 2021******Chapter 4 – Remediation of Land***

The development site currently contains a single residential dwelling and outbuildings. A search of Council's records and supplied Statement of Environmental Effects does not identify that there has been any previous usage that could potentially lead to any potential site contamination. Council is satisfied the site is suitable for the development and Council is not prevented from granting consent.

***S4.15(1)(a)(iii) provisions of any development control plan*****Gunnedah Development Control Plan 2012 (Gunnedah DCP)*****2.1.1 – Building Setbacks***

The development is located behind the building line of the existing dwelling, located behind existing outbuildings onsite in the rear of the yard. The proposed development is compliant with the setbacks of the R2 Low Density Residential zone, as set out in the DCP. Refer table below.



Setback	Required	Provided	Compliance
<b>Primary Frontage (Johnston Street)</b>	Refer to building line Map (7.5m)	>7.5	✓
<b>Rear</b>	BCA	>8m	✓
<b>Side</b>	BCA	>0.9m	✓

Table 1: Proposed Outbuilding Setbacks

### 2.1.3 – Utilities

The development does not propose any construction occurring over a registered easement or any Council Infrastructure where no easement exists. The development will be clear of utility infrastructure. The development site has provision of Council's reticulated water supply.

### 2.1.5 – Design and Solar Access

The development will not affect current solar access to the approved dwelling or adjoining properties. The development is located to the northern boundary, behind the building line of the existing dwelling and will not affect the visual appearance of the property from Johnston Street.

### 2.1.8 – Outbuildings, Carports and Detached Garages

The outbuilding is located behind the building line setback for the development site and will be located behind the existing dwelling and associated outbuildings. The proposed outbuilding development standards are listed within Table 2 for the R2 Zone. The development does not comply with the cumulative size of an outbuilding due to the provision of an existing carport which has a floor area of 30m<sup>2</sup>. It is noted that the site also contains an attached garage which is excluded from the cumulative area calculation for total area of outbuildings onsite, being that it is attached to the dwelling.

Control	Requirement	Provided	Compliance
<b>Max Size</b>	<b>54m<sup>2</sup></b>	54m <sup>2</sup>	✓
<b>Cumulative area</b>	<b>72m<sup>2</sup></b>	84m <sup>2</sup>	x
<b>Max length (Horz)</b>	<b>9m</b>	9m	✓
<b>Max Wall height</b>	<b>3.3m</b>	2.7m	✓
<b>Max Roof pitch</b>	<b>24<sup>0</sup></b>	<24 degrees	✓
<b>Max height</b>	<b>4.2m</b>	3.504m	✓

Table 2: Proposed Outbuilding development controls

The proposed outbuilding is seeking consent for a cumulative floor area of 84m<sup>2</sup>. The maximum allowable cumulative size of outbuildings within the R2 zone is 72m<sup>2</sup>. Hence, the resulting development exceeds this development control as well as 2.1.8b discretionary development standard, which gives discretion for outbuildings to be built to the cumulative size. The development includes a request for variation to development standard, pertaining to maximum cumulative size of the outbuilding.

The applicant has stated that the additional floor area is required for the storage of lawn mowers, personnel household items and enables area for maintenance and servicing of motorcycles at a domestic scale. The size of the outbuilding does not present an area great enough that the maintenance and servicing of motorcycles could become a commercial or industrial practice. A condition has been imposed to ensure that the outbuilding is not used for commercial or industrial activities. The proposed shed will enable an outbuilding which provides a level of external storage for household items within the site.

The development proposed an outbuilding which is compliant with the maximum outbuilding size of 54m<sup>2</sup>. However, due to the existing carport the development does not meet the development controls. The existing carport is attached to the existing dwelling and would be viewed as part of the existing dwelling house. Where the attached carport to be enclosed the area of this would be excluded from the cumulative area similar to the attached garage. Hence, the variation to the cumulative size of the outbuilding is supported in the unique circumstances of the development.

**2.1.8b – Discretionary Development Standard**

The development exceeds Council's development controls by the 12m<sup>2</sup> for cumulative area of outbuildings. Assessment has been conducted as to the requested variation as above.

**2.1.10 – Access**

The development does not propose an internal driveway to the garage and as the existing driveway provides access to the existing carport and garage onsite it is not anticipated that additional internal driveways are required by this development.

**S4.15(1)(b) the likely environmental impacts on the natural and built environments and social and economic impacts in the locality****Context & Setting**

The development site is located within the residential area to the south of the Gunnedah CBD and currently contains an existing dwelling and outbuildings.

