



MEETING NOTICE

COMMITTEE	PLANNING ENVIRONMENT AND DEVELOPMENT COMMITTEE MEETING
DIRECTORATE	Planning and Environmental Services
DATE	1 February 2023
TIME	4:00pm
VENUE	Council Chambers
ATTACHMENTS	Director Planning and Environmental Services Report

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. 2022/097 – Recreation Facility (Outdoor), Amphitheatre and Landscaping Barrier – Lot 21 DP 929162 – 8B South Street, Gunnedah..... 3
 - 3.2 Development Application No. 2022/087 – Construction of Additions to Existing Outbuilding (Awning) – Lot 26 DP 1224576 – 39 Hunts 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

ITEM 1	Development Application No. 2022/097 – Recreation Facility (Outdoor), Amphitheatre and landscaping barrier – Lot 21 DP 929162 – 8B South Street, Gunnedah
MEETING	Planning Environment Development Committee Meeting – 1 February 2023
DIRECTORATE	Planning and Environmental Services
AUTHOR	Manager Development Assessment
POLICY	Nil
LEGAL	Environmental Planning and Assessment Act, 1979 Environmental Planning and Assessment Regulation, 2021 Gunnedah Local Environmental Plan, 2012 Gunnedah Development Control Plan, 2012
FINANCIAL	Nil
STRATEGIC LINK	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.
ATTACHMENTS	Nil

OFFICER’S RECOMMENDATIONS:

That the Development Application No. 2022/097, for the construction of an amphitheatre and landscaping barrier, at Lot 21 DP 929162, 8B South Street, Gunnedah, be approved subject to the following conditions of consent:

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

- A1.** The proposed development shall be carried out generally in accordance with the details set out in the following:
- Development Application form lodged 13 October 2022
 - Statement of Environmental Effects, prepared by Stewart Surveys, Ref: 5664, dated September 2022;
 - Letter, prepared by Stewart Surveys, Ref: 5664, dated 29 November 2022;
 - Letter, prepared by Stewart Surveys, Ref: 5664, dated 22 January 2023; and
 - Submitted plans:
 - Prepared by Stewart Surveys, dated 22 January 2023, Drawing Nos.: Landscape Plan for the Poetry Precinct – ANZAC Park, Gunnedah; and Landscape Section & Details;
 - Prepared by Stewart Surveys, Setback Diagram;

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. Conditions relating to entertainment venues

For the purposes of section 4.17(11) of the Act, the requirements set out in Schedule 3A are prescribed as conditions of development consent for the use of a building as an entertainment venue.

Reason: To ensure compliance with the statutory requirements.

B6. Condition relating to maximum capacity signage

- (1) For the purposes of section 4.17(11) of the Act, the requirement set out in subclause (2) is prescribed as a condition of development consent (including an existing development consent) for the following uses of a building, if the development consent for the use contains a condition specifying the maximum number of persons permitted in the building—
 - (a) entertainment venue,
 - (b) function centre,
 - (c) pub,
 - (d) registered club,
 - (e) restaurant.
- (2) From 26 January 2010, a sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in the development consent, that are permitted in the building.
- (3) Words and expressions used in this clause have the same meanings as they have in the Standard Instrument.

Reason: To ensure compliance with the statutory requirements.

B7. Condition relating to shoring and adequacy of adjoining property

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

Reason: To ensure compliance with the statutory requirements.

C. PRIOR TO COMMENCEMENT OF BUILDING WORKS

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

Reason: To meet statutory requirements.

- C2.** Prior to 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.

- C3.** 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.

Outdoor Lighting

- E2.** Outdoor lighting is to comply with *AS/NZS 11583.1 Pedestrian Area (Category P) Lighting* and *AS4282 Control of Obtrusive Effects of Outdoor Light*.

Reason: To ensure compliance.

F. DURING CONSTRUCTION WORKS

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

Reason: To ensure compliance with approved application and plans.

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

Reason: To ensure site safety.

F3. 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.

F4. 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.

F5. 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.

F6. 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.

- F7.** 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.

G1. CONTINUED OPERATIONS

- 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.

- G2.** Prior to the undertaking of an event within the Amphitheatre which would occur outside of the hours 7 am to 6 pm Monday to Saturday or 8 am to 6 pm on Sundays and public holidays, the operator is to notify adjoining land holders to make them aware of any event and the proposed hours.

The notification should include details of:

- The date of the event;
- The time of which the event will be run;
- Activities to be undertaken;
- Contact details of the event holder who submissions or complaints can be directed to.

The operator is to consider any submissions made and take any appropriate action necessary to address the submission.

Reason: *To ensure adjoining land holders are suitably notified of any events.*

PURPOSE

This Development Application is being referred to Council for determination as the proposed development was lodged on behalf of Gunnedah Shire Council.

Applicant: Gunnedah Shire Council
 c/- Stewart Surveys
 Owner: Gunnedah Shire Council
 Property Description: Lot 21 DP 929162
 8B South Street, Gunnedah

Proposed Development

Development consent is sought to construct a new amphitheatre and landscaping barrier.

