



## 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>6 April 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 Development Application 2022/013 – Construction of Outbuilding (Shed)  
Lot 260 DP1209041 – 41 Tallowood Drive, Gunnedah ..... 3
  - 3.2 Application to Modify Development Consent 577716.003 – Alteration of  
Allotments Created (from 37 to 34) – Lot 18 DP1204723 – 13A Forrest Way,  
Gunnedah ..... 15

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>Development Application No. 2022/012 – Construction of Outbuilding (Shed) – Lot 260 DP1209041 – 41 Tallowwood Drive, Gunnedah</b>
<b>MEETING</b>	Planning Environment and Development Committee Meeting – 6 April 2022
<b>DIRECTORATE</b>	Planning and Environmental Services
<b>AUTHOR</b>	Town Planner
<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 2.4.5 Implement and advocate for planning strategies and systems that are streamlined to foster and encourage the establishment of new business. Operational Plan 2.4.5.1 Provide efficient and effective application, assessment and certification services in accordance with relevant legislation policy and regulation.
<b>ATTACHMENTS</b>	Nil

### OFFICER'S RECOMMENDATIONS:

That the Development Application No. 2022/012, for the construction of an outbuilding, at Lot 260 DP1209041, 41 Tallowwood Drive, 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 17/02/2022
  - Statement of Environmental Effects, prepared by B Longworth, dated 07/02/2022; and
  - Submitted plans:
    - Prepared by Great Value Garages, dated 08/02/2022, Ref: GRVG57477, Sheet 1 (Foundation and Floor Plan), Sheet 2 (Exterior Elevations), Sheet 3 (Sections Plan), Sheet 6 (Exterior Elevations).
    - Prepared by Applicant, Plan 1 (Site 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.*

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

*Reason: To ensure legal requirements.*

- E2.** The parking areas and internal driveway from the vehicle access on Tallowood Drive to the detached outbuilding is to be constructed of an all-weather hardseal access, being hard sealed with 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**

- 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. 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 Part 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.***

- F4.** 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.***

**F5. 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.***

**F6. 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.***

**F7. 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.***



**F8. 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.*

**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 development includes a request for a variation to a development control standard within the Gunnedah Development Control Plan, pertaining to the maximum wall height at the eaves.

Applicant: L Temple C/- Great Value Garages  
 Owner: B Longworth  
 Property Description: Lot 260 DP1209041  
 41 Tallowwood Drive, Gunnedah

*Proposed Development*

The development proposes the construction of an outbuilding (shed) ancillary to a dwelling house.