The development proposes the construction of a detached outbuilding. The adjoining lots are occupied by residential dwellings and accompanying outbuildings. The design, shape and appearance of the proposed development will be consistent with the existing outbuildings in the surrounding area. The outbuilding is not likely to be visible from the Johnston Street or any other public reserve.

**Access, Transport and Traffic**

The proposed development has frontage to Johnston Street. Johnston Street is a bitumen sealed road with kerb and guttering. The development is not expected to result in an increase in vehicle movement within the road network. The existing vehicle access from Johnston Street is not considered to require upgrade.

**Public Domain**

The development does not require the creation of any pedestrian linkages or the dedication of any public open space. The development will not require the dedication of public land and the development will have no impact on Council's existing public areas or parklands. There is no Section 7.12 contribution under the Gunnedah Shire Council S94A Plan which applies to this development.

**Heritage**

The development site does not contain any identified items of environmental heritage, nor are there any located within the vicinity of the development, that will be impacted by the development.

**Other Land Resources**

The allotments surrounding the site are zoned R2 Low density Residential. Mining and extractive resources activity is prohibited within this land zone and the lot is not located near any zoning that would allow for the use for agriculture or extractive industries. Hence, no land resources are impacted by the proposed development.

**Water**

The development site has provision of Council's water services to the development site from the Council water main located in Johnston Street. Stormwater is to be directed to the kerb and gutter within Johnston Street, being part of Council's stormwater networks, for the management of stormwater. The development will require the lodgement of a Section 68 application for approval of stormwater management measures.

**Waste**

The subject site has the provision of Council's sewer services and has Council's kerb side collection bins. The development is not anticipated to increase the waste generation onsite.

**Noise & vibration**

The development will not result in any noise or vibration with the exception of the construction phase. Council's standard hours of operations will be imposed during construction works.

**Natural Hazards**

The site is not identified as being subject to flooding or bushfire prone.

**Social & Economic impact in the locality**

The proposed development will have no negative social impact on the surrounding area. The development will be consistent with development on adjoining allotments. The development may employ local tradesmen and resources for construction.

**S4.15(1)(c) Suitability of the Site**

The proposed development is consistent with the existing and future development in the locality. The site has access from Johnston Street and demonstrates adequate provisions of Council's water, stormwater and waste facilities. The site is not prone to bushfire or flooding activity and does not contain any recognised items of heritage significance. The development will be complimentary to the structures approved on-site and the neighbouring properties.

**S4.15(1)(d) any submissions made in accordance with this Act or the regulations**

There was an obligation for the development application to be notified to the adjoining land holders in accordance with the Gunnedah Community Participation Plan 2020 (CPP) as the development requests a variation to Council's Development Control Plan. Council did not receive any submissions during the notification period.

**S4.15(1)(e) the public interest**

The development application is not regarded as being Integrated or Designated Development. Council is not aware of any relevant planning studies, strategies or management plans that are applicable to the proposed development to be considered for this variation.

**Conclusion**

The development application is seeking consent for the construction of a detached outbuilding. The development application has been assessed under the provisions of the *Environmental Planning and Assessment Act 1979*. The evaluation of this development application has concluded that the proposed development is compliant with the legislative requirements for this development, except where the variation has been considered.

As per the recommendation of this report, it is concluded that Development Application No. 2022/079 Lot 15 Sec 56 DP 758492, 10 Johnston Street Gunnedah, should be approved subject to conditions.

<b>ITEM 3</b>	<b>Development Application No. 2022/081 – Construction of Outbuilding (Shed) – Lot 4 Sec 4 DP 758723 – 23 Nombi Street, Mullaley</b>
<b>MEETING</b>	<b>Planning, Environment and Development Committee Meeting – 02 November 2022</b>
<b>DIRECTORATE</b>	<b>Planning and Environmental Services</b>
<b>AUTHOR</b>	<b>Senior Development Officer</b>
<b>POLICY</b>	<b>Nil</b>

<b>LEGAL</b>	<b>Environmental Planning and Assessment Act, 1979</b> <b>Environmental Planning and Assessment Regulation, 2021</b> <b>Gunnedah Local Environmental Plan, 2012</b> <b>Gunnedah Development Control Plan, 2012</b>
<b>FINANCIAL</b>	<b>Nil</b>
<b>STRATEGIC LINK</b>	<b>Community Strategic Plan</b> <b>4.1.2 Ensure Development does not negatively impact on flooding.</b> <b>Operational Plan</b> <b>4.1.2.2 Implement Council's Development Control Plan.</b>
<b>ATTACHMENTS</b>	<b>Nil</b>