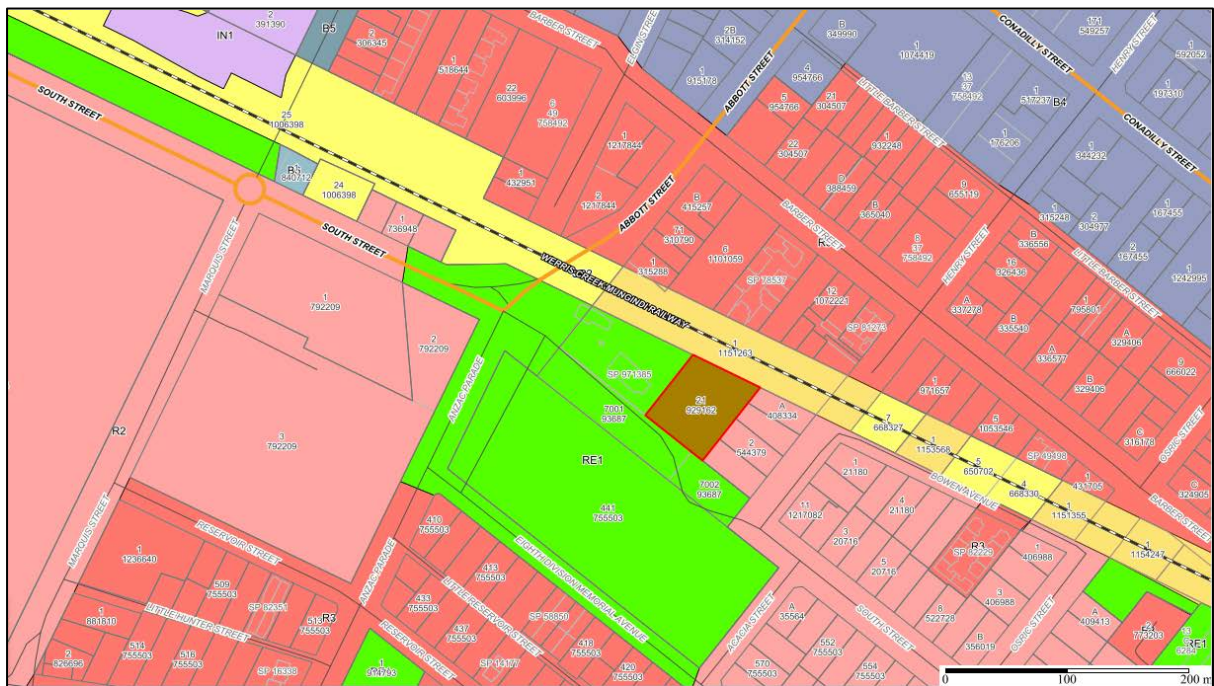


Figure 1 – Site Location



Figure 2 – Site Plan

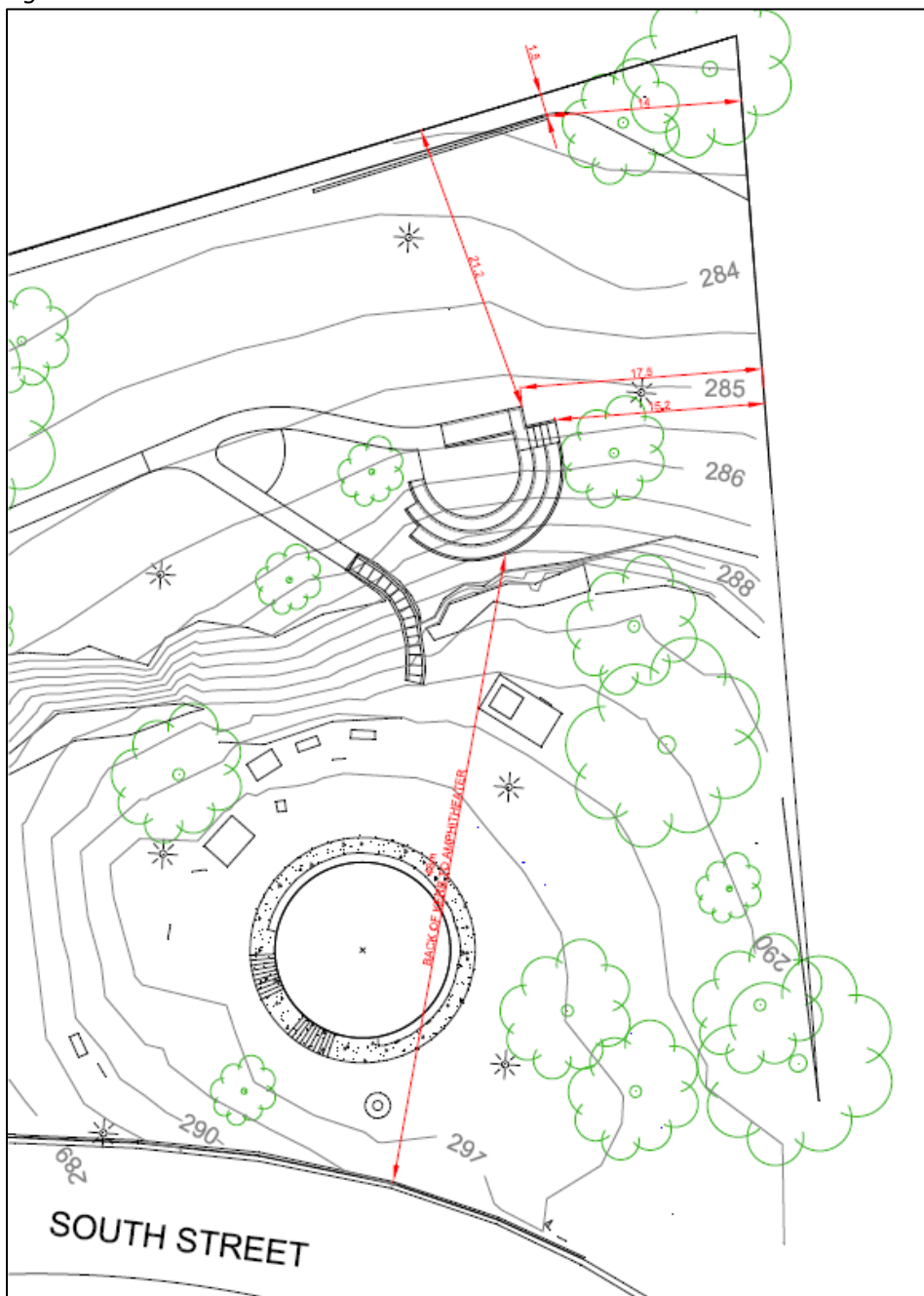


Figure 3 – Detailed Site Plan

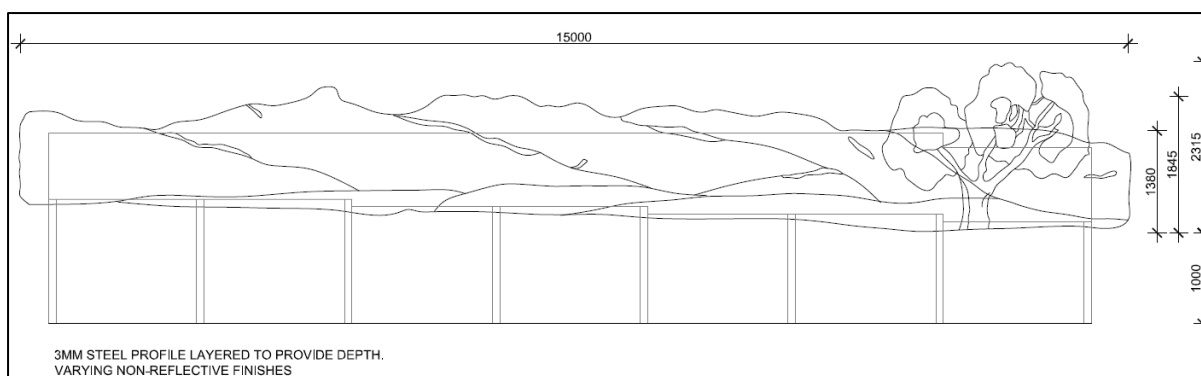


Figure 4 –Elevation of Landscaping Barrier

COMMENTARY

Issues

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

Gunnedah Local Environmental Plan, 2012

2.3 – Zone Objectives and Land Use Table

The development site is RE1 Public Recreation, under the provision of the Gunnedah Local Environmental Plan, 2012 (GLEP 2012). It is believed that the intended use is consistent with the definition of development ancillary to Recreation Facilities (Outdoor) within the GLEP 2012, which is permissible within the land zoning.

The development is consistent with the land use objectives of the RE1 Public Recreation land zone as the development provides a development ancillary to Recreation Facilities (Outdoor) use within the zone which adds to the complexity of development within the surrounding locality.

6.5 – Essential Services

The development site has the provision of the Council's water, stormwater and sewer services connected to the site. The development has provision of an electrical supply. The site has an existing vehicle access from South Street, which will be retained.

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy (Biodiversity Conservation) 2021

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

The development site is located within the RE1 Public Recreation zone, which is identified within this SEPP as being a land zoning to which this SEPP applies. The development proposal does not include the removal of any trees or vegetation from the site.

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

The development site is zoned RE1 Public Recreation and the Gunnedah Shire is listed within Schedule 3 of this SEPP. The development site has an area greater than 1 hectare.

The development does not result in the removal of any vegetation and does not introduce any additional landuse activities which could impact on koala populations or their ability to travel through the site. Hence, in accordance with Clause 4.9 of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Council is satisfied that the development will have low or no impact on koalas or koala habitat and council may grant consent to the development.

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

