



## 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>7 September 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>

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### 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 No. 2021/086 – Demolition of building and construction of new single storey Dwelling House – Lot 210 DP 755503 – 55-57 Ross Road, Gunnedah..... 3
  - 3.2 Development Application No. 2022/031 – Construction of Outbuilding (Shed) – Lot 48 DP 1193436 – 35 Robert Gordon Road, Gunnedah ..... 24

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. 2021/086 – Demolition of building and construction of new single storey Dwelling House – Lot 210 DP 755503 – 55-57 Ross Road, Gunnedah</b>
<b>MEETING</b>	Planning, Environment and Development Committee Meeting – 07 September 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 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

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## OFFICER’S RECOMMENDATIONS:

That the Development Application No. 2021/086, for the construction of a new dwelling house, at Lot 210 DP 755503, 55-57 Ross Road, 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 13/09/2021
  - Statement of Environmental Effects, prepared Stewart Surveys Pty Ltd, dated 01/09/2021, Reference: 5571;
  - Additional Information Letter, prepared by Stewart Surveys, dated 04 March 2022, Reference: 5571; and
  - Submitted plans:
    - Prepared by Matt Davis Design, dated 27/08/2021, Reference: Wilson\_S2821, Sheet 100 (Cover Sheet), Sheet 102 (Plans – Ground), Sheet 201 (Elevations), Sheet 202 (Elevations), Sheet 301 (Sections), Sheet 401 (Schedules), Sheet 501 (Perspectives – Images).
    - Prepared by Stewart Surveys, dated 27 August 2021, Reference: 5571, Plan 1 (Site Plan for Proposed Residence at 55 Ross Road, Gunnedah).
  - Supporting documentation:
    - State Environmental Planning Policy (Koala Habitat Protect) 2021 Report, prepared by Stewart Surveys, dated 01/09/2021, Reference: 5571.
    - Soil Contamination Investigation, prepared by S Cameron c/- eastwestonline.com.au, dated 07/03/2022, Reference: EW220419.

- Surface Water and Sediment Validation Report, Prepared by S Cameron, dated 19/08/2022, Reference: EW221370.
- BASIX Certificate number: 1235404S.

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. 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.***

**B5. 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.***

## 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.*

- C4.** Prior to the commencement of building works for the dwelling house the existing dwelling is to be demolished and all demolition conditions listed within section 'E' of this consent, are to be completed.

*Reason: To ensure all works for the demolition of the existing dwelling are completed.*

## D. PRIOR TO ISSUE OF 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.*

### ***On-Site Sewerage Management***

- 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) Install, construct a waste treatment device or a human waste storage facility or a drain connected to any such device or facility
- (b) Operate a system of sewage management

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.*

- D3.** 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. DEMOLITION WORKS**

- E1.** The demolition of the dwelling shall only be demolished in accordance with the requirements of AS2601-2001 "The Demolition of Structures" and the requirements of the Workcover Authority of New South Wales including but not limited to:

- (a) Protection of site works and the general public.
- (b) Erection of hoardings where appropriate.
- (c) Asbestos and lead based paints handling and disposal where applicable.

The disposal of demolition materials is to be to an approved licensed waste disposal depot so determined by the NSW Environment Protection Authority.

***Reason: To ensure compliance and safety of workers.***

- E2.** All work on the demolition is to be carried out strictly in accordance with current Workcover requirements and only between the hours of 7:00am and 5:00pm on weekdays and 8:00am and 4:00pm on Saturdays. No demolition work shall occur on Sundays or Public Holidays.

***Reason: To ensure compliance and protect amenity of area.***

- E3.** The developer shall ensure all practicable measures are taken to minimise the release of dust into the atmosphere from the onsite and from vehicles transporting material off-site.

***Reason: To ensure compliance and safety of workers and general public.***

- E4.** The deliberate burning of the building and/or demolition material shall not be permitted.

***Reason: To ensure compliance and safety of workers and general public.***

- E5.** 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 they must be properly guarded and protected to prevent them from being dangerous to life or property.

***Reason: To ensure compliance and safety of workers and general public.***

- E6.** Work involving bonded asbestos removal (of an area more than 10m<sup>2</sup>) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the Work Health and Safety Regulation 2011.

***Reason: To ensure compliance and safety of workers and general public.***



- E7.** If the contract indicates that bonded asbestos material or friable asbestos material will be removed to a specified landfill site, the person having the benefit of the development consent must give the Principal Certifying Authority a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.

Note: In this clause, bonded asbestos material, bonded asbestos removal work, friable asbestos material and friable asbestos removal work have the same meaning as in Clause 317 of the Occupation Health and Safety Regulation 2001. Under Clause 317 removal work refers to work in which the bonded.

***Reason: To ensure compliance and safety of workers and general public.***

**F. GENERAL**

- F1.** No permanent structures are to be placed on any easement.

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

- F2.** 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 55 Ross Road.

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

***Access - Rural***

- F3.** The existing vehicular access from Ross Road must be upgrade to a 4.5 metre wide gravel driveway and associated drainage structures across the verge and table drain, constructed from the road should to the property boundary in accordance with Council's rural access crossing standards and specifications (RTA specification for a Typical Rural Property Access for a single unit truck). The location of the driveway is to be determined by the developer in consultation with Council.

- 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 access is commenced.
- b) Upon the satisfactory completion of the access by the developer, the security bond will be released.

***Reason: To ensure access is provided and meets appropriate engineering standards.***

- F4.** The developer is to provide an all-weather 2WD access from the vehicle access from Ross Road to the onsite parking spaces required by Condition E5.

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

- F5.** Onsite car parking accommodation shall be provided for a minimum of two (2) vehicles, to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. Parking spaces should be provided in close proximity to the dwelling house and should be accessible from the internal driveway. All parking spaces are to be marked to ensure compliance with AS 2890 *Off Street Parking* for parking space dimensions.

***Reason: To ensure adequate on site car parking is provided.***

- F6.** At the commencement of development, and in perpetuity, the area from the habitable dwelling house must be managed as an Inner Protection Area (IPA) Asset Protection Zone (APZ) of a minimum of 10 - 11m or to the property boundary to the West, 11m to the South, East and West between the building and the unmanaged grass as outlined in the NSW RFS document 'Planning for Bushfire Protection Guideline 2019' Appendix 4. The IPA APZ is to be maintained as a mown area with grass heights less than 100mm.

***Reason: To satisfy bushfire planning requirements within 'Planning for Bushfire Protection Guideline 2019'.***

- F7.** Landscaping within the APZ is to be consistent with the requirements of NSW RFS 'Planning for Bushfire Protection' Guideline 2019 (Appendix 4 – Asset Protection Zone Standards).

***Reason: To satisfy bushfire planning requirements within 'Planning for Bushfire Protection Guideline 2019'.***

- F8.** A total of 20,000 litres water supply shall be provided for firefighting purposes:
- a) Above-grounds tanks are to be manufactured from **concrete or metal**.
  - b) A connection for firefighting purposes is to be located within the IPA or non-hazard side away from the structure.
  - c) A 65mm storz outlet, with a ball valve, is to be fitted to the firefighting water supply.
  - d) Ball valve and pipes must be adequate for water flow and are to be metal.
  - e) Supply pipes from the tank to the ball valve are to have the same bore size to ensure flow volume.
  - f) Underground tanks must be clearly marked and have an access hole of 200mm to allow tankers to refill direct from tank.
  - g) A hardened ground surface for truck access is to be provided within 4m of the firefighting water supply.
  - h) Raised tanks must have their standards constructed from non-combustible material or bush fire-resistant timber (see Appendix F of AS 3959).
  - i) Unobstructed access is to be provided at all times.
  - j) All exposed water pipes, including any fittings, external to the building are to be metal.
  - k) Where pumps are provided, they are to be a minimum 5hp or 3kW petrol or diesel-powered power, and are to be shielded against bush fire attack.
  - l) Any firefighting hose and reel connected to the pump shall be 19mm internal diameter; and
  - m) Any fire hose reels are to be constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005.