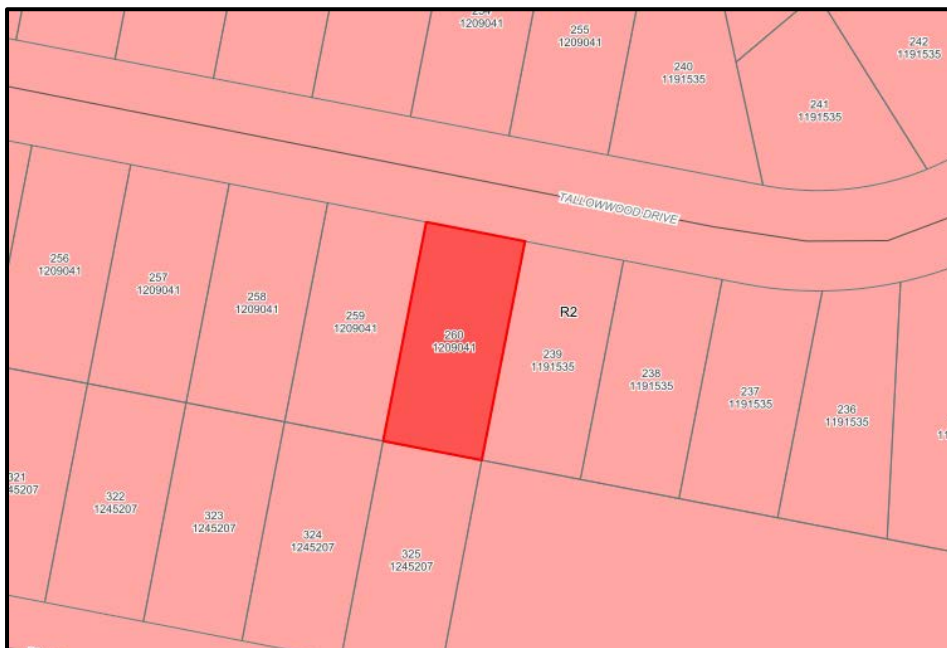


Figure 1 – Site Location



Figure 2 – Site Plan

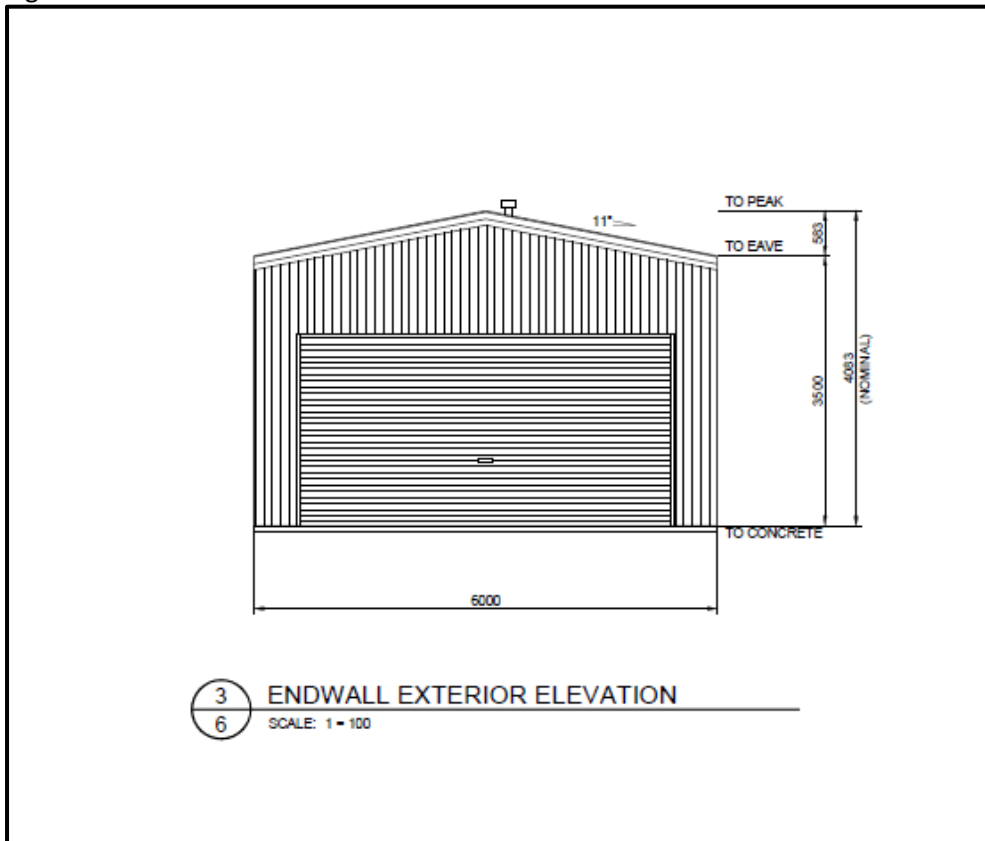


Figure 3 – Elevations Plan

**COMMENTARY***Issues***S4.15(1)(a)(i) the provisions of any environmental planning instrument****Gunnedah Local Environmental Plan, 2012**

The development site is zoned R2 Low Density Residential, under the provision of the Gunnedah Local Environmental Plan, 2012 (GLEP 2012). The following GLEP 2012 clauses are applicable to the development:

**4.4 – Floor Space Ratio**

The development site has a maximum allowable Floor Space Ratio (FSR) of 0.5:1. The site area is 720m<sup>2</sup>. The dwelling has an overall floor area of 228.71m<sup>2</sup>. The outbuilding has a proposed floor area of 42m<sup>2</sup>. The resulting FSR of the site is 0.38:1. Hence, the site is compliant with the maximum allowable FSR.

**6.5 – Essential Services**

The development site has the provision of Council's water, sewer and stormwater services connected to the existing dwelling house. The existing dwelling has an existing electrical supply. Vehicle access is achieved from Tallowood Drive.

**State Environmental Planning Policies (SEPPs)**

- **State Environmental Planning Policy (Biodiversity Conservation) 2021**
  - **Chapter 2 Vegetation in Non-Rural Areas**  
The proposed development does not require or include the removal of any trees or vegetation.
  - **Chapter 4) Koala Habitat Protection 2021**  
The development is not subject to an endorsed Koala Plan of Management. The development site has an area less than 1 hectare; therefore, the State Environmental Planning Policy does not prevent Council from issuing development consent.
- **State Environmental Planning Policy (Resilience and Hazards) 2021**
  - **Chapter 4) Remediation of Land**  
The subject site is currently occupied by a residential dwelling house. A search of Council's records and supplied Statement of Environmental Effects does not identify that there has been any previous usage that could possibly lead to any potential site contamination. Hence, no further investigation was required.

**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 building setbacks are listed within Table 1. The proposed development will be positioned with adequate setback from property boundaries to comply with Council's Development Control Plan.

	Required	Provided	Compliance
<b>Primary Street (Tallowood Drive)</b>	6m	32.8m	✓
<b>Rear</b>	BCA*	900mm	✓
<b>Side</b>	BCA*	900mm	✓

Table 1: Proposed Outbuilding Setbacks

\*The structure does not include any fire resistant construction on the external elevation of the building. Hence, the required BCA compliant setback is 900mm.

**2.1.3 – Utilities**

The proposed development will not occur over any easements or Council infrastructure where no easement exists. The development site is serviced by Council's water services. The proposed development does not require a water connection.

**2.1.5 – Design and Solar Access**

The development will not affect current solar access to the existing dwelling or adjoining properties. The development is located on the southern side of the property, behind the building line of the dwelling. The dwelling is the dominant structure from the elevation. The outbuilding will not impede visibility of the dwelling which has adequate windows and openings along the elevation facing the public road reserve. Hence, the construction of the outbuilding will not affect the visual appearance of the property from a public reserve.