The development site currently contains the Gunnedah Anzac Park. The Statement of Environmental Effects does not identify any previous usage that could potentially lead to site contamination. Hence, no further investigation is required.

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

The development fronts the South Street which is not a classified road, nor is the site within 90 metres of a classified road. The land use activity proposed is not listed within Schedule 3 of this SEPP, as being a traffic generating development. The development is for an amphitheatre that may have 200 or more motor vehicles per hour. Hence, the development is not considered to be traffic generating development and no referral was required to Transport for NSW.

S4.15(1)(a)(iii) provisions of any development control plan**Gunnedah Development Control Plan 2012 (Gunnedah DCP)****3.1 – Building Setbacks**

The development will not involve the increase in building footprint being a landscaped structure. The development is proposed north of the water museum, north east of the band hall, east of the Poetry centre and south of the rail line. A condition is to be imposed that the building is to comply with the building code of Australia to ensure that any side building boundary setbacks are conducted in accordance with the building code of Australia with regards to suitable fire safety setbacks.

3.2 – Height

There is no set height restriction for development on the site. There is no set floor space ratio restriction for development on the site. The development is not higher than the existing building on the site and is an open structure that does not contribute to floor space ratio.

3.3 – Design

The development will not impact on the provision of external infrastructure and will have no impact on the road frontage to South Street. Due to there being no alterations to the existing building and the new structure being outside of view from South Street, there will not be any potential for the creation of large expansive blank walls or required wall treatments.

3.5 – Utilities and Services

The development has existing provision of Council's services. The development does not require the provision of services.

3.6 – Traffic and Access

Vehicle access to onsite parking spaces is existing from South Street. The development is not expected to increase traffic movements to the site based on the land use of the area as the development site is already available for recreational use. The development will create a formalised structure for an activity which may already occur, albeit in a less formalised setting.