**OFFICER'S RECOMMENDATIONS:**

**That the Development Application No. 2022/081, for the construction of an Outbuilding (Shed), at Lot 4 Section 4 DP 758723, 23 Nombi Street, Mullaley, be approved subject to the following conditions of consent:**

**A. THAT DEVELOPMENT CONSENT BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

- A1.** The proposed development shall be carried out generally in accordance with the details set out in the following:
- Development Application form lodged 9 September 2022
  - Statement of Environmental Effects, prepared by Ross Wattus, dated 5 September 2022;
  - Additional Information, prepared by Stewart Surveys, dated 7 October 2022, Reference 5786; and
  - Submitted plans:
    - Prepared by Stewart Surveys, dated 6 October 2022, Reference 5786, Site Plan for proposed outbuilding;
    - Prepared by Best Sheds, dated 8 July 2022, Reference 0590006337, Sheet 2 (amended Elevations), Sheets 3 (Elevations), Sheet 4 (Floor Plan and Roof Framing Plan).

except as otherwise provided by the conditions of consent.

***Reason: To ensure compliance with application and plans.***

- A2.** To confirm and clarify the terms of this development determination, the outbuilding must not be occupied as a dwelling and is not to be used for any commercial or industrial use without the prior written consent of Council.

***Reason: To ensure compliance.***

**B. PRESCRIBED CONDITIONS**

Note: The following conditions are prescribed conditions and may or may not relate directly to this development.

- B1. Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989**

(cf clauses 78 and 78A of EP&A Regulation 1994)

- (1) For the purposes of section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work—
  - (a) that the work must be carried out in accordance with the requirements of the *Building Code of Australia*,
  - (b) in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (1A) For the purposes of section 4.17(11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the *Building Code of Australia*.
- (2) This clause does not apply—
  - (a) to the extent to which an exemption is in force under clause 164B, 187 or 188, subject to the terms of any condition or requirement referred to in clause 164B(4), 187(6) or 188(4), or
  - (b) to the erection of a temporary building, other than a temporary structure to which subclause (1A) applies.
- (3) In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant—
  - (a) development consent, in the case of a temporary structure that is an entertainment venue, or
  - (b) construction certificate, in every other case.

Note: There are no relevant provisions in the *Building Code of Australia* in respect of temporary structures that are not entertainment venue.

***Reason: To ensure compliance with the statutory requirements.***

## **B2. Erection of signs**

- (1) For the purposes of section 4.17(11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out—
  - (a) showing the name, address and telephone number of the principal certifier for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note. Principal certifiers and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

***Reason: To ensure compliance with the statutory requirements.***

### **B3. Notification of Home Building Act 1989 requirements**

- (1) For the purposes of section 4.17(11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- (2) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information—
  - (a) in the case of work for which a principal contractor is required to be appointed—
    - (i) the name and licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work to be done by an owner-builder—
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.

***Reason: To ensure compliance with the statutory requirements.***

**C. PRIOR TO COMMENCEMENT OF BUILDING WORKS**

- C1.** Prior to the commencement of any building works the developer is to apply to an Accredited Private Certifier or Council for a Construction Certificate for the erection of the building. **NO BUILDING WORKS SHALL COMMENCE WITHOUT FIRST OBTAINING A CONSTRUCTION CERTIFICATE.**

*Reason: To meet statutory requirements.*

- C2.** Prior to work commencing appropriate measures are to be implemented in relation to erosion and sediment control. Such measures are to be maintained during the construction of the development in accordance with Council's Gunnedah Development Control Plan 2012.

*Reason: To ensure erosion and sediment control on the development site.*

- C3.** Prior to the commencement of building works, the name, address and contact details of the Principal Building contractor shall be provided to Council.

*Reason: To ensure compliance.*

**D. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

- D1.** Prior to issue of a Construction Certificate, construction plans, specifications and documentation as required by conditions of this consent and being consistent with this development consent and the Building Code of Australia, are to be submitted to the Principal Certifying Authority.