***Reason: To ensure adequate supply of water for domestic and firefighting purposes.***

- F9.** Internal vehicle access from the vehicle access to the dwelling or fire fighting water supply, is to meet the following:
- a) All internal access roads are to be two-wheel drive, all-weather roads.
  - b) Have a minimum 4m carriageway width;
  - c) Have a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches.

***Reason: To satisfy bushfire planning requirements within 'Planning for Bushfire Protection Guideline 2019'.***

- F10.** Water which is stored within onsite water storage dams is not to be utilised as a domestic water supply, being either within the residence or on vegetation which will be in close proximity to the dwelling house.

***Reason: To ensure that foreign chemical elements located within the contamination investigation are not redistributed throughout the site.***

## **G. DURING CONSTRUCTION**

- G1.** 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.***

- G2.** 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 to extend beyond the property boundary line.

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

- G3.** 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.***

- G4.** The storage of all building materials shall be confined within the boundaries of the allotment.

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

- G5.** New construction shall comply with sections 3 and 5 (BAL 12.5) of AS 3595-2018 'Construction of buildings in bush fire-prone areas', as varied by the applicable additional construction requirement of Planning for Bushfire Protection 2019 Section 7.5. The concept of shielding described in part 3.5 of AS3959-2018 cannot be applied.

***Reason: To satisfy bushfire planning requirements within 'Planning for Bushfire Protection Guideline 2019'.***

### **G6. 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.***

- G7.** 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.***

- G8. 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.***

## **G9. 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.*

## **G10. 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.*

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

**H1.** 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 *Clause 4.6 Exceptions to development standards* pertaining to *Clause 4.2A* of the Gunnedah Local Environmental Plan 2012.

Applicant:	S Wilson c/- Stewart Surveys
Owner:	Ms S Wilson
Property Description:	Lot 210 DP 755503 55-57 Ross Road, Gunnedah

### *Proposed Development*

The development proposes the demolition of an existing residence and construction of a new dwelling house.



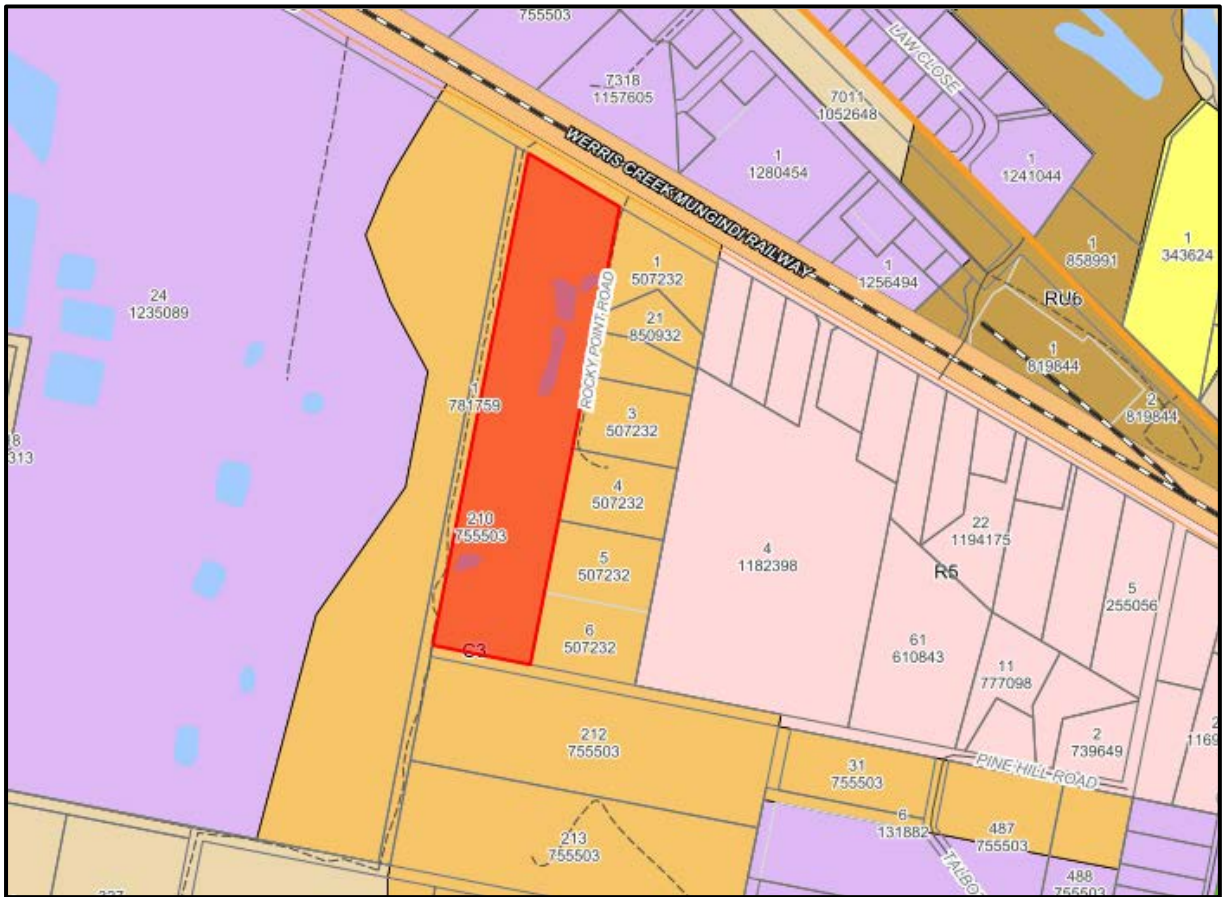


Figure 1 – Site Location



Figure 2 – Site Plan



Figure 3 – Elevations Plan

## COMMENTARY

### *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 C3 Environmental Management (C3), under the provision of the Gunnedah Local Environmental Plan, 2012 (GLEP 2012). Dwelling Houses are permitted subject to consent within the C3 land zone.

The proposed development is consistent with the zone objectives. The objectives of the zone aim to protect, manage and restore areas of specific values. The construction of the dwelling house is not to disrupt the aesthetic values of the site with the development not requiring any significant alteration to the environmental qualities or appearance of the site. Additionally the proposed dwelling is unlikely to impede on the 450m contour elevation of the zone which is a key objective of the zone to ensure protection to the special values of the zone.

#### ***4.6 – Exceptions to Development Standards***

Council has considered the merits of the development proposal and has made the following assessment in accordance with Clause 4.6 of the Gunnedah Local Environmental Plan (GLEP) 2012.

Council has reviewed the written request from the applicant. The development site is occupied by a pre-existing dwelling house indicated to have been constructed pre-1956. The dwelling house has been vacated for an extended period of time and has fallen in to disrepair. Hence, under the provision of Section 4.68 of the *Environmental Planning and Assessment Act 1979* the structure is considered by Council as being abandoned. The development site is zoned C3 Environmental with a minimum lot size of 40ha in accordance with the Gunnedah Local Environmental Plan 2012 Lot Size Map.