3.7 – Parking

The development does not have any specific car parking demand. There is potential that during infrequent events that persons attending would continue to utilise current parking practices by attendees who park within kerb side parking spaces available within South Street. There is no demand for onsite parking spaces created by the development.

3.8 – Landscaping

The development will not result in any onsite parking demand. Hence, there is no requirement for the provision of onsite landscaping. The project includes landscape embellishment including screen planting along the railway line boundary and low maintenance, hardy, native gardens along the pathway. It is proposed to install an irrigation system within the parklands to reduce maintenance of this area.

3.9 – Outdoor Lighting

There will be no new lighting installed as part of this development proposal. Existing external security lighting is to be retained.

3.10 – Outdoor Signage

No signage is proposed.

6.6 – Environmental Controls

Council's standard condition will be imposed for sediment and erosion control measures to be implemented during construction.

6.6.5 Noise

The development has the potential to create noise from the various activities which may be conducted within the amphitheatre. Their impact on the surrounding locality will depend on the activity and the time that they occur. As the historical land use has been recreation within this space it is expected that the previous use could have led to similar noise levels, however, noting that the proposed development creates a more formal structure within the space.

To ensure that any ongoing activities do not cause a nuisance to the adjoining land holders a condition has been drafted which requires the operator of the any event on the site to notify adjoining land holders of any activity which could occur past general day time period specific within the *NSW EPA Noise Policy for Industry 2017*, these hours being outside of the hours 7 am to 6 pm Monday to Saturday or 8 am to 6 pm on Sundays and public holidays. The operator will have the obligation to consider any concerns from the adjoining land holders which they may raise to the particular event notified.

Council's standard hours of operation will be imposed during construction works.

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 the ANZAC Park. The development is located within the Poetry precinct and will be part of the ongoing facilities within this recreational area. The adjoining allotments include the Rail Corridor and Council's aquatic complex as well as Residential development to the East and South of the site. The proposed development is expected to be consistent with existing development on the site and compatible with existing adjoining development.

Access, Transport and Traffic

The site has frontage to South Street. The development is expected to result in infrequent additional vehicle movements based on events held within the amphitheatre. The current road network is considered to be suitably designed for the vehicles attending the site.

Public Domain

The development does not require the creation of any pedestrian linkages or the dedication of any public open space. Internal pedestrian pathways are proposed as part of the Masterplan of the area. However, these works do not require consent as part of this development. 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.

Flora and fauna

The development will not result in the removal of any trees or remnant vegetation from the site. Hence, the development will not result in an exceedance exceed of the BOS threshold in accordance with Clause 7.2 of 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 1).

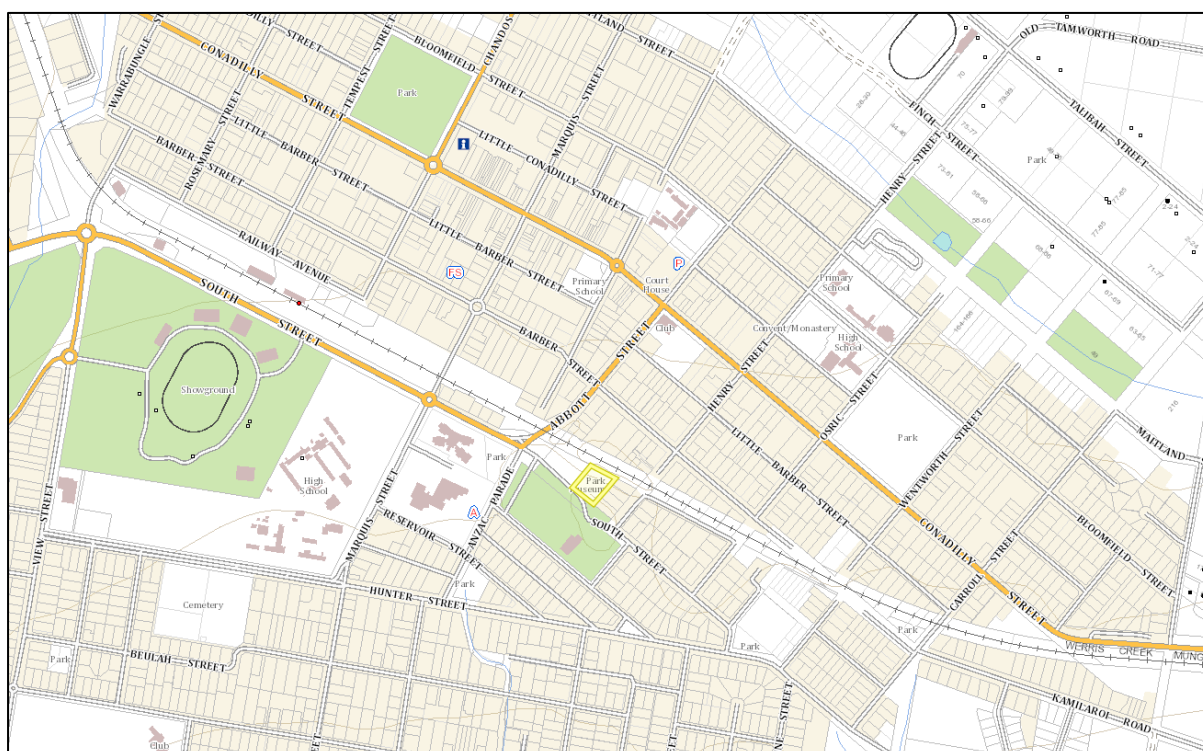


Figure 1: Biodiversity Values Map (areas of Biodiversity Values marked Purple)

Natural Hazards

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

Safety, security & crime prevention

The development will not result in any decrease in safety, security and prevention of crime in the surrounding area as the development does not create any blank areas where visibility is obscured from public areas. The development will create a formal amphitheatre within a space which is already available for public recreation. Hence, the development is not anticipated to encourage unsocial behaviour within the site or the surrounding locality.