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

The proposed building size and other standards are listed within Table 2. The development does not comply with maximum wall height at the eaves line.

	Required	Provided	Compliance
Maximum size	54m <sup>2</sup>	42m <sup>2</sup>	✓
Cumulative	72m <sup>2</sup>	42m <sup>2</sup>	✓
Maximum length of one horizontal dimension	9m	7m	✓
Maximum wall height at eaves line	3.3m	3.5m	x
Maximum Roof Pitch	24 <sup>0</sup>	11 <sup>0</sup>	✓
Maximum Height	4.2m	4.083m	✓

Table 2: Proposed Outbuilding development controls

The development is seeking a variation to development standard 2.1.8, for an exceedance of 200mm. The maximum wall height of an outbuilding measured at the eaves line in the R2 zone is 3.3m. The increased eave height is not anticipated to be imposing or overbearing on the streetscape or to neighbouring receivers with the existing boundary fence creating a form of shielding of the external wall to adjoining allotments. Hence, the variation to this standard is supported in these unique circumstances.

**2.1.10 – Access**

The development site has an existing access from Tallowood Drive. The vehicle access to the dwelling house from Tallowood Drive is concrete-sealed. The existing vehicle access will extend to the outbuilding. A condition is imposed to ensure the internal driveway to this structure is hardsealed to ensure compliance with Council's standard. The required sealing of the internal vehicle driveway and manoeuvring areas will reduce any potential impact of the release of dust from the site.

**6.6.1 – Environmental Effects****Traffic**

The development will not result in an increase in vehicle movement within the road network as the development does not create an alternate land use that could attract additional vehicle movements. Therefore, the development will not alter the existing traffic movements within the immediate area.

**Flood Liability**

The development site is not subject to flooding.

**Slope**

The development site has a minor slope which falls from South to North. The slope is not greater than 15% and did not require the submission of a detailed geotechnical investigation.

**Construction Impacts**

The proposed development has a time period in which construction can occur. Construction is permissible from 7.00am to 5.00pm, Monday to Friday and 8.00am to 1.00pm on Saturday. However, construction is prohibited on Sunday and public holidays. This is conditioned to avoid any noise impacts as a result of construction.

**Solid and Liquid Waste**

The development will not cause the generation of any solid or liquid wastes from the ongoing operation. The development does not have any amenities within the outbuilding that would require effluent management.

**Air Quality (odour and pollution)**

The proposed development is considered to have minimal impact on the existing microclimate in the area due to the nature of the development. The development will not generate any pollutants into the air or atmosphere and is not expected to create any ongoing odour which may be offensive to the surrounding locality.

**Noise Emissions**

The development is not expected to result in any noise and vibration with the exception of the construction phase.

**Water Quality**

The development will not produce any pollutants or require excessive excavation which could destabilise the soil and result in soil erosion which could affect water quality downstream.

**Sustainability**

The proposed outbuilding is unlikely to have an impact on the environmental sustainability of the development site or adjoining properties.

**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 currently contains a dwelling house. The adjoining lots are occupied by residential dwellings and accompanying outbuildings. The development proposes the construction of a detached outbuilding. The design, shape and appearance of the proposed development will be consistent with the existing structures onsite and the surrounding neighbourhood. Council does not allow the outbuilding to be used for habitable purposes.

**Access, Transport and Traffic**

The proposed development has frontage to Tallowwood Drive. Tallowwood Drive is a bitumen sealed road supported by kerb and gutter along the entire frontage. The development will not result in an increase in vehicle movement within the road network as the development does not create an alternate land use that would generate additional vehicle movements. The site has an existing kerb layback and does not require a new access.

**Public Domain**

Section 94A contributions are not required to be paid Council to facilitate the additional demand that will be imposed on Council's services as a result of the proposed development. The development does not require the creation of any pedestrian linkages or the dedication of any public open space.

**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***

Agriculture is prohibited in R2 zone. 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.

***Water***

The development has the provision of Council's water services to the development site. The existing dwelling house has an adequate water connection. The proposed development does not require an extension of Council's water services for a water supply. Stormwater will be directed to the kerb and gutter located on Tallowood Drive.

***Waste***

The subject has an existing connection to Council's sewer services. The proposed development is for an outbuilding and does not require sewer facilities. Waste generated during construction is to be maintained on-site and shall be disposed to Council's land fill. The subject site is serviced by Council's kerb side collection. No waste is to be disposed of on-site.

***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 little social impact on the surrounding area. The development will be consistent with development on adjoining allotments.

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

The proposed development is consistent with the existing and future development in the locality. The land use activity is complimentary to the existing land use which is permissible. The development site is not subject to flooding or bushfire activity. The development is not expected to create any ongoing noise, odour, traffic or pollution issues. Hence, the site is considered to be suitable for 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 elected to notify adjoining land holders from the 04 March to 18 March 2022. During this period, Council did not receive any submissions during the exhibition 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 Local, State or Federal 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 an outbuilding ancillary to an existing dwelling. 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. 2022/012 Lot 260 DP 1209041, 41 Tallowood Drive, Gunnedah, should be approved subject to conditions.