*Reason: To ensure compliance.*

- D2.** Prior to the issuing of a Construction certificate, the Developer shall obtain from Council approval under Section 68 of the Local Government Act, 1993 to:

- (a) Carry out stormwater drainage works

Note: All works are to be carried out by an appropriately licensed contractor in accordance with NSW Code of Practice for Plumbing and Drainage-2006.

*Reason: To ensure environmental health standards are met.*

**E. GENERAL**

- E1.** The developer is to provide an all-weather 2WD access from the existing vehicle access at the lot boundary to Nombi Street to the proposed outbuilding.

*Reason: To ensure suitable vehicle access from access to the outbuilding.*

**F. DURING CONSTRUCTION**

- F1.** A stamped copy of the development consent, the approved plans and specifications are to be kept at the construction site at all times during the construction period.

*Reason: To ensure compliance with approved application and plans.*

- F2.** The storage of all building materials shall be confined within the boundaries of the allotment.

*Reason: To ensure site safety.*

**F2. Excavations and backfilling**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

***Reason: To ensure compliance.***

**F3. Support for neighbouring buildings**

If an excavation associated with the construction of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- (a) must preserve and protect the building from damage, and
- (b) if necessary, must underpin and support the building in an approved manner, and
- (c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. In this clause, ***allotment of land*** includes a public road and any other public place.

***Reason: To ensure site stability.***

**F4. Protection of public places**

If the work involved in the construction of a building:

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- (b) building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

***Reason: To ensure site safety.***

**F5. Work on the development shall be limited to the following hours to prevent unreasonable disturbance to the amenity of the area:-**

Monday to Friday – 7.00am to 5.00pm;

Saturday – 8.00am to 1.00pm if audible on other residential premises, otherwise 7am to 5.00pm;

No work to be carried out on a Sunday to Public Holidays



Note: The builder shall be responsible to instruct and control sub-contractors regarding the hours of work.

Council will exercise its powers under the Protection of the Environment Operations Act, 1997, in the event that the building operations cause noise to emanate from the property on Sundays or Public Holidays or otherwise than between the hours detailed above.

**Reason: To ensure amenity of the neighbourhood is maintained.**

**G. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

**G1.** Occupation of the building is not to occur until all work has been completed the conditions of consent satisfied and an Occupation Certificate issued by the Principal Certifying Authority.

**Reason: To meet statutory requirements.**

**PURPOSE**

This Development Application is being referred to Council for determination as the proposed development have sought a variation to development control standards for outbuildings as specified within the Gunnedah Development Control Plan 2012 (GDGP 2012) – pertaining to the maximum size of the proposed outbuilding.

Applicant: R Wattus  
 c/- Stewart Surveys  
 Owner: R G Wattus & S J Meikle  
 Property Description: Lot 4 Sec 4 DP 758723  
 23 Nombi Street (Oxley Highway), Mullaley

*Proposed Development*

Development consent is sought to construction an outbuilding associated with a dwelling house.