Social & Economic impact in the locality

The proposed development is not anticipated to have a negative social and economic impact. The development may have a positive impact on the local economy with the possible employment local tradesmen and sourcing of local resources during the construction.

Site Design and Internal Design

The proposed development is compliant with the building setbacks of the development zone. The development layout is consistent with development within the allotment.

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

The proposed development is consistent with the existing and future development within the locality. The site has access from South Street to the front of the site. The site has provision of necessary utility services to service the increase demand created by the development. The site is not prone to flooding or bushfire and does not contain any recognised items of heritage significance. The development will be complimentary to the structures approved on-site and is not likely to have any significant impact on the neighbouring properties.

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

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

The development was required by Council's Community Participation Plan to be placed on public exhibition. The development was exhibited for a period of 14 days. Council did not receive any submission 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 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 Recreation Facility (Outdoor), Amphitheatre and landscaping barrier. 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.

As per the recommendation of this report, it is concluded that Development Application No. 2022/097 Lot 21 DP 929162, 8B South Street, Gunnedah, should be approved subject to conditions.

ITEM 2	Development Application No. 2022/087 – Construction of Additions to Existing Outbuilding (Awning) – Lot 26 DP 1224576 – 39 Hunts Road, Gunnedah
MEETING	Planning Environment Development Committee Meeting – 1 February 2023
DIRECTORATE	Planning and Environmental Services
AUTHOR	Manager Development Assessment
POLICY	Nil
LEGAL	Environmental Planning and Assessment Act, 1979 Environmental Planning and Assessment Regulation, 2021 Gunnedah Local Environmental Plan, 2012 Gunnedah Development Control Plan, 2012
FINANCIAL	Nil
STRATEGIC LINK	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.
ATTACHMENTS	Nil

OFFICER'S RECOMMENDATIONS:

That the Development Application No. 2022/087, for the construction of additions to an existing Outbuilding (Awning), at Lot 26 DP 1224576, 39 Hunts 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 26 September 2022
 - Statement of Environmental Effects, prepared by Bruce Mackellar, dated 09 September 2022;
 - Submitted plans:
 - Prepared by Stewart Surveys Pty Ltd, dated 7 September 2022, Ref: 4887, Site Plan for Proposed Awning Extension to Outbuilding on Lot 26 DP 1224576, 29 Hunts Road, Gunnedah;
 - Prepared by Sole Engineering, dated 11/09/2022, Drg No. B.M 001;

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 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. Conditions relating to entertainment venues

For the purposes of section 4.17(11) of the Act, the requirements set out in Schedule 3A are prescribed as conditions of development consent for the use of a building as an entertainment venue.

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.

B6. Condition relating to maximum capacity signage

- (1) For the purposes of section 4.17(11) of the Act, the requirement set out in subclause (2) is prescribed as a condition of development consent (including an existing development consent) for the following uses of a building, if the development consent for the use contains a condition specifying the maximum number of persons permitted in the building—
 - (a) entertainment venue,
 - (b) function centre,
 - (c) pub,
 - (d) registered club,
 - (e) restaurant.
- (2) From 26 January 2010, a sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in the development consent, that are permitted in the building.
- (3) Words and expressions used in this clause have the same meanings as they have in the Standard Instrument.

Reason: To ensure compliance with the statutory requirements.

B7. Condition relating to shoring and adequacy of adjoining property

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

Reason: To ensure compliance with the statutory requirements.

C. PRIOR TO COMMENCEMENT OF BUILDING WORKS

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

Reason: To meet statutory requirements.

- C2.** Prior to 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.

- C3.** 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 issue of a Construction Certificate construction plans, specifications and documentation as required by conditions of this consent and being consistent with this development consent and the Building Code of Australia, are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance.

E. GENERAL

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

Reason: To ensure legal requirements.

F. DURING CONSTRUCTION WORKS

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

Reason: To ensure compliance with approved application and plans.

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

Reason: To ensure site safety.

- F3. 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.

- 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 7.00am to 5.00pm;

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

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

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

Reason: To ensure amenity of the neighbourhood is maintained.

G. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

Reason: To meet statutory requirements.

PURPOSE

This Development Application is being referred to Council for determination as the proposed developer has sought a variation to a development control standard within the Gunnedah Development Control Plan 2012 (GDCP 2012). The variation pertains to the size of an outbuilding and cumulative size of outbuildings on a property.

Applicant: Mr Bruce McKellar
 c/- Stewart Surveys
 Owner: Vicki Urquhart
 Property Description: Lot 26 DP 1224576
 39 Hunts Road, Gunnedah

Proposed Development

Development consent is sought to construct a new awning as an addition to an existing shed located on the property.