<b>ITEM 2</b>	<b>Application to Modify Development Consent No. 577716.003 – Alteration to Number of Allotments Created (From 37 to 34) – Lot 18 DP1204723 – 13A Forrest Way, Gunnedah</b>
<b>MEETING</b>	Planning Environment and Development Committee Meeting – 6 April 2022
<b>DIRECTORATE</b>	Planning and Environmental Services
<b>AUTHOR</b>	Town Planner
<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 2.4.5 Implement and advocate for planning strategies and systems that are streamlined to foster and encourage the establishment of new business. Operational Plan 2.4.5.1 Provide efficient and effective application, assessment and certification services in accordance with relevant legislation policy and regulation.
<b>ATTACHMENTS</b>	Nil

#### OFFICER'S RECOMMENDATIONS:

That the Modification of Development Consent No. 577716.003, for the construction of an outbuilding, at Lot 18 DP1204723, 13A Forrest Way, Gunnedah, be approved subject to deletion of condition A1, A2, D9b and D10a and the insertion of condition A1a and A2a, as underlined below:

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

A1. Deleted.

A1a. The development must be carried out in accordance with the details set out in the following documentation and as amended by conditions of this consent. Any amendment to the development or to these conditions will require the consent of the Council.

- Development Application form, lodged 1<sup>st</sup> November 2011;
- Statement of Environmental Effects, prepared by Stewart Surveys Pty Ltd, dated October
- 2010; and
- Amended Subdivision Plan, dated January 2011, Reference No. 4007A.

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

A2. Deleted.

A2a. This determination grants consent to the subdivision of 1 lots into 34 lots, comprising of the following stages:

- Stage 1 (Plan, dated 10 May 2013, Ref: 4295, Stage 1 Plan of Proposed Subdivision of Lot 54 in DP 755503 Kamilaroi Rd, Gunnedah);
- Stage 2 (Plan, dated 10 May 2013, Ref: 4295, Stage 2 – Lots 1 to 18 Plan of Proposed Subdivision of Lot 54 in DP 755503 Kamilaroi Rd, Gunnedah);
- Stage 3 (Plan, dated 13 December 2021, Ref: 5622, Stage 3 Lots 18 to 34 Plan of Proposed Subdivision of Lots 54 in DP 755503 Kamilaroi Rd, Gunnedah);

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

## **B. PRIOR TO WORK COMMENCING**

- B1.** A Construction Certificate is to be obtained prior to commencement of any subdivision works and can be obtained by applying to either Council, or a private certifier. Please note that under Council's currently planning instrument, Gunnedah Local Environmental Plan 1998, the Principal Certifying Authority must be the Council.

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

- B2.** Sediment and erosion control measures must be installed prior to the commencement of any construction and maintained for the duration of the works in accordance with legislative requirements.

***Reason: To ensure that adequate control measures are installed.***

## **C. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

- C1.** Deleted.

- C1a.** A tree retention and vegetation embellishment plan in respect of Lots 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25 shall be submitted to Council for approval prior to the issue of a Construction Certificate. The plan shall make provision for a 3 metre wide landscape buffer on the southern boundaries of Lots 26, 28, 29 and 30 and identify existing trees and vegetation to be retained as part of the development.

***Reason: To ensure compliance with Council's Development Control Plan.***

- C2.** A landscaping plan for the embellishment of the open space area shall be submitted to Council for approval prior to the issue of a Construction Certificate. The plan shall incorporate play equipment and lighting within the open space area.

***Reason: To ensure compliance with Council's Development Control Plan.***

- C3.** Engineering drawings and specifications for the construction and installation of all works relative to the proposed subdivision shall be submitted to Council for approval prior to the issue of a Construction Certificate. The design of all works is to be related to the adjoining infrastructure. All drawings and specifications are to be in accordance with Council's relative standards.

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

- C4.** All works undertaken by contractors (ie. other than Council) shall be inspected by Council to ensure that the works are undertaken in accordance with Council specifications and requirements. The inspection fee is applicable for all sections of the work carried out by the contractors and shall be paid prior to the issue of a Construction Certificate.



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

- C5.** The contractors engaged on the development of the subdivision must maintain public liability insurance cover to the minimum value of \$10 million. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Documentary evidence of the currency of the policy shall be provided to the Council prior to commencement of work and upon request, during the progress of the work.

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

**D. GENERAL**

- D1.** The proposed development shall comply with the requirements of the Building Code of Australia, with regard to the location of lot boundaries and existing buildings.

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

- D2.** All allotment filling will require a submission from the applicant's Consulting Engineer. The submission shall include drawings/specifications which shall clearly indicate the location and depth of proposed filling. Matters taken into consideration in the submission shall include drainage, services, fill material standards, compaction standards, dust control and impact on adjacent lands.

***Reason: To ensure compliance with Council's requirements.***

- D3.** Where allotment filling has been carried out, the "Works-As-Executed" plans shall indicate the contours prior to and after filling and also the compaction test results.

