



## 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>1 March 2023</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. 2022/112 – Construction of a new Dwelling House, attached Garage, Earthworks and Retaining Wall (Stage 1) and Installation of a Swimming Pool (Stage 2) – Lot: 8 DP: 1244571 – 14 Vera Close, Gunnedah..... 3

Andrew Johns  
DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES

*Apologies to: 02 6740 2115*

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

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

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

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

## VISION

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

## MISSION

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

## ORGANISATIONAL VALUES

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

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

## Director Planning and Environmental Services Report

|                       |   |
|-----------------------|---|
| <b>ITEM 1</b>         | <b>Development Application No. 2022/112 – Construction of a new Dwelling House, attached Garage, Earthworks and Retaining Wall (Stage 1) and Installation of a Swimming Pool (Stage 2) – Lot: 8 DP: 1244571 – 14 Vera Close, Gunnedah</b> |
| <b>MEETING</b>        | Planning and Development Committee Meeting – 1 March 2023   |
| <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<br>Environmental Planning and Assessment Regulation, 2021<br>Gunnedah Local Environmental Plan, 2012<br>Gunnedah Development Control Plan, 2012   |
| <b>FINANCIAL</b>      | Nil   |
| <b>STRATEGIC LINK</b> | Community Strategic Plan<br>4.1.2 Ensure Development does not negatively impact on flooding.<br>Operational Plan<br>4.1.2.2 Implement Council’s Development Control Plan.   |
| <b>ATTACHMENTS</b>    | Nil   |

### OFFICER’S RECOMMENDATIONS:

That the Development Application No. 2022/112, for the proposed staged residential development comprising the construction of a Dwelling House, attached garage, retaining wall and Earthworks (Stage 1) and the installation of an in ground swimming pool (Stage 2) on Lot 8 DP 1244571, 14 Vera Close 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 16/12/2022;
  - Statement of Environmental Effects, prepared by Stewart Surveys Pty Ltd, dated December 2022, Reference 5696;
  - Submitted plans:
    - Prepared by D & C Projects, dated 16/02/2023, Sheet WD1 (Cover Sheet), Sheet WD2 (Location & Site Plan), Sheet WD3 (Bushfire Details), Sheet WD4 (Floor Plan), Sheet WD5 (Elevations and Sections), & Sheet WD6 (Trade Sheet);
    - Prepared by Stewart Surveys Pty Ltd, dated 16 February 2023, Job No. 5696, Drawing No. 1 of 1, Issue B (Landscaping Plan), Drawing No. 1 of 2 (General Arrangements Plan), Drawing No 2 of 2 (Bulk Earthworks Design Plan);
    - Prepared by Bargallie & Associates Pty Ltd, dated 01/011/2021, Drawing No. 19042, Sheet No. S1301, Revision C (8.0m The Retreat in Ground Pool);
  - Supporting Documents:
    - Bushfire Assessment Report, prepared by Perception Planning dated 7 September 2022;
    - State Environmental Planning Policy (Biodiversity Conservation) 2021 Assessment Report, prepared by Stewart Surveys Pty Ltd, December 2022, Ref: 5969;

- BASIX Certificate, certificate number: 1330757S\_03

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, consent is granted for the development to be undertaken in accordance with the following stages:

- Stage 1 – Construction of Dwelling House and attached garage, construction of retaining wall, undertaking of earthworks to level building footprint and removal of vegetation.
- Stage 2 – Installation of an in ground Swimming Pool and child resistant barrier.

***Reason: To clarify the staging to which this consent is subject.***

## **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 CONSTRUCTION WORKS**

- C1.** Prior to the commencement of any building works for the stages of the development, the developer is to apply to an Accredited Private Certifier or Council for a Construction Certificate for the construction of the proposed works. **NO BUILDING WORKS SHALL COMMENCE FOR EACH STAGE OF THE DEVELOPMENT WITHOUT FIRST OBTAINING A CONSTRUCTION CERTIFICATE.**

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

- C2.** The works for Stage 2 are not to commence until works for Dwelling House within Stage 1 have physically commenced.

***Reason: To ensure that the swimming pool is associated with a residential activity.***

- 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.***

- C4.** Prior to the commencement of building works for stage 1, a "Peg Survey Report" indicating the location of the corners of the walls of the dwelling house, is to be submitted to Council confirming the positioning of the dwelling house relative to the building envelope.