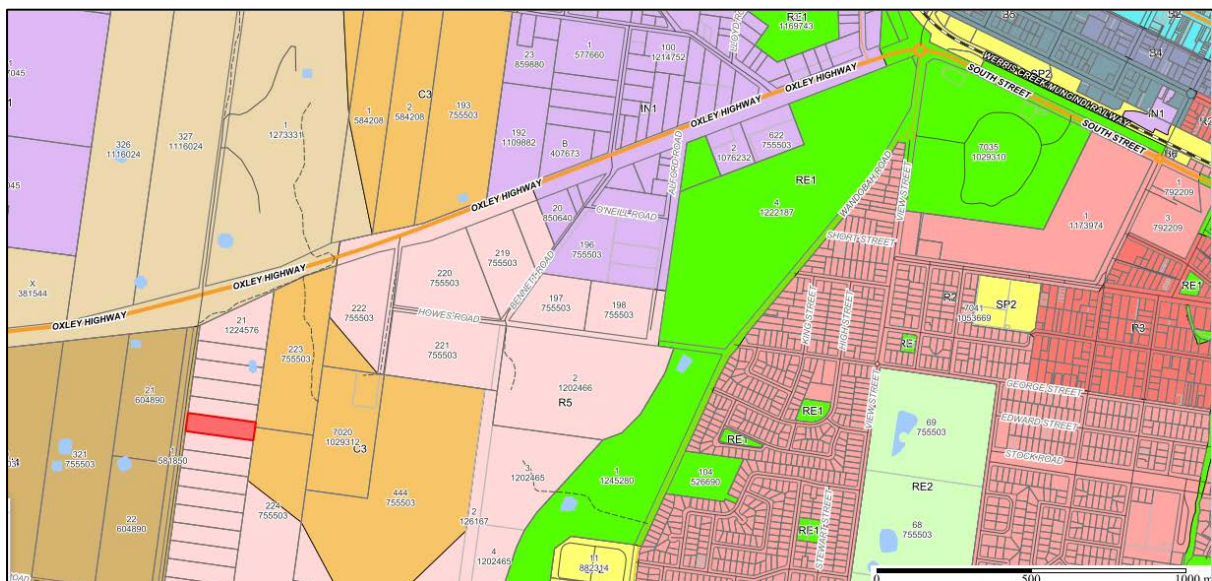


Figure 1 – Site Location

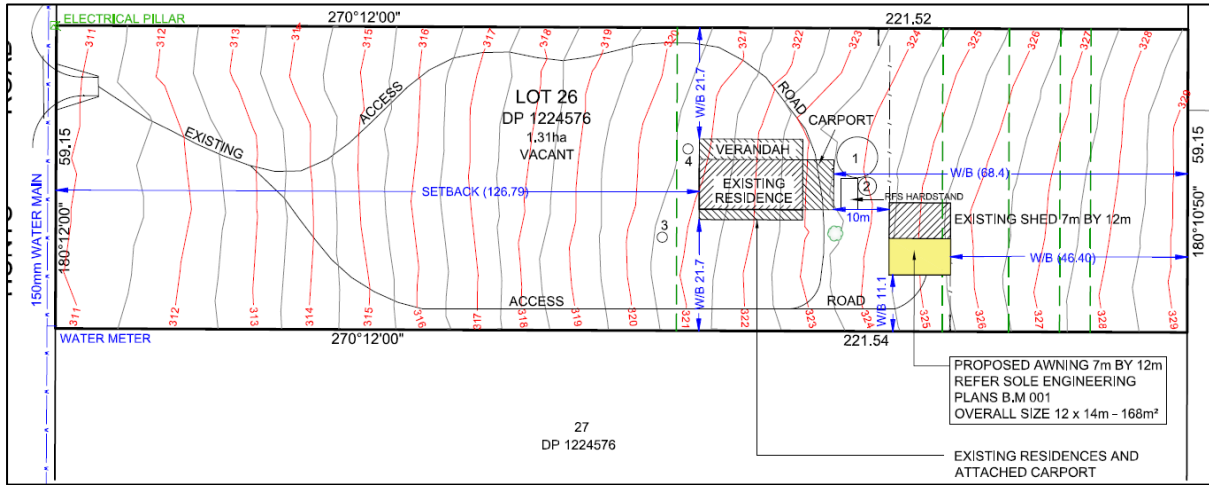


Figure 2 – Site Plan

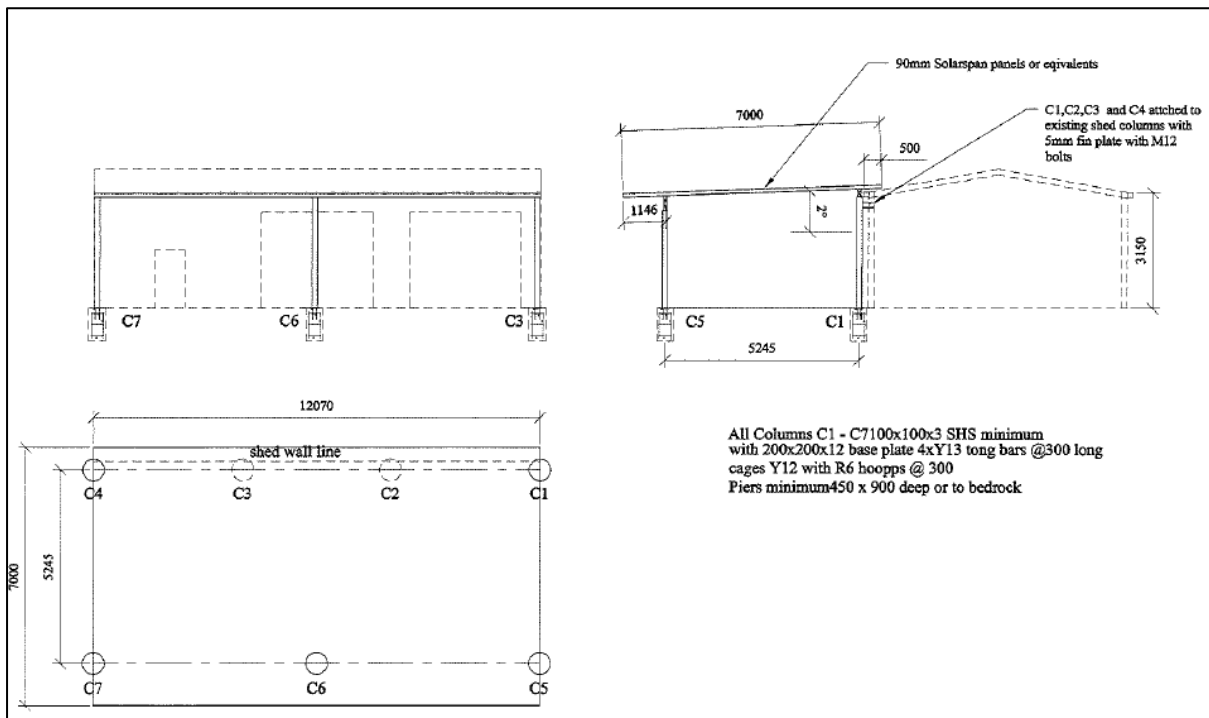


Figure 3 – Elevations

COMMENTARY

Issues

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

Gunnedah Local Environmental Plan, 2012

2.3 – Zone Objectives and Land Use Table

The development site is zoned R5 Large Lot Residential (R5), under the provision of the Gunnedah Local Environmental Plan 2012 (GLEP 2012). The development is ancillary to a Dwelling House, which is permissible with consent within the land use table for the R5 zone.

The proposed development is consistent with the land use objectives of the R5 zone as the development supports the existing development and does not impact on the facilities and services of the surrounding residential area. Hence, the development satisfies the land use objectives of the zone.

6.5 – Essential Services

- a) The development site has the provision of the Council's water services which is already connected from Hunts Road. It is not anticipated that water services will be required by the development.
- b) The site has an underground electrical supply located within Hunts Road which is available to the site.
- c) The development will involve the management of stormwater onsite.
- d) There are no Council sewer services within the surrounding area. The site has an onsite sewerage management system (OSSM) installed. The proposed development will not impact on the functionality of the OSSM.
- e) The development site has a vehicle access from Hunts 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 Medium Density Residential and the Gunnedah Shire is listed within Schedule 3 of this SEPP. The development site has an area greater than 1 hectare.

The development does not result in the removal of any vegetation and does not introduce any additional landuse activities which could impact on koala populations or their ability to travel through the site. Hence, in accordance with Clause 4.9 of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Council is satisfied that the development will have low or no impact on koalas or koala habitat and council may grant consent to the development.

State Environmental Planning Policy (Resilience and Hazards) 2021

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

The development site is located within the R5 zone, which is identified within this SEPP as being a land zoning to which this SEPP applies. The development proposal does not include the removal of any trees or vegetation from the site.

- **Chapter 4 – Remediation of Land**

The development site currently contains a Dwelling House. The submitted Statement of Environmental Effects did not include any acknowledged previous land use or activity which could have led to land contamination. Consequently, no detailed investigation is required. A search of Council's records does not identify that there has been any previous usage that could potentially lead to any potential site contamination and no physical evidence exists indicating possible locations of contamination.

State Environmental Planning Policy (Transport and Infrastructure) 2021

- **Chapter 2 – Infrastructure**