***Reason: To ensure compliance with Council's requirements.***

***Roads - Stage 1***

- D4a.** A Right-of-Carriageway (minimum width of 10 metres) shall be provided along the western boundary of proposed Lot 2 of Stage 1 to ensure access to proposed Lot 1 from Kamilaroi Road.

***Reason: To ensure compliance with Council's requirements.***

***Roads - Stage 2***

- D4b.** A Right-of-Carriageway (minimum width of 20 metres) shall be provided over proposed Lot 2 of Stage 1 in the location of Proposed Road 1 to ensure future access to proposed Lot 1. The Right-of-Carriageway shall be maintained until Proposed Road 1 has been constructed.

***Reason: To ensure compliance with Council's requirements.***

***Roads - Stages 2 & 3***

- D4.** The proposed cul-de-sac and internal roads shall be constructed in accordance with Council's standards and specifications, with the proposed road being constructed to the eastern boundary of the development site.

***Reason: To ensure compliance with Council's requirements. Roads - Stage 3***

- D5.** The proposed 20 metre wide internal road shall be constructed with an 11 metre wide carriageway from Kamilaroi Road to the intersection with the 18 metre wide road.

***Reason: To ensure road safety standards are maintained.***

- D6.** The street names proposed in the application are not approved under this determination.

***Reason: To permit determination of naming process under the Roads Act 1993. Stormwater Drainage***

- D8.** Stormwater from the development site must not be concentrated onto adjoining land. All stormwater management measures shall be provided in accordance with Council's specifications and requirements.

***Reason: To ensure compliance with Council's requirements. Water Supply – Stages 2 & 3***

- D9.** A single water supply service shall be provided to each lot. The water service shall be provided by extending Council's existing water main located in Kamilaroi Road and extended throughout the development site to the eastern boundary, within the proposed road, in accordance with the Council's specifications and requirements.

Note: A Water Application Form shall be submitted to Council, together with the installation costs. The installation costs adopted in the Council's 2011/2012 Management Plan are \$1,500 per each additional lot. Revised rates adopted in the subsequent Management Plans will apply to lots released in later financial years.

***Reason: To ensure compliance with Council's requirements.***

***Water Supply – Stage 1 & 2***

- D9a.** A single water supply service shall be provided to proposed Lot 1 of Stage 1 during Stage 1 and Stage 2 of the development. This service shall be disconnected and capped off in Stage 3, in accordance with Council's requirements.

***Reason: To ensure compliance with Council's requirements.***

**D9b.** Deleted.

***Sewer – Stages 2 & 3***

- D10.** A single sewer service shall be provided to each lot. The sewer service shall be provided by connecting to Council's sewer main to be located in Kamilaroi Road and extended throughout the development site to the eastern boundary, within the proposed road. The sewer line is to include all the necessary manholes and junctions. All works are to be undertaken and inspected in accordance with Council's standards and specifications.

***Reason: To ensure compliance with Council's requirements.***

**D10a.** Deleted.

- D11.** A three (3) metre wide easement shall be created over all water, stormwater and sewer mains located within lot boundaries.

***Reason: To ensure compliance with Council's requirements. Street Lighting – Stages 2 & 3***

- D12.** The developer shall extend, supply and install street lighting along the development site frontage in Kamilaroi Road and the proposed internal cul-de-sac and road in accordance with Essential Energy's residential development standards.

***Reason: To ensure compliance with Council's requirements. Embellishment of Open Space – Stage 3***

- D13.** The approved landscaping plan for the open space area shall be implemented for the area within the development site.

***Reason: To ensure compliance with Council's Development Control Plan.***

***Landscaping – Stage 3***

- D14.** Deleted.

- D14a.** A three (3) metre landscaping buffer shall be provided and planted out on the southern boundary of the site, within proposed Lots 26, 28, 29 and 30 in accordance with the approved tree retention and vegetation embellishment plan.

***Reason: To ensure privacy for adjoining land holders.***

**E. DURING CONSTRUCTION**

- E1.** Work on the project 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 if it is audible on the residential premises.

The developer shall be responsible to instruct and control his 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 compliance with Council's requirements.***

- E2.** Erosion and sediment control facilities shall be provided to avoid damage to the environment during construction. The plan and specification for these facilities are considered an integral part of the development and must be approved prior to the issue of a construction certificate, (a requirement prior to the commencement of work on the site). The approved erosion and sediment control measures are to be maintained throughout the construction of the development.

***Reason: To ensure compliance with Council's requirements.***

**F. PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE**

- F1.** One set of approved construction drawings shall be amended to show the "work-as-executed". These drawings in both hard copy and electronic form shall be provided prior to issue of the subdivision certificate. The drawings are required to ensure that adequate records are maintained of community infrastructure. The drawing shall be certified by a registered surveyor or a Chartered Professional Civil Engineer. Also an electronic copy of the WAE in dwg format shall be also provided prior to the issue of the Subdivision Certificate.

***Reason: To ensure compliance with Council's requirements.***

- F2.** Written notification being provided that an electricity supply connection has been provided to each lot.

***Reason: To ensure that electrical services are provided.***

- F3.** Written notification being provided that telecommunication cables have been provided to each lot in accordance with community expectations.

***Reason: To ensure that telecommunication services are provided.***

- F4.** Deleted.