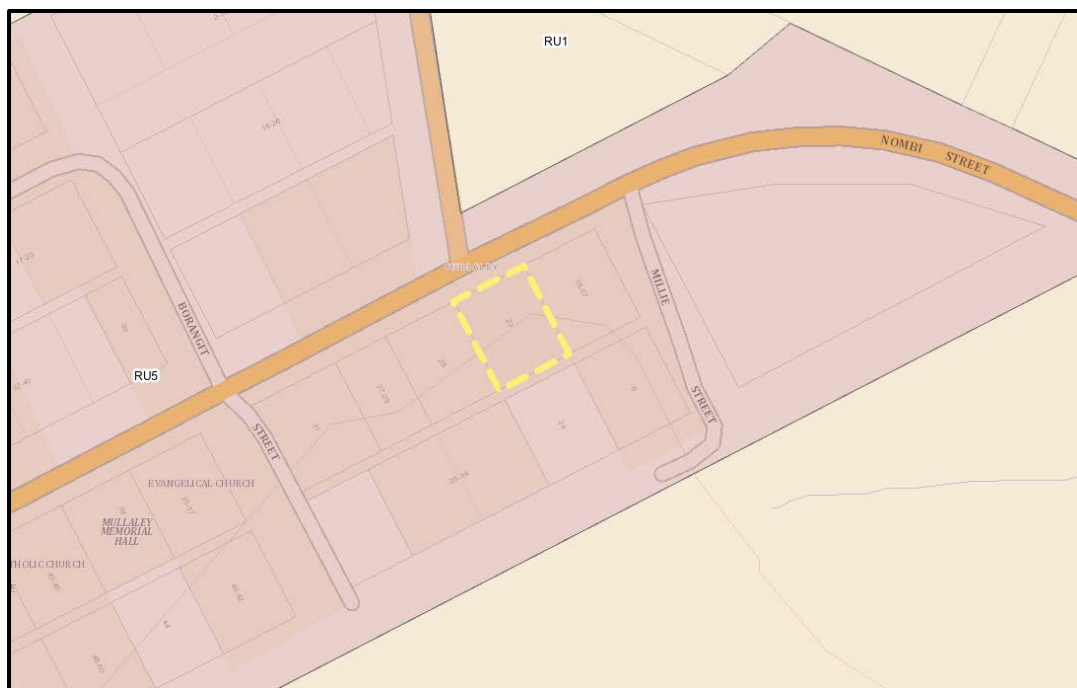


Figure 1 – Site Location

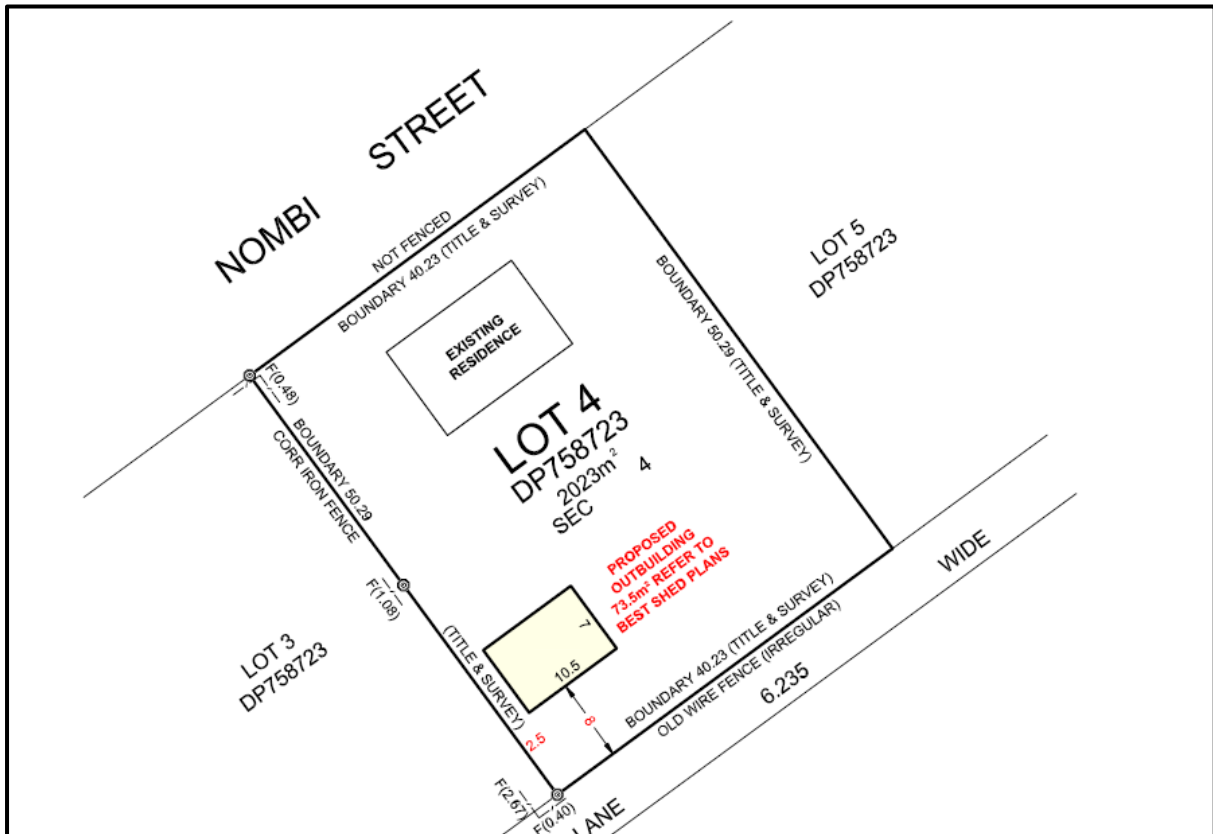


Figure 2 – Site Plan

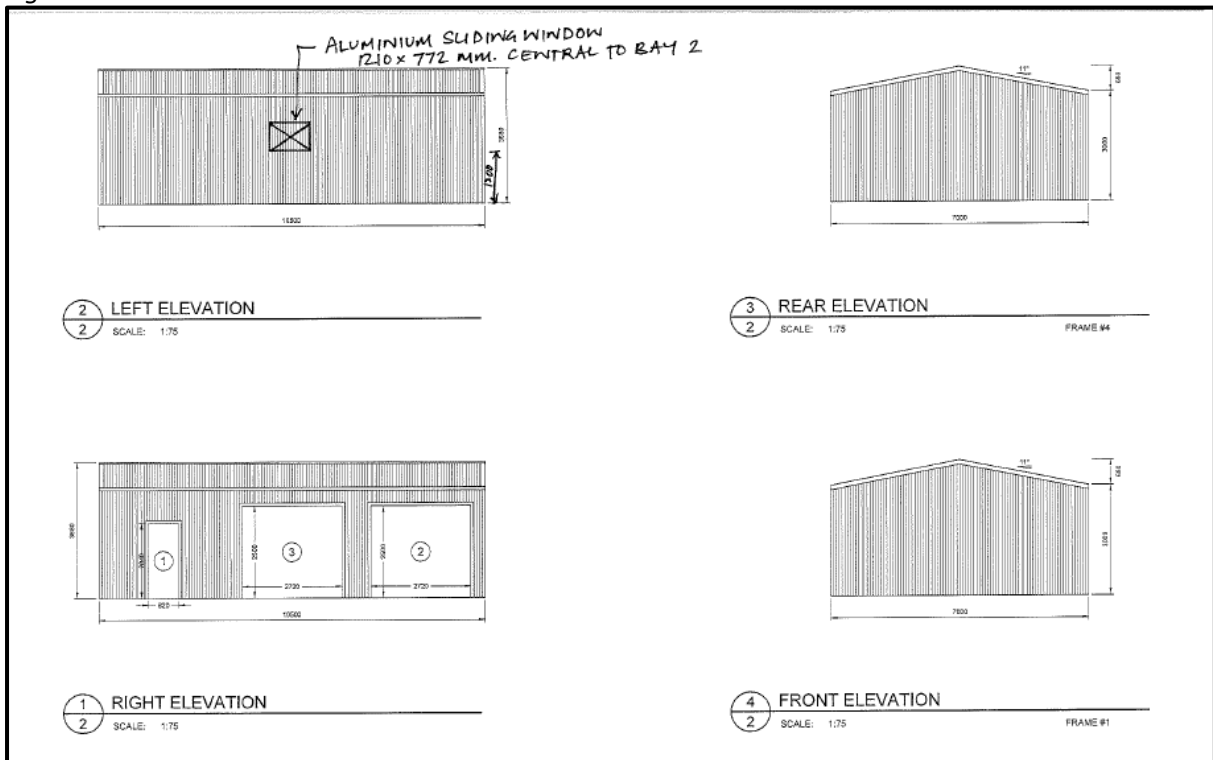


Figure 3 – Elevations Plan

**COMMENTARY**

*Issues*

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

***S4.15(1)(a)(i) the provisions of any environmental planning instrument***

**Gunnedah Local Environmental Plan, 2012****2.3 – Zone Objectives and Land Use Table**

The development site is zoned RU5 Village (RU5), under the provision of the Gunnedah Local Environmental Plan 2012 (GLEP 2012). The proposed development is considered ancillary to the existing Dwelling House and is permissible subject to consent within the RU5 zone.

It is understood that the shed is to be used for residential purposes only. Consequently, the proposed development is considered to satisfy the GLEP 2012 zone objectives as it enables the use of land for domestic purposes associated with a rural village context.

**6.5 – Essential Services**

- a) The development site has the provision of the Council's water services which are available to the development site. The development not proposed any services which will require the usage of water resources.
- b) The site has an overhead electrical supply located within Nombi Street which is available to the site.
- c) Given the slope of the land Stormwater runoff is be directed towards the swale drain located within the Nombi Street road reserve. Alternatively, an appropriately designed stormwater detention system could be designed to manage stormwater onsite.
- d) Council's sewer infrastructure is not available to site resulting in an On-site Sewer Management System which services the existing dwelling. However, it is noted, that the proposed development will not encumber the existing OSSM system.
- e) The development site has a vehicle access from Nombi Street, which is a public road reserve.