The development fronts the Hunts Road which is not a classified road, nor is the site within 90 metres of a classified road. The land use activity proposed is not listed within Schedule 3 of this SEPP, as being a traffic generating development. The development is not expected to increase the number of vehicle movements to or from the site. Hence, the development is not considered to be traffic generating development and no referral was required to Transport for NSW.

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

2.1.1 – Building Setbacks

The site has only one public frontage to Hunts Road. The development is located behind the existing Dwelling, attached to the existing outbuilding.

Building setbacks outlined within Table 1 are a reflection of the smallest of the building setbacks identified, with all other setbacks are in excess of those outlined.

Building Setback Requirement	Required	Proposed	Compliance
Primary Setback (Hunts Road)	25m	Approximately 165m	✓
Side	10m	11.1m	✓
Rear	10m	46.40m	✓

Table 1: Proposed unit and associated carport setbacks

2.1.3 – Design

The development is not located over any Council Infrastructure or easement. The site has access to Council's water supply. However, as per LEP Clause 6.5 above the development will not require access to these services.

2.1.4 – Privacy

The development meets building setbacks and is not to be occupied for residential activities. Hence, no specific privacy controls are required by this clause.

2.1.5 – Design and Solar Access

The development would not in existing building being screened from view from the public road reserve in such a way that it creates extensive blank walls presenting to the street frontage. The additions to the outbuilding do not prevent solar access to the existing dwelling or the outbuilding.

2.1.8 – Outbuildings, Carports and Detached Garages

The additions to the existing shed will occur behind the dwelling house on site and is located on a property with a lot area greater than 4,000m². The proposed outbuilding development standards are listed within Table 2 for the R5 Zone (LSM – Y – 1.2ha).

The below table outlines the development controls for the additions to the outbuilding, considering that these additions enlarge the existing outbuilding.

Development Control	Required	Provided	Compliance
Maximum size	100m ²	168m ²	X
Cumulative buildings	150m ²	168m ²	X
Maximum wall height at eaves line	4.2m	<3m	✓
Maximum Height	5m	3.2m	✓

The development does not comply with the maximum or cumulative size of an outbuilding and the maximum height. The proposed development is not compliant with the maximum size or cumulative size of an outbuilding, being the combination of the proposed additions (84m²) and the existing outbuilding (84m²). 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 total floor area exceeds the 2.1.8b discretionary standard by 18m², refer to below. The requested variation is a 10% exceedance of the maximum allowable floor area. The size of the outbuilding is a minor exceedance of the overall cumulative size and is consistent with other such structure sizes which have been supported by Council in the past. The property has a significant area which does not result in the overall developed area being overbearing or imposing on adjoining allotments. Hence, the variation to the cumulative size of the outbuilding is supported in the circumstances of the development.