- F4a.** A caveat shall be placed on the title of each of the lots created by the subdivision of Lot 54, DP 755503, requiring a compliance certificate under Section 306 of the Water Management Act, 2000 to be obtained, prior to the sale of the property:

A compliance certificate under Section 306 of the Water Management Act, 2000 must be obtained from the Council (as the local water supply authority). Council requires the following payments to be completed prior to issuing a compliance certificate to allow continued funding of water and sewer facilities.

- Water headworks contribution is \$4,530 per each additional lot
- Sewer headworks contribution is \$2,150 per each additional lot

Note: The above contributions have been adopted under the Council's 2012/2013 Management Plan. Revised rates adopted in the subsequent Management Plans will apply to lots released in later financial years.

All legal costs associated with the establishment and removal of the caveat shall be borne by the developer.

***Reason: To ensure compliance with Council's Contributions and Development Services Plan.***

- F5.** Deleted.

- F5a.** A caveat shall be placed on the title of each of the lots created by the subdivision of Lot 54, DP 755503, requiring a compliance certificate under Section 306 of the Water Management Act, 2000 to be obtained, prior to the sale of the property:

A compliance certificate under Section 306 of the Water Management Act, 2000 must be obtained from the Council (as the local water supply authority). Council requires the following payments to be completed prior to issuing a compliance certificate to for continued servicing of Council's stormwater drainage system. The current charge applicable to this development within the Osric Street Catchment is:

- Area 2 - 22 lots @ \$2410.00
- Area 3 – 15 lots @ \$2280.00

Note: The Developer is responsible for payment of stormwater headwork charges, in accordance with the Gunnedah Contributions and Development Services Plan, 2012. The charge is subject to annual indexation in accordance with Council's Management Plan and shall be calculated at the rate applicable at the time of payment.

**Reason:** *The proposed development will increase the demand on the stormwater drainage infrastructure in the area.*

- F6.** The subdivision certificate release fee of \$420 shall be paid prior to the issue of the subdivision certificate.

Note: The above fee has been adopted under the Council’s 2011/2012 Management Plan. Revised rates adopted in the subsequent Management Plans will apply to lots released in later financial years.

**Reason:** *To ensure payment of application fee.*

**PURPOSE**

Council has received an application to modify development consent 577716. The proposed modification to development consent is being referred to Council for determination as the original application was determined by Council.

Applicant: T Ferris C/- Stewart Surveys  
 Owner: FFT Property Pty Ltd  
 Property Description: Lot 18 DP1204723  
 13A Forrest Way, Gunnedah

*Proposed Development*

The modification to the development consent is seeking consent for an amendment to Stage 3 of the subdivision resulting in a reduction in lots created 1 to 34 instead of 37.