The site has a historical land use for residential activity similar to the residential allotments adjoining the site directly to the East. The proposed development is unable to comply with any of the allotment attributes within Clause 4.2A(3). The assessment under Clause 4.6 has found that Clause 4.2A(3) is considered to be unreasonable and onerous contextually based on the specific circumstances of this Development Application. The proposed development is consistent with the pre-existing structure and adjoining residential development. The adjoining residential allotments are also less than the minimum lot size and smaller than the area available to the development site. Council's records indicate the dwelling houses on these allotments have received development consent between 1965 to 1998. These allotments have established residential activity with dwelling houses. Replacing the structure on-site will not impact the scenic value of the site as the new dwelling house will be constructed in the same location to the existing and not encroach on the 450m contour elevation of the C3 zone.

The development is unlikely to contradict the objectives of Clause 4.2A. The development site contains an existing unoccupied and dilapidated structure, which as previously stated is considered for the purposes of this assessment to be abandoned. The dwelling is proposed to be located in a similar location to the existing structure and the provision of existing services has been adequately addressed. The proposed development will utilise the existing on-site sewerage management system, water supply via rainwater tank storage and electricity services.

The proposed development creates further residential opportunities in Gunnedah and encourages low-scale agricultural practices. Replacing the structure on-site will not contradict objectives of the C3 zone as the aesthetic values will be substantially similar. The development is accompanied by appropriate supporting documentation which does not indicate any potential environmental impacts or planning issues associated with the proposed development and subject site. The development demonstrates compliance with relevant provisions with the Gunnedah Development Control Plan 2012 pertaining to building setbacks, utilities and vehicle access. The proposed development does not generate any conflicting land uses or contradicting activities to neighbouring areas or impact the public interest or domain. This demonstrates adequate justification to contravene Clause 4.2A(3). As such a development is expected to align with the vision and objectives of Gunnedah Shire Local Housing Strategy and New England Northwest Regional Plan through enhancing liveability of the Shire and the greater region.

#### ***5.16 – Subdivision of, or dwellings on, land in certain rural, residential or environmental protection zones***

The development is located west of the Gunnedah urban area and central-business district. Neighbouring allotments to the east of the site are occupied by residential activity. Allotments to the West of the site are zoned for industrial purposes. However, it is currently undeveloped for this purpose. The demolition of the existing residence and construction of a new dwelling house is expected to compliment the surrounding residential dwelling houses. There is sufficient separation between the development site and the adjoining industrial land. There is no land use conflict consideration under this clause between the development site and the adjoining industrial land.

Replacing the structure on-site will not impact the scenic value of the site as the new dwelling house will be constructed in the same location to the existing abandoned dwelling and not encroach on the 450m contour elevation of the C3 zone. The structure will be located amongst existing vegetation which is considered to assist with the new dwelling being integrated into the surrounding environment.

#### ***6.5 – Essential Services***

##### ***a) the supply of water***

The development site has the provision of the Council's water facilities available to be connected to the proposed dwelling house.



- b) *the supply of electricity*  
The development site has the provision of an overhead electricity supply.
- c) *the disposal and management of sewage*  
The development will dispose of effluent through the installation of an onsite sewerage management system. There is sufficient area onsite to accommodate the OSSM in addition to stormwater disposal.
- d) *stormwater drainage or on-site conservation*  
Stormwater is able to be disposed onsite with the site having adequate area onsite for stormwater to be managed without causing a nuisance to adjoining land holders.
- e) *suitable road access*  
The proposed development site has an existing vehicle access from Ross Road, as well as frontage to Rocky Point Road and an unnamed road reserve.

## STATE ENVIRONMENTAL PLANNING POLICY

- ***State Environmental Planning Policy (Biodiversity Conservation) 2021***

- ***Chapter 2 - Vegetation in Non-Rural Areas***

The development site is located within the C3 Environmental Management zone, which is identified within this Chapter as being a land zoning to which assessment is required to investigate clearing of vegetation within certain zoned land. The development application seeks approval for the removal of two Kurrajong trees from the site. The two trees require removal to accommodate the new dwelling house as they are located within the building footprint. The removal of vegetation is being sort under the provision of Part 4 of the EP&A Act 1979.

Council's Development Control Plan does not identify any vegetation which approval is required and hence Part 2.3, Section 2.9(1) of the SEPP does not apply to the clearing of vegetation.

The removal of the two trees from the site does not exceed the Biodiversity Offsets Scheme Threshold. The site has a minimum lot size of 200ha. Therefore in accordance with Clause 7.2 of the *Biodiversity Conservation Regulation 2017*, the threshold for clearing of vegetation on this site is 0.5ha. The development requires the clearing of 0.15ha. Hence, no approval is required under Part 2.3, Section 2.10(2) of the SEPP.

The vegetation is not recognised as being a heritage item and the site is not within a heritage conservation area. The vegetation is not an item of Aboriginal Heritage or an Aboriginal object. Therefore, the removal of the two trees is not prohibited by Part 2.3, Section 2.10(3) of the SEPP. The removal of the trees is not expected to impact on the surrounding environment and hence, the consent for the removal of these trees is supported.

- ***Chapter 4) Koala Habitat Protection 2021***

The site has an area greater than 1 hectare and is not subject to an endorsed Koala Plan of Management. The development site is zoned C3. At the time of lodgement, State Environmental Planning Policy (Koala Habitat Protection) 2021 was relevant to this development. However, it has since been repealed. Therefore, Chapter 4 of State Environmental Planning Policy Biodiversity Conservation 2021 is relevant to this development due to the land zoning of the site and the Gunnedah Shire is listed within Schedule 2 of this SEPP.

The desktop review of Koala habitat identified no records of Koala sightings on the subject site. Stewart Surveys determine the site to be highly suitable as Koala habitat. The desktop review and site inspection determined that the site meets the definition of Core Koala Habitat. However, it was determined that the site was not currently providing habitat to a Koala population. The development requires the removal of two (2) trees to accommodate the new dwelling house. The tree species to be removed are not listed within Schedule 2 of this SEPP.

A site inspection conducted by Kathryn Yigman of Stewart Surveys identified six (6) separate Koala preferred tree species, being Bimble Box/Poplar Box (*Eucalyptus populnea*), White Cypress Pine (*Callitris glaucophylla*), White Box (*Eucalyptus albens*), Narrow-leaved Ironbark (*Eucalyptus crebra*), Tumbledown Red Gum (*Eucalyptus dealbata*) and Yellow Box (*Eucalyptus melliodora*), which are listed within Schedule 3 of this SEPP. During the site inspection more than 15 *Eucalyptus* trees were assessed for koala activity and there was no evidence of frequent or recent Koala presence observed onsite. However, a Tumbledown red gum presented with scratch markings on the trunk.

Council conducted its own desktop investigation which did not locate any historical koala sightings within the property, refer to Figure 4 as below.