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

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

- D1.** 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.***

- D2.** Prior to issue of a Construction Certificate, for each stage, 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.***

- D3.** Prior to the issuing of a Construction Certificate, for each stage, by the Council or an Accredited Certifier, the Long Service Levy is to be paid.

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

***On-Site Sewerage Management***

- D4.** Prior to the issuing of a Construction Certificate, the Developer shall obtain from Council approval under Section 68 of the Local Government Act 1993 to:
- (a) 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.***

- D5.** 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.***



**Stage 1****Stormwater**

- D6.** Prior to the issue of a Construction Certificate for Stage 1, a Stormwater Management Plan prepared by a suitably qualified and experienced engineer or registered surveyor is to be submitted to Council for assessment and approval.

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

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

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

**Stage 1**

- D7.** Prior to the issuing of a Construction Certificate for stage 1, the Developer shall pay to Council a levy as applicable at the time of payment, relative to the total project value, in accordance with the Council's Section 94A Contributions Plan 2013 under Section 7.12 of the Environmental Planning and Assessment Act 1979. The current levy payable is calculated at 1% of the development cost. The current calculated levy payable is \$8,500, revised construction cost may incur a varied levy fee.

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

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

**Stage 2**

- D8.** Prior to the issuing of a Construction Certificate for stage 2, the Developer shall pay to Council a levy as applicable at the time of payment, relative to the total project value, in accordance with the Council's Section 94A Contributions Plan 2013 under Section 7.12 of the Environmental Planning and Assessment Act 1979. The current levy payable is calculated at 1% of the development cost. The current calculated levy payable is \$1,500, revised construction cost may incur a varied levy fee.

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

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

**E. GENERAL****E1. 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.**

**E2. 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.***

**E3. No permanent structures are to be placed on any easement.**

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

**E4. 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 14 Vera Close.**

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

***Water Supply – Rural Residential*****E5. Prior to the commencement of construction work the developer shall apply for public water connection and pay the connection fee if applicable. A minimum capacity water tank of 10,000 litres shall be provided and the low-pressure public water supply shall be connected to this tank. The public water connection to the tank shall be in accordance with AS3500 and is to flow through a float valve and be provided with an air gap and overflow outlet.**

***Reason: To provide adequate supply from the low pressure main and to prevent any water backflow.***

***Access - Rural*****E6. Vehicle access shall be from Vera Close and will require the construction of an entrance driveway from road edge to boundary line.**

- a) The driveway shall be either a two-coat bitumen seal or reinforced concrete as specified in the relevant Council standard drawing.
- b) Construction shall not commence until a permit under Sec 138 of the *Roads Act 1993* has been granted by Council. This will require sketch drawings showing proposed works – applicants should address AS2890.1-2004 regarding width and gradient.

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

**E7. Excavated material from the lot is not to be placed on or used to alter the level of Council's footpath, with no earth batters are to extend beyond the property boundary line.**

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

- E8.** The development is to provide an all weather 2WD access from the property entry from Vera Close to the Garage attached to the proposed Dwelling House.

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

- E9.** All landscaping shall be maintained at all times in accordance with the approved landscape plan.

***Reason: To ensure maintenance of landscaping.***

- E10.** Colours and textures of materials of external walls, roof and ancillary structures including water tanks shall be non-reflective and as such will not conflict with the existing landscape.

***Reason: To ensure visual amenity of the area is maintained.***

## **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.** A child-resistant barrier that complies with the requirements of the Building Code of Australia and AS 1926.1 -2012, Swimming pool safety, Part 1: Safety barriers for swimming pools must be erected around that work during the construction.

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

- F4.** At the commencement of the development, and in perpetuity, the lot shall be managed as an Inner Protection Area (IPA) Asset Protection Zone (APZ), from the dwelling to the north, east, and southern allotment boundaries and for a distance of 40m to the west, as outlined in PBP 2019 Appendix 4.

***Reason: To assist in protecting people and property from bush fires.***

- F5.** Any new landscaping within the APZ is to comply with the NSW RFS 'Asset protection zone standards' (PBP Appendix 4).

***Reason: To assist in protecting people and property from bush fires.***

- F6.** New construction shall comply with Sections 3 and 5 (BAL 12.5) of AS3959-2018 'Construction of buildings in bush fire-prone areas', as varied by the applicable additional construction requirements of PBP section 7.5 (shown as an Appendix below).