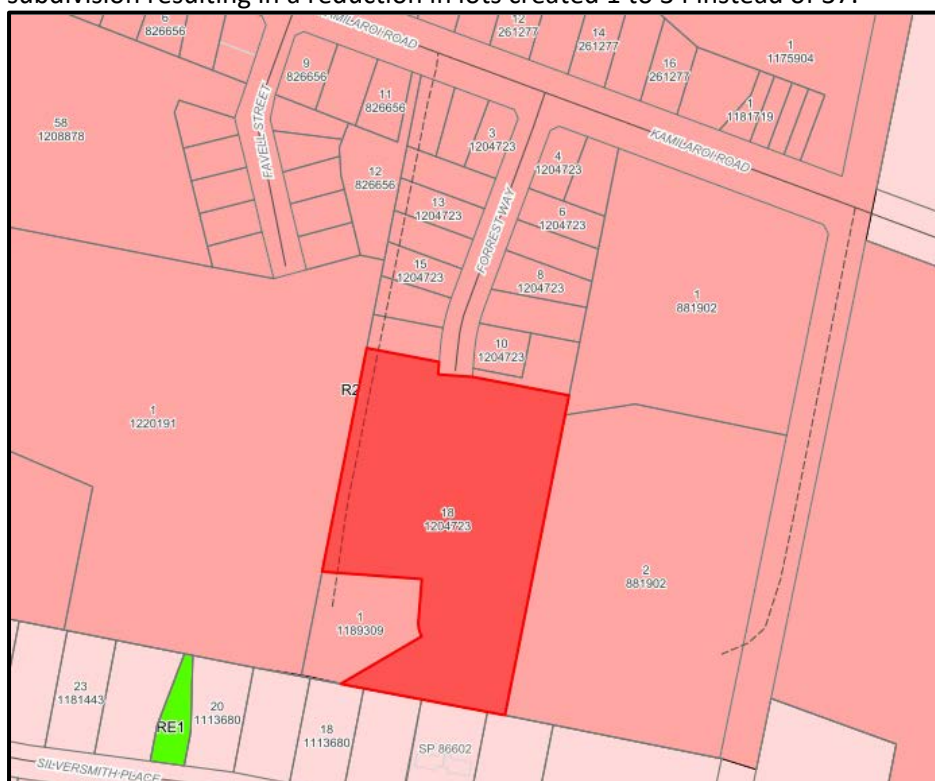


Figure 1 – Site Location

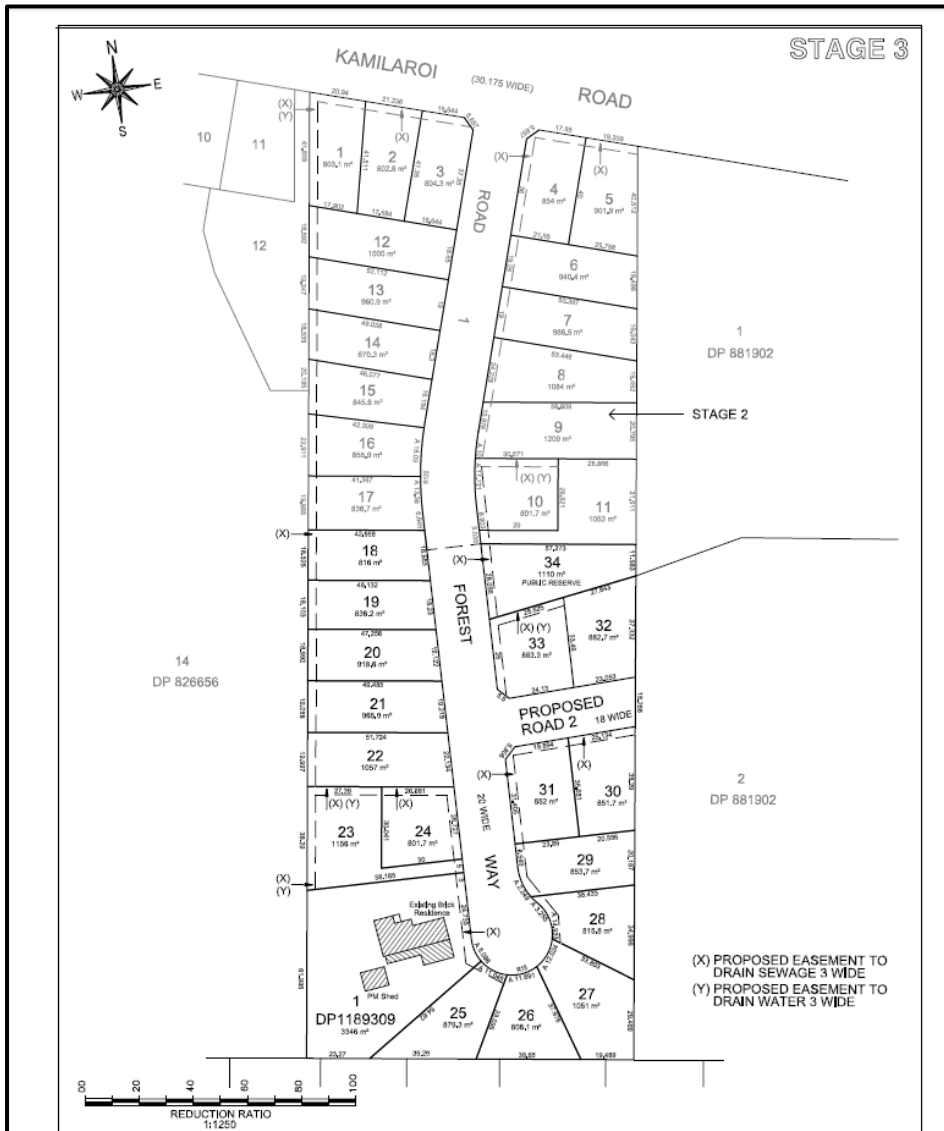


Figure 2 – Site Plan

**BACKGROUND**

Council resolved on 15 February 2012 (Resolution No. 178.2) to approve Development Application 577716 for a subdivision (1 Lot into 36) including a variation to Council’s Development Control Plan – Principles of Development.

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

**Gunnedah Local Environmental Plan, 2012**

The development site is zoned R2 Low Density Residential, under the provision of the Gunnedah Local Environmental Plan, 2012 (GLEP 2012).

**2.3 – Zone Objectives**

The subdivision of land within the R2 zone is permissible subject to development consent. The original development consent was assessed under the provisions of the Gunnedah Local Environmental Plan 1998.

The modification to development consent is substantially similar to the original development. The modification proposes to reduce the number of allotments created in Stage 3. The modification does not contradict the zone objectives or the original consent. Development consent was originally given for a Torrens Title Subdivision. This modification does not change the type of subdivision.

**4.1 – Minimum Subdivision Lot Size**

The minimum lot size requirement for the development site is 650m<sup>2</sup>. The removal of lots created by Stage 3 results in Lot 1 DP 1189309 being retained as an allotment of 3,346m<sup>2</sup> in size. There will be no change to any other lot areas by this modification.

**6.5 – Essential Services**

The development site has the availability of Council's water, sewer and stormwater facilities. The modification to development consent will not alter the provision of these services to each lot. Stages 1 and 2 of this subdivision have had Council's services connected. The services to Stage 3 will be extended accordingly. Electrical services are available within the area. Each allotment created by the subdivision will have suitable access from Forrest Way.