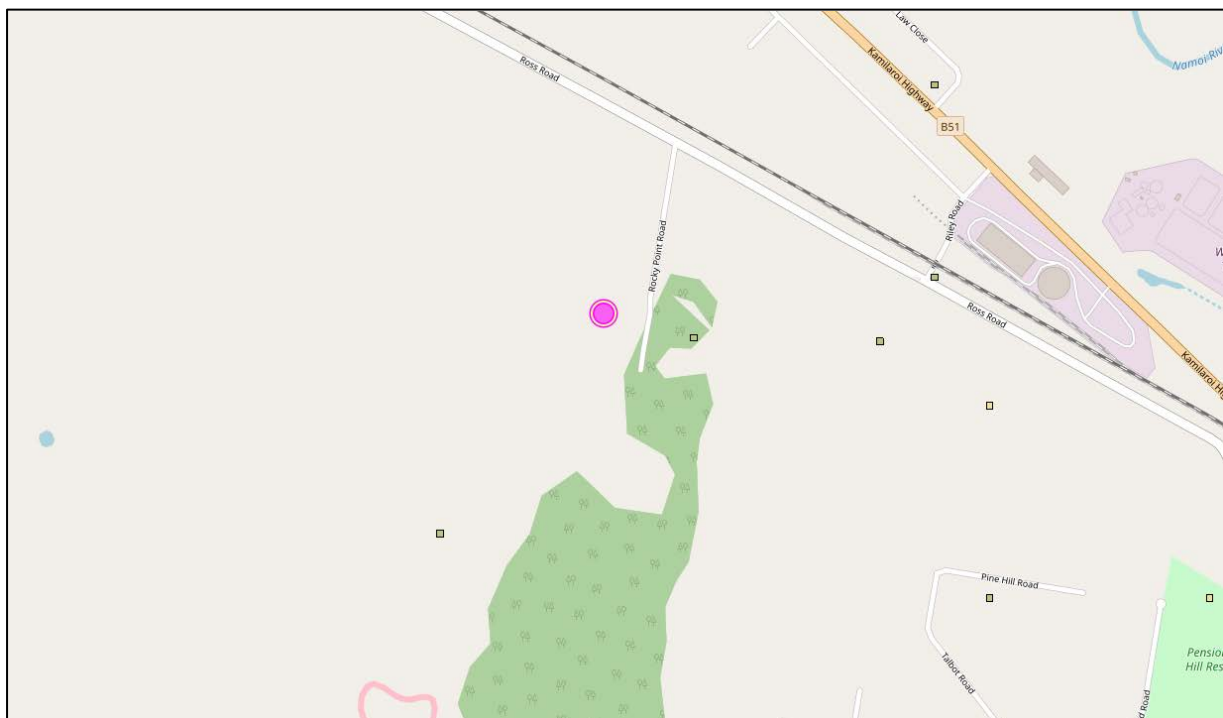


Figure 4 - SEED Koala Sightings (55 Ross Road, GUNNEDAH) – Yellow Squares Designate Koala Sightings

The development required the removal of two trees from the development site to enable the construction of the proposed dwelling on the property. The site contains significant stands of trees with some of the vegetation being located close to the proposed dwelling location. The construction of a dwelling house will not change the characteristics of the site or the habitat available to Koalas onsite and will not prevent access to the site of Koalas. The only risk associated with the development would be introduction of domestic dogs and possible dog attacks. This is considered to be marginal risk based on historical land use of the site and the land use activity on the adjoining allotments. Council considers that based on the development works and the associated future risks, the development will have a low or no impact on Koalas or koala habitat.

It is anticipated the development will have a low or negligible impact on Koalas or their habitat as the development does not require the removal of the inspected Koala feed tree species. Therefore, in accordance with Clause 4.9 (4) Council is satisfied the development will have low to no impact on the Koala population or habitat due to the minimal clearing of vegetation surrounding the dwelling house.

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

- **Chapter 4 - Remediation of Land**

The development site is currently occupied by an abandoned dwelling house. The site was also historically operated as a quarry for extractive industries. The development will result in a change of use of the site. A search of Council's records and supplied Statement of Environmental Effects confirms a proportion of the site was used as a quarry.

A Soil Contamination Investigation was conducted by EastWest Enviroag Pty Ltd. East West conducted an on-site investigation, soil sampling and analysis. EastWest extracted nineteen (19) samples which were tested for levels of contaminants within soil and water bodies onsite. Sample locations were taken from around the former quarry site and the location of the proposed development. It was noted that during the sampling and assessment of the development site EastWest did not observe any odours or visual evidence of contamination.

All samples except for one demonstrated levels detected limits below the National Environment Protection Measures (NEPM) Health Investigation Level (HIL) 'Residential A'. The one sample that detected higher levels of contamination was extracted from the small front dam on-site. This sample from the dam detected levels of a recoverable hydrocarbon not regulated in the NEPM guidelines. C16-C34 is a Total Recoverable Hydrocarbon (TRH) and the World Health Organisation states a level of 0.09mg/L is considered elevated in regards to contamination.

A Surface Water and Sediment Validation Report completed by EastWest Enviroag Pty Ltd was prepared and submitted to Council which assessed the small front dam and broke down the levels of C16-C34 to determine if there was any presence of unnatural occurring chemicals which could indicate unsuitable levels of contamination within the dam. The contaminants originally identified within dam are no longer existent. Therefore, the dam can be validated as not containing contaminants of concern which may pose a risk to the ongoing proposed land use. The dam water is not to be used for domestic purposes. Council is satisfied, based on the supplied reports, that the site is suitable in its contaminated state for residential land use activities and no remediation works are 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 site fronts Ross Road, which is sealed for the entire road frontage. Hence, the building setback from the primary road frontage under the Gunnedah DCP is 25m. The following table determines that the proposed development is compliant with the setbacks of the C3 zone from the Gunnedah DCP.

Table 1	Required	Proposed	Compliance
Primary Street (Ross Road)	25m	47m	✓
Rear	10m	755m	✓
Side	10m	10m	✓

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

The proposed dwelling house has an approximate height of 5.135m from natural ground level. The maximum allowable height of a building is 10m. The building height does not exceed the 10m height maximum and hence is compliant.

### **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 a water meter located on-site. The new dwelling house will connect into this existing water meter through extension of internal water lines.

### **2.1.4 – Privacy**

The proposed development is a single storey dwelling which meets the required building setbacks. Therefore, no specific privacy controls are required.

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

The development will not affect current solar access. The proposed development will not result in any blank walls being created which present towards the public road frontage. The design and layout of the dwelling encourages solar access to living areas.

### **2.1.10 – Access**

The development site has primary frontage to Ross Road. Ross Road is bitumen sealed but not supported by kerb and gutter. There is an existing vehicle access to the development site which requires an upgrade. The internal driveway is to extend to the proposed dwelling house.

### **2.1.12 – Slope**

The development site has a minor slope which falls from the south towards the north. The slope is not greater than 15%. Therefore, a detailed geotechnical investigation was not required.

## **6.2 – Parking Requirements**

Dwelling developments are required to provide a minimum of two (2) onsite parking spaces to accommodate the onsite parking demand of the dwellings occupants. The development does not propose a detached or detached outbuilding. Therefore, a condition has been imposed to ensure the developer provides 2 car parking spaces onsite in close proximity to the dwelling.

### **6.6.1 – Environmental Effects**

#### **Traffic**

The development will not result in a significant increase in vehicle movements within the road network as the development does not create any alternate land uses that could attract additional vehicle movements.

#### **Flood Liability**

The development is not identified as being subject to flooding on Council's flood prone map.

#### **Slope**

Slope provisions previously addressed within the assessment of development standard 2.1.12 of the Gunnedah Development Control Plan 2012.

#### **Construction Impacts**

The development would not be expected to have any more significant impact during construction than another other dwelling house construction. Any dwelling approval is subject to Council's limited construction hours.