2.1.8b –Discretionary Development Standard

The existing outbuilding is the only structure on the development allotment and the additions are proposed as an attachment to this structure. Hence, the outbuilding will be the only structure onsite. However, the resulting development exceeds the cumulative building area by 18m², which is an exceedance of 10.7% and the development does not meet this discretionary development standard.

2.1.10 – Access

The development site has a primary frontage to Hunts Road. Hunts Road is bitumen sealed and not supported by a kerb and gutter system. There was an unsealed vehicle access from Hunts Road to the dwelling house and existing outbuilding. The development does not propose to upgrade this access.

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 and outbuilding. The development proposes the construction of additions to the existing 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 Hunts Road. Hunts Road is a bitumen sealed road without kerb and guttering. The development is not expected to result in an increase in vehicle movement within the road network of the immediate area surrounding the site. The internal gravel driveway is to already extended 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 Hunts 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 additions to the 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 impact by the proposed development.

Noise & vibration

The development will not result in any significant noise or vibration which may impact adjoining development and land holdings, with the exception of the construction phases. Council's standard hours of operations will be imposed during construction and demolition works.

Flora and fauna

The development will not result in the removal of any trees or remnant vegetation from the site. Hence, the development will not result in an exceedance exceed of the BOS threshold in accordance with Clause 7.2 of 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 1).

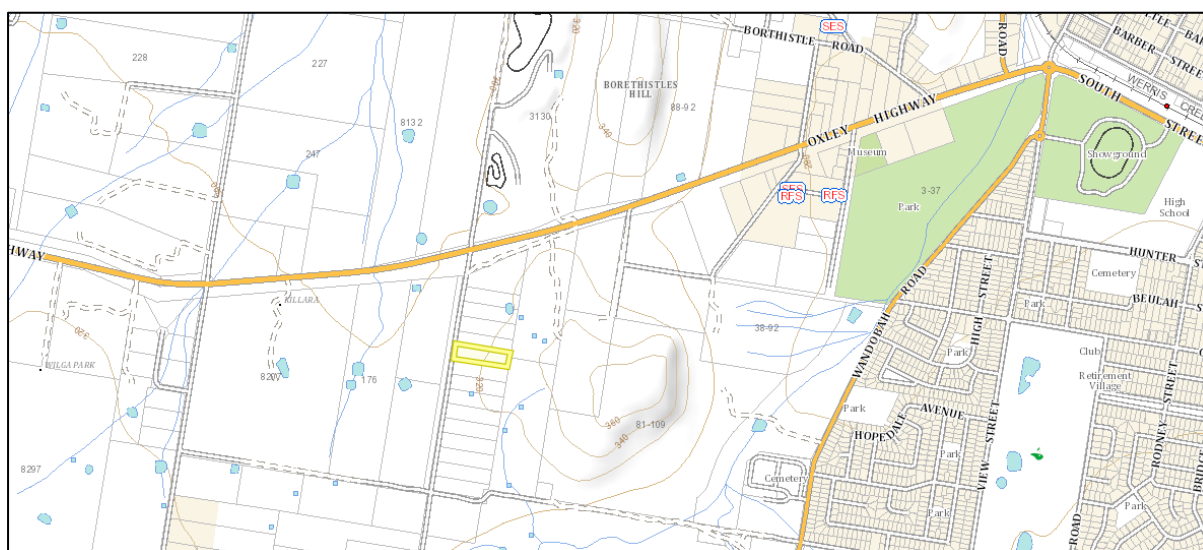


Figure 1: Biodiversity Values Map (areas of Biodiversity Values marked Purple)

Waste

The development does not propose any additions which would lead to an increase volume of discharged effluent and will not impact on the existing OSSM operations.

Natural Hazards

The site is not identified as being subject to flooding prone land. The development site is mapped as being bushfire prone land. However, the position of the building and the nature of the land use does not increase any risk to the dwelling onsite or its inhabitants and increases the area for which fuel sources will be managed.

Safety, security & crime prevention

The development will not result in any decrease in safety, security and prevention of crime in the surrounding area with the development not creating any additional spaces which have low visibility from public areas which could encourage the occurrence of unsocial behaviours.

Social & Economic impact in the locality

The proposed development is not anticipated to have a negative social and economic impact with the development being construction of additions to an ancillary structure that is used for domestic purposes. The development may have a positive impact on the local economy with the possible employment local tradesmen and sourcing of local resources during the construction.

Site Design and Internal Design

The proposed development is compliant with the building setbacks of the development zone. The development layout is consistent with developments on other allotments within the immediate area and the development density does not reduce viable recreational area onsite for occupiers of the dwelling.

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

The proposed development is consistent with the existing and future development within the locality. The site has access from Hunts Road to the front of the site. The site has provision of necessary utility services to service the increase demand created by the development. The site is not prone to flooding and does not contain any recognised items of heritage significance. The development will be complimentary to the structures approved on-site and the neighbouring properties.

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

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

The development was required by Council's Community Participation Plan to be placed on public exhibition. The development was exhibited for a period of 14 days. Council did not receive any submission 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 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 additions to an existing Outbuilding (Awning). 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. 2022/087 Lot 26 DP 1224576, 39 Hunts Road, Gunnedah, should be approved subject to conditions.

Andrew Johns

DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES



GunnedahShire