**State Environmental Planning Policies (SEPPs)****State Environmental Planning Policy (Biodiversity Conservation) 2021****Chapter 4 – Koala Habitat Protection 2021**

The development site is zoned RU5 Large Lot Residential and the Gunnedah Shire is listed within Schedule 3 of this SEPP. The development site has an area less than 1 hectare and the land owner does not own any adjoining parcel of land. Hence, in accordance with Clause 4.9 of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 4 of this SEPP does not apply and no assessment into the impact on Koala Habitat is required.

**State Environmental Planning Policy (Resilience and Hazards) 2021****Chapter 2 – Vegetation in Non-Rural Areas**

The development site is located within the RU5 Village zone, which is identified within this SEPP as being a land zoning to which this SEPP applies. The development proposal does not include the removal of any trees or vegetation from the site.

**Chapter 4 – Remediation of Land**

The development site currently contains a residential dwelling. A search of Council's records and supplied Statement of Environmental Effects does not identify that there has been any previous usage that could potentially lead to any potential site contamination. Consequently, no detailed investigation is required.

**State Environmental Planning Policy (Transport and Infrastructure) 2021****Chapter 2 – Infrastructure**

The development fronts the Oxley Highway which is a classified road. However, the development does not generate traffic volumes of 50 vehicles or greater. Hence, the development is not considered to be traffic generating development and no referral was required to Transport for NSW.

**S4.15(1)(a)(iii) provisions of any development control plan****Gunnedah Development Control Plan 2012 (Gunnedah DCP)****2.1.1 – Building Setbacks**

The development is located behind the building line of the existing dwelling with sufficient setback noted from the unformed laneway to the rear of the subject site. As a result, the proposed development is considered compliant with the setbacks of the RU5 Village zone, as set out in the GDCP 2012. Refer table below.

	Required	Proposed	Compliance
Primary Setback (Nombi Street)	7.5m	>7.5m	✓
Secondary Setback (Lane - Unformed)	3.6m	8m	✓
Side	BCA	2.5m	✓
Rear	BCA	8m	✓

Table 1: Proposed Outbuilding Setbacks

**2.1.3 – Utilities**

The development does not propose any construction occurring over a registered easement or any Council Infrastructure where no easement exists. The development site has provision of Council's water supply.-

**2.1.5 – Design and Solar Access**

The development will not affect current solar access to the existing dwelling or adjoining properties. The shed is not positioned in such a way that it will block visibility of the dwelling from the primary frontage, resulting in a poor visual appearance of the site. The shed is equipped with a window facing toward the public laneway.

**2.1.8 – Outbuildings, Carports and Detached Garages**

The proposed outbuilding is to be located behind the building line setback, behind the existing dwelling and is positioned near the rear allotment. As discussed earlier in the report, the proposed size and dimension of the outbuilding does not comply with GDCP 2012, with reference to the maximum size, cumulative size of an outbuilding, and the maximum length of one horizontal dimension. The proposed outbuilding development standards for RU5 Zone are listed within Table 2 below.

Requirement		Provided	Compliance
Max Size	54m <sup>2</sup>	73.5m <sup>2</sup>	x
Cumulative area	72m <sup>2</sup>	73.5m <sup>2</sup>	x
Max length (Horizontal)	9m	10.5m	x
Max Wall height	3m	3.0m	✓
Max Roof pitch	24 <sup>0</sup>	<24 degrees	✓
Max height	4.2m	3.68m	✓

Table 2: Proposed Outbuilding development controls

The proposed outbuilding has a total floor area of 73.5m<sup>2</sup> and a maximum length of one horizontal dimension of 10.5m. The maximum size and cumulative area for outbuildings within the RU5 zone is 54m<sup>2</sup> and 73.5m<sup>2</sup>, respectively. The maximum allowable length of a horizontal dimension is 9m. Hence, the development exceeds the maximum size, the cumulative area and the maximum elevation dimension.

The exceedance of the maximum horizontal length has been addressed within 2.1.8c – Discretionary Development Standard, below.

The proposed development exceeds this development control as well as 2.1.8b discretionary development standard, which gives discretion for outbuildings to be built to the cumulative size. The exceedance is 2% of the cumulative area, which is considered to be undeterminable compared to a shed of a size which would be compliant. The minor exceedance of the cumulative area will not have any detrimental impact on the adjoining land holders with the village locality. It was considered that there were no valid planning grounds why the minor exceedance should not be supported. Hence, the variation to the size and cumulative size and width of the outbuilding is supported in the unique circumstances of the development.