#### **Solid and Liquid Waste**

The site is not serviced by Council's gravity fed sewerage network for effluent management. Effluent will need to be managed and disposed of onsite via an on-site sewerage management system. The site can be serviced by Council's kerb side collection for general waste and recycling collection. Kerb side collection bins could be requested upon issue of an Occupation Certificate.

### ***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 excessive noise and vibration with the exception of the construction phase.

### ***Water Quality***

The development will not produce any pollutants or require any further excavation which could destabilise the soil and result in soil erosion which could affect water quality downstream. It is recommended that appropriate sediment and erosion controls are established prior and throughout construction works to prevent unmanaged exposed soil.

### ***Sustainability***

The proposed outbuilding is unlikely to have an impact on the environmental sustainability of the development site or adjoining properties. The development is not considered to be an unsustainable land use or activity. The development proposal did not indicate the inclusion of any energy sources, such as solar power.

### ***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 currently occupied by an abandoned, derelict building. A portion of the site had experienced levels of excavation works associated with a historical quarry activity. Portions of the site contained heavy vegetation and the site is located within a rural setting.

The site is located within the C3 Environmental Management zone and neighboured by the R5 Large Lot Residential Zone. The surrounding area is predominately residential allotments containing dwelling houses and ancillary outbuildings. Demolition of the existing residence and constructing a new dwelling house is expected to be consistent with the development on adjoining allotments.

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

The proposed development has primary frontage to Ross Road. Ross Road is bitumen sealed, but is not supported by kerb and gutter. The development is expected to result in a minor increase in vehicle movements within the road network from the occupants of the dwelling. The road network is considered adequate for the proposed development. The development would require the upgrade to the internal driveway and vehicle access.

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

The development does not require the dedication of public land and the development would have minimal impact on Council's existing public areas or parklands as the development would create an additional dwelling house for occupation within the community. The development does not require the creation of any pedestrian linkages or the dedication of any public open space. Contributions under Council's S94A plan for this development have been paid.

#### ***Heritage***

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

### **Other Land Resources**

Extractive industries are prohibited within the zone and the adjoining land zones. Hence, the development cannot impact on the availability of the surrounding area to be utilised for this purpose.

The development site is neighboured by industrial activity and residential dwelling houses. The proposed development will not result in further rural fragmentation as the development is unlikely to impact extractive industry resources and productive agricultural land.

### **Water**

The development site has the availability of Council's reticulated water service which is located along Ross Road. There is a water metre connected to the site which the new dwelling house will connect into. The development proposes a 22,000L rainwater tank utilised for stormwater retention and a secondary water source which is a requirement within the BASIX Certificate.

Stormwater is to be disposed of onsite. There is adequate area onsite for stormwater to be managed. A S68 application under the Local Government Act 1993 is to be lodged which will address the particulars of the required management onsite.

### **Flora and Fauna**

The development proposes the removal of two (2) trees from the site to accommodate the new dwelling house. Hence, the development requires an investigation into Clause 7.2 of the Biodiversity Conservation Regulation 2017. Under this Clause, the allowable clearing threshold for this allotment is 0.5ha. The development proposes the clearing of 0.15ha. Hence, the development will not exceed the Biodiversity Offset Scheme thresholds under the *Biodiversity Conservation Regulation 2017*.

The development site is not expected to be occupied by any threatened species, contain any critical habitats or any threatened or endangered ecological communities. The subject site does not appear as a lot identified as containing areas of biodiversity value on the Biodiversity Values map (See Figure 5).

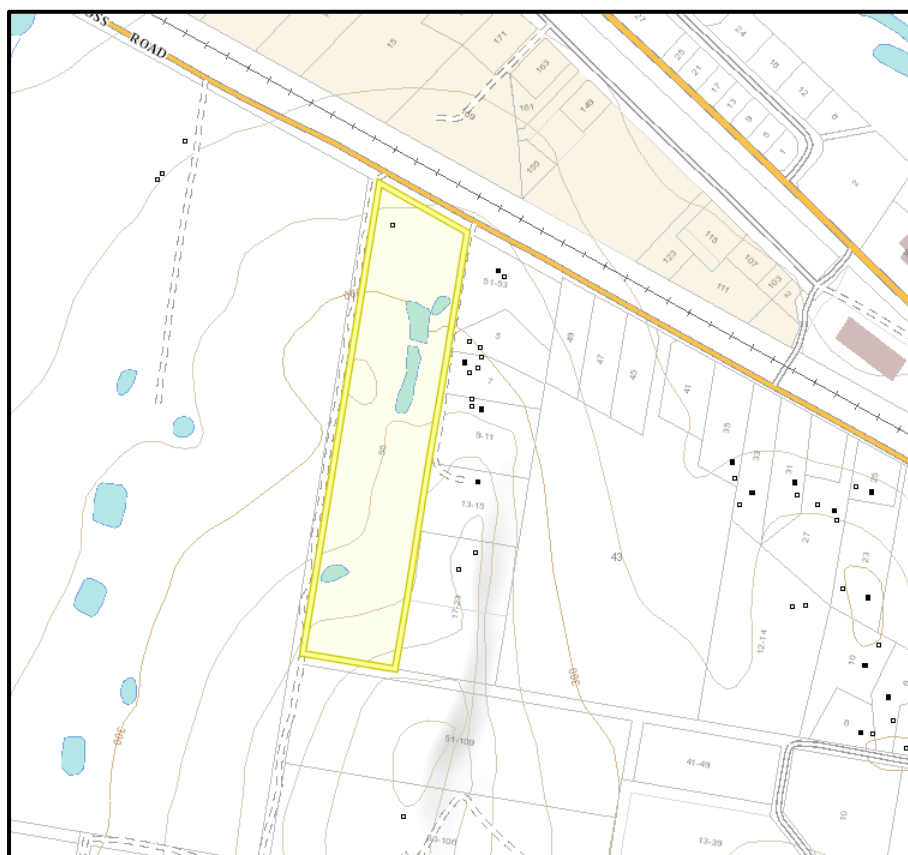


Figure 5 – Biodiversity Values Map and Threshold Tool

### **Waste**

The subject site does not have the provision of Council's sewer services. The proposed development requires the approval and installation of an OSSM for the management of effluent.

Waste generated during construction is to be maintained onsite and shall be disposed of to a suitable Waste Management Facility. Conditions are imposed to ensure the demolition works and undertaken in an appropriate way and waste is managed appropriately to be disposed to a suitable licensed waste facility. No waste including domestic waste is permitted to be disposed of onsite. Kerb side collection is available within the surrounding area for domestic waste disposal and can be applied for upon issue of an Occupation Certificate.

### **Natural Hazards**

The site is not identified as being flood prone land.

The development site is entirely prone to bushfire activity. Council's staff has conducted a Bushfire Risk Assessment for the subject site, considering the likely risk from bushfire sources on adjoining land and vegetation within the development site. The Bushfire Risk Assessment has identified measures which aim to minimise the risk of bushfire attack and protection for relevant personnel during firefighting activities. The Bushfire Risk Assessment determined the Bushfire Attack Level (BAL) for the development to be BAL 12.5.

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

The proposed development is consistent with the existing and future development in the locality. The development does not prevent the continue occupation of the adjoining allotments for their current use or prevent future redevelopment of adjoining lots for their zoned use. The development does not place a demand on Council's public spaces within the vicinity of the site and the development is not expected to create any noise or air quality emissions. The site is not subject to flooding and bushfire hazard reduction conditions have been recommended. The site is not known to contain any items of cultural or environmental heritage.