**State Environmental Planning Policies (SEPPs)**

The original development consent was assessed under the provisions of the relevant statutory planning instrument active at the time. Statutory instruments have been repealed or amended since the time of the original assessment. The modification proposes to reduce the number of allotments created and the development will still comply as the activity is less intensive as a result of the modification.

**S4.15(1)(a)(iii) provisions of any development control plan****Gunnedah Development Control Plan 2012 (Gunnedah DCP)****5.1 – Lot Size**

The proposed modification to development does not indicate any alteration to the approved lot size of each allotment within Stage 3. Each allotment of the subdivision is compliant with the Minimum Lot Size of Clause 4.1 of the Gunnedah Local Environmental Plan 2012.

**5.2 – Service Strategy**

The original development application was accompanied by a Service Strategy. The modification to development consent will not alter the provision of Council's water, sewer or stormwater facilities.

**5.3 – Sewer**

Council's sewer services are located within Forrest Way. The facilities will be extended to Stage 3. The reduction in allotments created in Stage 3 will not alter the provision of Council's sewer services.

**5.4 – Water**

Council's water services are present along Forrest Way. The services are to be extended during the construction of Stage 3 of this subdivision. The modification proposes to reduce the number of allotments created in Stage 3. The modification does not propose any change to the provision water services.

**5.5 – Stormwater Drainage**

The modification to development consent does not propose any alteration to the approved stormwater management services. Stormwater is disposed of to the kerb and gutter on Forrest Way and re-directed to Council's stormwater point on Kamilaroi Road. Reducing the allotments created by the subdivision will not impact the approved stormwater drainage for Stage 3.

**5.10 – Road Network Design**

The proposed modification to development consent does not propose any alteration to the approved road network design. All resulting allotments have frontage to Forrest Way. All road construction shall be completed in accordance with Council's Engineering Guidelines for Subdivisions and Developments, 2013. Road designs will incorporate stormwater drainage facilities.

**5.11 – Staged Subdivision**

The subdivision is to be constructed across 3 stages. Stage 1 and 2 have previously been constructed with all services provided. Stage 3 is to extend the services. The modification to development consent does not alter the staging of this development. However, the modification proposes to remove 3 allotments from the subdivision approval.

**5.12 – Cul-De-Sac**

The proposed modification to development consent does not indicate any alteration to the approved cul-de-sac at the end of Forrest Way.

**5.14 – Site Access**

All allotments created by the subdivision have primary frontage and access to Forrest Way.

**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 of Gunnedah. Stage 1 and 2 of this subdivision have been completed and created lots with residential dwelling houses and associated outbuildings. The surrounding area is occupied by mixture of low density and large lot residential allotments.

**Access, Transport and Traffic**

The proposed modification to development consent will not result in any potential increase of traffic movements within the surrounding road network. Vehicle movements will reduce as a result of this modification due to the decreasing amount of allotments. Forrest Way is bitumen sealed construction with kerb and guttering along the entire road network. Forest Way will be extended during the construction of Stage 3. The modification to development consent does not require any alterations to the approved road network with vehicle access to each allotment to be achieved from Forrest Way.

**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.

**Water**

The development site has provision of Council's water services to the development site. Council's water facilities are located within Forrest Way. The water connection will be extended for each allotment within Stage 3 of this subdivision accordingly. The modification to development consent does not require any alteration to the provision of Council's water services.

Stormwater is to be disposed of via kerb and guttering in Forrest Way and piped to the stormwater point located on Kamilaroi Road. The modification to development consent does not propose any change to the stormwater management infrastructure approved within the original consent.

**Waste**

The development site has provision of Council's sewer services to the development site. Council's sewer facilities are located within Forrest Way. The sewer facilities will be extended during subdivision works. The modification to development consent does not require any alteration to the provision of Council's sewer services. The resulting allotments will have adequate frontage area for the availability of kerb-side waste collection.

**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 social impact on the surrounding area. The modification will continue to provide future opportunities for residential development within the Gunnedah community.

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

The modification to development remains consistent with the completed Stage 1 and 2 of this subdivision as well as the existing and future development in the locality. The site has access from Forrest Way and the availability of Council's water, sewer and stormwater facilities. All services and utilities will be extended during construction of Stage 3.

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

The proposed modification required neighbour notification and advertising in accordance with Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* as the original development was notified and advertised. The modification was publically advertised and neighbour notified in accordance with the Gunnedah Community Participation Plan (CPP).

Council elected to notify adjoining land holders and advertise from the 24 January to 27 February 2022. During this exhibition period, Council did not receive any submissions.

**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 modification to development consent is seeking consent pertaining to the number of allotments created in Stage 3. The modification to development consent will reduce the total lots created from 37 to 34 allotments. The development application has been assessed under the provisions of the *Environmental Planning and Assessment Act 1979*. The evaluation of this modification to development consent has concluded that the proposed development is compliant with the legislative requirements for this development.

As per the recommendation of this report, it is concluded that Modification of Development Consent No. 577716.003, Lot 18 DP 1204723, 13A Forrest Way, Gunnedah, should be approved subject to the deletion of condition A1, A2, D9b and D10a and the insertion of condition A1a and A2a.

**Andrew Johns**

**DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES**



**Gunnedah**Shire