#### ***2.1.8b – Discretionary Development Standard***

The development does not contain any other outbuildings on the property. Hence, in accordance with this clause the development will only exceed Council's development controls by the 1.5m<sup>2</sup> that the development exceeds the cumulative area. The variation is supported as per comments above.

#### ***2.1.8c – Discretionary Development Standard***

The proposed outbuilding has a horizontal dimension of 10.5 metres, which is less than a third of the rear property boundary (40.23m). Hence, the development complies with this discretionary development standard.

#### ***2.1.10 – Access***

The development site has primary frontage to Nombi Street and rear to an unformed lane. Nombi Street is bitumen sealed and not supported by a kerb and gutter system. The development is required to construct an all-weather driveway from the vehicle access to the proposed outbuilding.

#### ***S4.15(1)(b) the likely environmental impacts on the natural and built environments and social and economic impacts in the locality***

##### ***Context & Setting***

The development site is located within the village of Mullaley between Gunnedah and Coonabarabran. The site contains a single residential dwelling and small garden shed.

The development proposes the construction of a detached outbuilding located as the rear of the allotment. It is noted, that the adjoining allotments are occupied by residential dwellings with ancillary outbuildings. The design, shape and appearance of the proposed development will be consistent with the existing development and other outbuildings within the surrounding area.

##### ***Access, Transport and Traffic***

The proposed development has frontage to Nombi Street. Nombi Street is a bitumen sealed road without kerb and guttering. The development will not result in any increase in vehicle movement within the road network. The internal gravel driveway is to extend to the proposed development as there is no onsite parking provision and it is presumed that the outbuilding will be used to house personal vehicles.

##### ***Public Domain***

The development does not require the creation of any pedestrian linkages or the dedication of any public open space. The development will not require the dedication of public land and the development will have no impact on Council's existing public areas or parklands. There is no Section 7.12 contribution under The Gunnedah Shire Council S94A Plan which applies to this development.

##### ***Heritage***

The development site does not contain any identified items of environmental heritage, nor are there any located within the vicinity of the development, that will be impacted by the development.

**Other Land Resources**

The site is zoned RU5 Village. The development is located within the village and the construction of the proposed building will be ancillary to an existing dwelling house. The construction of the new outbuilding will not result in an impact on agricultural or extractive industries which may impact on their access to primary land resources.

**Water**

The development site has provision of Council's water services to the development site. Stormwater is to be directed to the swale drain located within the reserve of Nombi Street. The development will require the lodgement of a S68 application for approval of the proposed stormwater management.

**Noise & vibration**

The development will not result in any noise or vibration with the exception of the construction phase. Council's standard hours of operations will be imposed during construction works.

**Natural Hazards**

The site is not identified as being subject to flooding or bushfire prone.

**Social & Economic impact in the locality**

The proposed development will have no negative social impact on the surrounding area. The development will be consistent with development on adjoining allotments. The development may employ local tradesmen and resources for construction.

**S4.15(1)(c) Suitability of the Site**

The proposed development is consistent with the existing and future development within the village locality. The site has access from Nombi Street to the front and an unformed lane to the rear. The outbuilding does not require sewer or water services and stormwater disposal can occur on site. The site is not prone to bushfire or flooding activity and does not contain any recognised items of heritage significance. The development will be complimentary to the structures approved on-site and the neighbouring properties.

As has been established by the assessment of this application, there are no notable site constraints which are prohibitive the development. The site is therefore considered suitable to support the development.

**S4.15(1)(d) any submissions made in accordance with this Act or the regulations**

There was an obligation for the development application to be notified to the adjoining land holders in accordance with the Gunnedah Community Participation Plan 2020 (CPP) as the development requests a variation to Council's Development Control Plan. Council did not receive any submissions during the notification period.

**S4.15(1)(e) the public interest**

The development application is not regarded as being Integrated or Designated Development. Council is not aware of any relevant planning studies, strategies or management plans that are applicable to the proposed development to be considered for this variation.

**Conclusion**

The development application is seeking consent for the construction of a detached outbuilding. The development application has been assessed under the provisions of the *Environmental Planning and Assessment Act 1979*. The evaluation of this development application has concluded that the proposed development is compliant with the legislative requirements for this development, except where the variation has been considered.

As per the recommendation of this report, it is concluded that Development Application No. 2022/081 Lot 4 Sec 4 DP 758723, 23 Nombi Street, Mullaley, should be approved subject to conditions.

**Andrew Johns**  
**DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES**



**Gunnedah**Shire