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

The development application did not require notification to adjoining land holders. The development involves the demolition of an structure and construction of a dwelling house. Furthermore, the proposed development is not expected to have any significant impact on adjoining properties. Hence, under the provisions of the Gunnedah Community Participation Plan notification is not required.

Council referred the Development Application to the New South Wales Department of Planning and Environment for concurrence with regard to the request for a Clause 4.6 variation of the Gunnedah Local Environmental Plan 2012. The Department of Planning and Environment, as delegate of the Secretary, granted concurrence under Clause 4.6(5) of the Gunnedah LEP 2012 for the development.

### **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 need to be considered for this development.

### **Conclusion**

The development application is seeking consent for the demolition of an existing abandoned dwelling and the construction of a dwelling house. 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. 2021/086, Lot 210 DP 755503, 55-57 Ross Road, Gunnedah, should be approved subject to conditions.

<b>ITEM 2</b>	<b>Development Application No. 2022/031 – Construction of Outbuilding (Shed) – Lot 48 DP 1193436 – 35 Robert Gordon Road, Gunnedah</b>
<b>MEETING</b>	<b>Planning, Environment and Development Committee Meeting – 07 September 2022</b>
<b>DIRECTORATE</b>	<b>Planning and Environmental Services</b>
<b>AUTHOR</b>	<b>Town Planner</b>
<b>POLICY</b>	<b>Nil</b>
<b>LEGAL</b>	<b>Environmental Planning and Assessment Act, 1979 Environmental Planning and Assessment Regulation, 2021 Gunnedah Local Environmental Plan, 2012 Gunnedah Development Control Plan, 2012</b>
<b>FINANCIAL</b>	<b>Nil</b>
<b>STRATEGIC LINK</b>	<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>
<b>ATTACHMENTS</b>	<b>Nil</b>

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#### **OFFICER’S RECOMMENDATIONS:**

**That the Development Application No. 2022/031, for the construction of an outbuilding, at Lot 48 DP 1193436. 35 Robert Gordon Road, 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 03/05/2022
  - Statement of Environmental Effects, prepared by Stewart Surveys dated 14 April 2022;
  - Additional Information, prepared by Stewart Surveys, dated 24 August 2022, Reference 5684.
  - Submitted plans:
    - Prepared by Stewart Surveys, dated 24 August 2022, Reference 5684, Sheet 1 (Floor Plan), Sheet 2 (Elevations), Sheet 3 (Elevations and Sections), Sheet (Site Plan).
  - Supporting Documentation:
    - Prepared by Stewart Surveys, State Environmental Planning Policy (Biodiversity Conservation) 2021 Assessment, dated April 2022, Reference 5684.

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.***

##### ***On-Site Sewerage Management***

- 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) Install, construct a waste treatment device or a human waste storage facility or a drain connected to any such device or facility
- (b) Operate a system of sewerage management

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.***

- D3.** 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. GENERAL**

- E1.** The developer is to provide an all-weather 2WD access from the existing vehicle access at the lot boundary to Robert Gordon Road 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.***

**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 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.***

- 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.***

**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.***

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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 maximum and cumulative size and maximum height of the proposed outbuilding.

Applicant:	J Randle c/- Stewart Surveys
Owner:	J & E Randle
Property Description:	Lot 48 DP 1193436 35 Robert Gordon Road, Gunnedah

***Proposed Development***

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

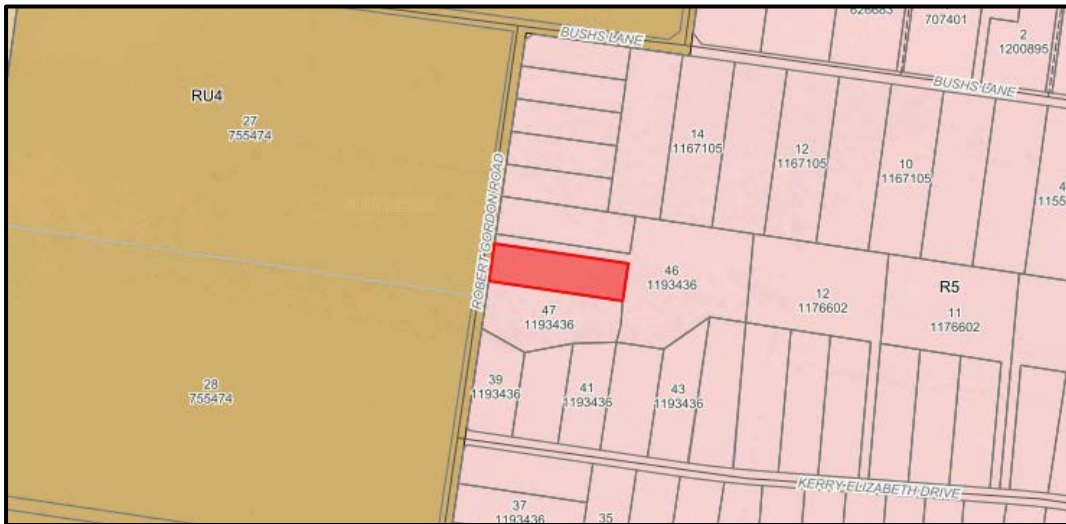


Figure 1 – Site Location

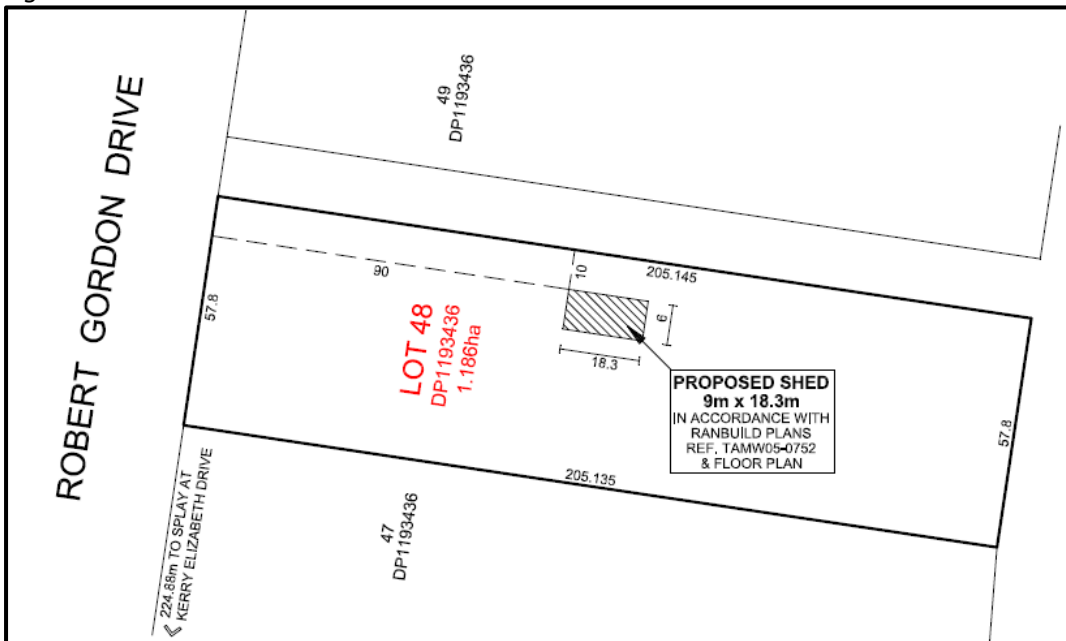


Figure 2 – Site Plan

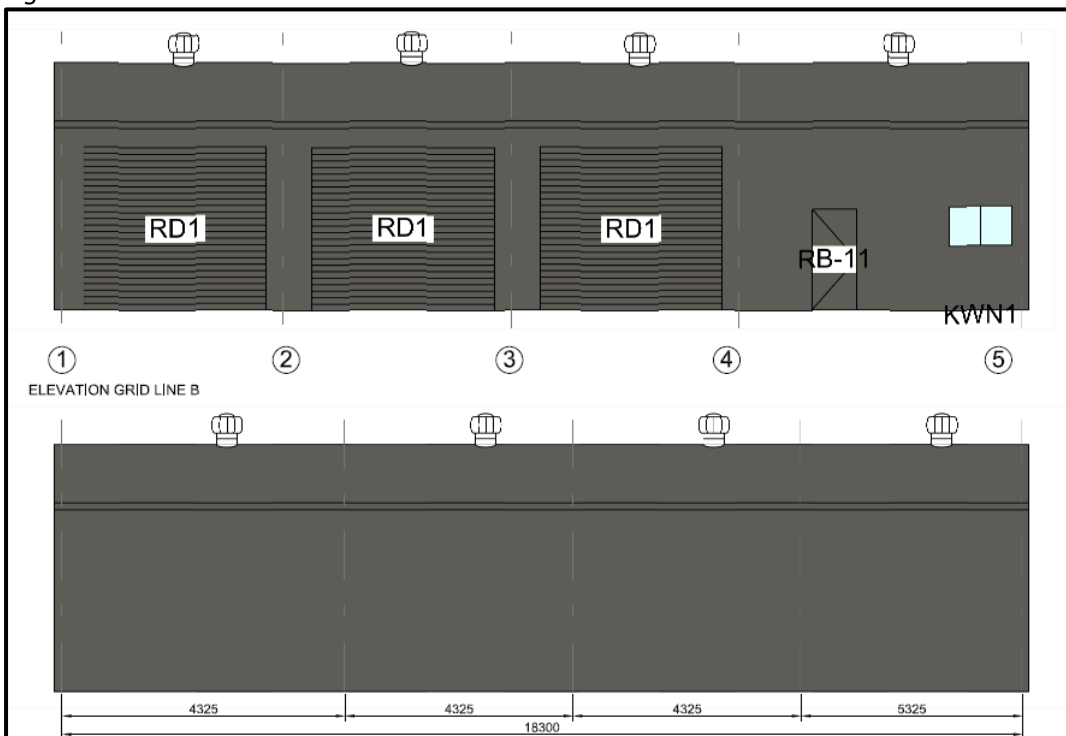


Figure 3 – Elevations Plan

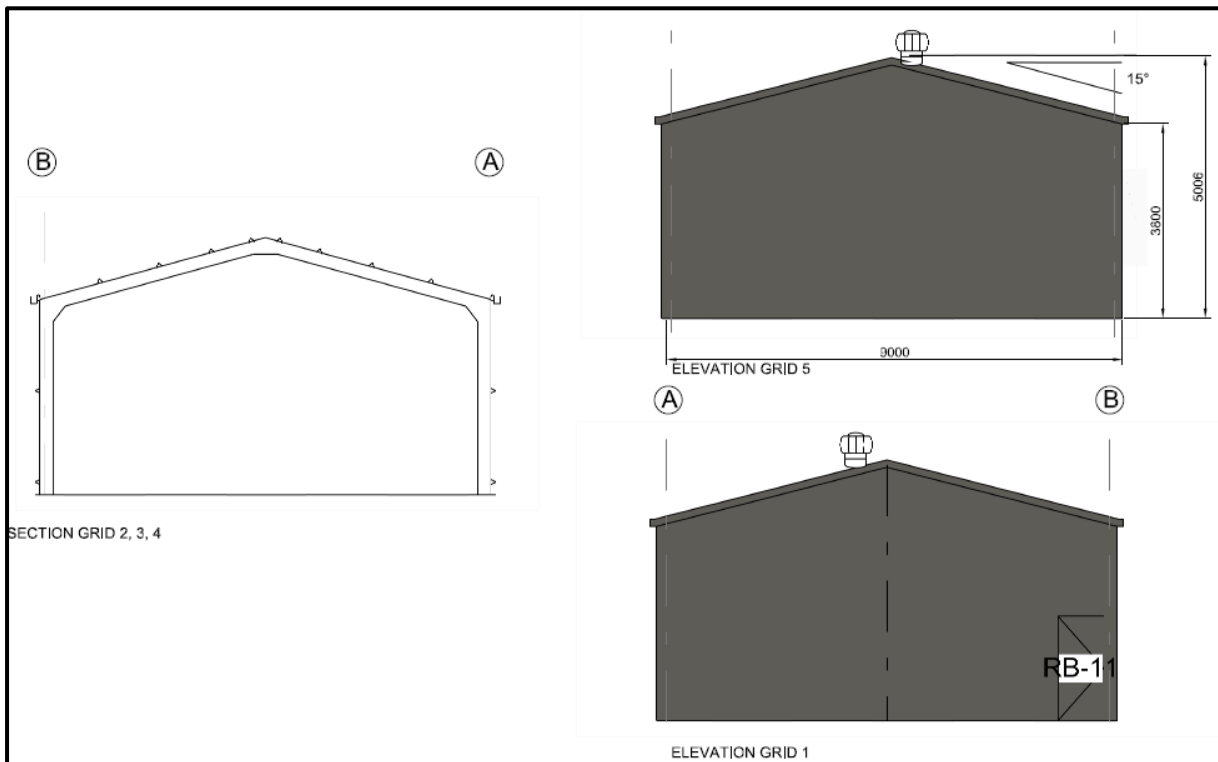


Figure 4 – Elevations Plan

## 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**

The development site is zoned R5 Large Lot Residential (R5), under the provision of the Gunnedah Local Environmental Plan, 2012 (GLEP 2012). Residential Accommodation is permitted subject to consent within the R5 land zone. The proposed shed is proposed to be used for residential purposes and will complement the dwelling house which has also been approved for the development site, once constructed. Hence, staff considered this building to be part of a residential activity and is ancillary to the usage of Residential Accommodation.

The proposed development is consistent with the zone objectives. The objectives of the zone aim to provide residential accommodation in a rural setting and minimise impacts on environmental sensitive locations and scenic quality. Although the proposed outbuilding will not be occupied and as such will not provide accommodation, the construction of the outbuilding will be ancillary to the approved, but not yet constructed, dwelling house and is unlikely to create any land use conflict or detract from the primary residential function, character and amenity of the neighbourhood.

#### **6.5 – Essential Services**

The development site has the provision of the Council's water services which are already connected to the development site.

The site has an underground electrical supply available to the site.

Stormwater is able to be disposed of on-site. There is adequate area with the site for capacity for management of stormwater onsite without causing nuisance to adjoining allotments.

The outbuilding proposes internal amenities and requires the installation of an on-site sewerage management system (OSSM). Council's sewer services are not present to the site. There is sufficient area onsite for the installation of an OSSM and associated infrastructure.

The development site has a vehicle access from Robert Gordon Road, 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 R5 Large Lot Residential and the Gunnedah Shire is listed within Schedule 3 of this SEPP. The site has an area greater than 1 hectare and is not subject to an endorsed Koala Plan of Management.

A site inspection conducted by Kathryn Yigman of Stewart Surveys identified two Koala use tree species onsite, which are listed within Schedule 3 of this SEPP. The two species identified were White Box (*Eucalyptus albens*) and White Cypress Pine (*Callitris glaucophylla*). Wilga (*Geijera parviflora*) was also observed on-site; however, this species is not listed within Schedule 3 of this SEPP. The White Box tree is a Koala feed tree and the Cypress Pine provides shelter. Therefore, the development site has the potential to support a koala habitat. The trees were inspected for koala population or evidence of koala activity, by means of scats and scratch marks. There was no evidence of koala activity observed on-site.

A desktop review identified one (1) koala sighting on a neighbouring allotment in 2006. Based on the desktop analysis of historical sightings within the surrounding area of the site and lack of koala evidence on trees from the site inspection it is believed the site does not meet the definition of Core Koala habitat. Furthermore, it is not considered the site is supporting a Koala population due to the lack of koala use tree species on-site.

The proposed development is not expected to impact on the Koala habitat or population. Council is satisfied the development is expected to have a low or negligible impact on Koalas and their habitat as the proposal does not involve the removal of any vegetation. Hence, in accordance with Clause 4.9, Council may grant consent for this development.

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

##### ***Chapter 4 – Remediation of Land***

The development site is currently vacant. A search of Council's records and supplied Statement of Environmental Effects does not identify that there has been any previous usage that could potential lead to any potential site contamination.

A review of the assessment conducted by Council at the time of the subdivision of land (DA No. 535836) determined that there was no recorded historical land use or activity which could have created potential soil contamination.

The subject site is zoned *R5 Large Lot Residential* and the proposed development is a consistent land use activity. Hence, in accordance with Clause 4.6(1)(b), 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 proposed development is compliant with the setbacks of the R5 Large Lot Residential zone, for land with a minimum lot size of 1.2ha, as set out in the DCP. Refer table below.

	Required	Proposed	Compliance
Primary Setback (Robert Gordon Road)	25m	90m	✓
Side	10m	10m	✓
Rear	10m	99m	✓

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 proposes to connect to existing water service already connected to the site.

### 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 in the centre of the property, behind the building line of the approved dwelling and will not affect the visual appearance of the property from a public reserve.

### 2.1.8 – Outbuildings, Carports and Detached Garages

A development approval has been issued for a Dwelling House (DA 2022/053) which is yet to be constructed. The outbuilding is located well behind the building line setback for the development site and will be located behind the approved dwelling. The proposed outbuilding development standards are listed within Table 2 for the R5 Zone (LSM – Y – 1.2ha). The development does not comply with the maximum or cumulative size of an outbuilding and the maximum height.

	Required	Proposed	Compliance
Maximum size	100m <sup>2</sup>	164.7m <sup>2</sup>	x
Cumulative	150m <sup>2</sup>	164.7m <sup>2</sup>	x
Maximum wall height at eaves line	4.2m	3.8m	✓
Maximum Height	5m	5.006m	x

Table 2: Proposed Outbuilding development controls

The proposed outbuilding is seeking consent for a total floor area of 164.7m<sup>2</sup> and overall height of 5.006m. The maximum allowable cumulative size of outbuildings within the R5 zone is 150m<sup>2</sup>. The maximum allowable height is 5.00m. 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 proposed development will be the only outbuilding onsite. The development includes a request for variation to development standard, pertaining to maximum size, cumulative size and maximum height of the outbuilding.

The applicant has stated that the additional floor area is required for the storage of the land owner's personal and professional vehicles. Additionally, the owner proposes the structure to contain amenities and workshop area for domestic use with this area not significant enough for commercial or industrial use. The total floor area exceeds the 2.1.8b discretionary standard by 14.7m<sup>2</sup>. The requested variation is a 10% exceedance of the maximum allowable floor area. Consideration of adjoining allotments have identified that the surrounding area contains approved outbuildings with a compliant floor area as well as some minor exceedances. Outbuildings constructed in excess of cumulative size were historically approved under the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Part 3A, which has since been rescinded. The requested size of the proposed outbuilding is consistent with the average size of outbuildings within the vicinity of the site. Hence, the variation to the cumulative size of the outbuilding is supported in the unique circumstances of the development.

The increase in overall height is considered minor, being 6mm greater than the development standard and unexpected to be distinguished from public or road reserves. Hence, the variation to this standard is supported in under these circumstances.

#### **2.1.10 – Access**

The development site has primary frontage to Robert Gordon Road. Robert Gordon Road 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.

#### **2.1.10a – Discretionary Development Standard**

The development site has minimum lot size of 1.2ha within the R5 zone. Therefore, the vehicle access is only to be constructed to ensure all-weather 2WD access.

### **6.6.1 – Environmental Effects**

#### **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 proposes amenities within the structure and requires effluent management. The outbuilding will require the installation of an on-site sewerage management system to ensure adequate effluent disposal.

#### **Air Quality**

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.

#### **Noise Emissions**

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

#### **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.

### **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 currently vacant. 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. Council does not allow the outbuilding to be used for habitation purposes, as such a condition is to be imposed to ensure that this is clear.

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

The proposed development has frontage to Robert Gordon Road. Robert Gordon Road is a bitumen sealed road without kerb and guttering. The development will result in a minor increase in vehicle movement within the road network of the immediate area surrounding the site. The internal gravel driveway is to extend to the proposed development.

**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 allotment to the west of Robert Gordon Road is zoned RU4 Small Lot Primary Production. Within the RU4 zone agriculture is permitted without consent and extractive industries permitted with consent. The construction of an outbuilding will have no impact on the viability of the adjoining land for agricultural activity due to the position and existing residential activity already occurring in the locality. 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. The existing water connection on-site will extend to the outbuilding to service the amenities within the structure. Stormwater will be retained on-site via an existing rainwater tank with overflow to be managed within the allotment. There is adequate area on-site for stormwater to be disposed.

**Waste**

The subject site does not have the provision or availability of Council's sewer services. The outbuilding proposes internal amenities and requires the installation of an on-site sewerage management system.

Waste generated during construction is to be maintained on-site and shall be disposed of to Council's land fill which is adequate for the development.

**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 little 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 Robert Gordon Road and demonstrates adequate provisions of Council's water facilities. The outbuilding will be serviced by an on-site septic system and retains stormwater via on-site retention. The outbuilding requires sewer and water services. 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 notified adjoining land holders from the 17 June 2022 to 01 July 2022. Council received one (1) submission during this period. Matters raised within the submission are addressed as follows:

- *Consistency of Size and Height of the Outbuilding with surrounding area*  
The submission addresses the floor area original proposed for the development, which was 200m<sup>2</sup> at the time of notification. Council's Planning Team did not support the justification and requirements for the outbuilding to have a 200m<sup>2</sup> floor area as it was considered an over-development and not consistent outbuildings within the surrounding locality. Deliberation with the applicant has resulted in the reduction of the building floor area, resulting in the resubmission of amended plans with a final floor area of 164.7m<sup>2</sup>. Ultimately, the proposed floor area is a more suitable and appropriate size being consistent with the floor area of outbuildings on adjoining allotments. The reduced dimensions of the shed are expected to limit the visual impact that adjoining land holders may experience.

**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. 2022/031 Lot 48 DP 1193436, 35 Robert Gordon Road Gunnedah, should be approved subject to conditions.

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



**Gunnedah**Shire