***Reason: To assist in protecting people and property from bush fires.***

- F7.** Where applicable, reticulated or bottled gas is to be installed and maintained in accordance with AS/NZS 1596:2014 - *The storage and handling of LP Gas* and the requirements of relevant authorities.

All fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side. Connections to and from gas cylinders are to be metal.

Polymer sheathed flexible gas supply lines are not used, and above-ground gas service pipes are to be metal, including and up to any outlets.

***Reason: To assist in protecting people and property from bush fires.***

- F8.** All new fences and gates are constructed of either hardwood or non-combustible material, however if located within 6m of a building they are to be constructed from non-combustible material only.

***Reason: To assist in protecting people and property from bush fires.***

- F9.** Emergency and Evacuation Planning

Note: Formulation of an Emergency Evacuation Plan is suggested.

To do so, occupants can complete a Bush Fire Safety Plan on the NSW RFS Website <http://www.rfs.nsw.gov.au/> under publications / bushfire safety.

Appendix - Modifications of Section 7.5 of PBP

#### 7.5 Additional construction requirements

To ensure the performance criteria for construction standards given in section 7.4 can be met, PBP adopts additional measures over and above AS 3959 and NASH Standard as follows:

- construction measures for ember protection at BAL 12.5 and BAL 19 provided by AS 3959
- construction measures for development in BAL FZ; and
- requirements over and above the performance criteria contained within AS 1530.8.1 and AS 1530.8.2 apply in regards to flaming.

##### 7.5.1 Ember protection

Based on the findings from the 2009 Victorian Bush Fires Royal Commission, PBP aims to maintain the safety levels previously provided by AS 3959:1999 in relation to ember protection at lower Bush Fire Attack Levels.

In particular, the areas addressed are in relation to:

- sarking;
- subfloor screening;
- floors;
- verandas, decks, steps, ramps and landings;
- timber support posts and beams; and
- fascias and bargeboards.

##### 7.5.2 NSW State Variations under G5.2(a) (i) and 3.10.5.0(c)(i) of the NCC

Certain provisions of AS 3959 are varied in NSW based on the findings of the Victorian Bush Fires Royal Commission and bush fire industry research.

The following variations to AS 3959 apply in NSW for the purposes of NSW G5.2(a)(i) of Volume One and NSW 3.10.5.0(c)(i) of Volume Two of the NCC;

- clause 3.10 of AS 3959 is deleted and any sarking used for BAL 12.5, BAL 19, BAL 29 or BAL 40 shall:
  - be non combustible; or
  - comply with AS/NZS 4200.1, be installed on the outside of the frame and have a flammability index of not more than 5 as determined by AS 1530.2; and
- clause 5.2 and 6.2 of AS 3959 is replaced by clause 7.2 of AS 3959, except that any wall enclosing the subfloor space need only comply with the wall requirements for the respective BAL; and
- clause 5.7 and 6.7 of AS 3959 is replaced by clause 7.7 of AS 3959, except that any wall enclosing the subfloor space need only comply with the wall requirements for the respective BAL; and
  - fascias and bargeboards, in BAL-40, shall comply with:
  - clause 8.4.1(b) of AS 3959; or
  - clause 8.6.6 of AS 3959.

***Reason: To provided a degree of bushfire protection***

#### **F10. 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.***

- F11.** 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.***

**F12. Protection of public places**

If the work involved in the construction and installation of the development:

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

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

**F13. Protection of public places**

If the work involved in the construction of a building:

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

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

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

- G1.** Occupation of the buildings identified within the A2 condition, are not to occur until all work has been completed the conditions of consent satisfied and an Occupation Certificate issued the stage of development by the Principal Certifying Authority.

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

- G2.** The pool fencing is to provide a child resistant-barrier to separate the pool from any residential building on the premises and any adjoining premises and such fencing shall not be located any closer than 1.2m from any garage, shed or the like all in accordance with the Swimming Pools Act 1992.

**Reason: To meet statutory requirements.**

**Stage 2**

- G3.** Prior to the issue of an Occupation Certificate for Stage 2, all landscaping on the landscaping plan prepared by Stewart Surveys Pty Ltd, dated 16 February 2023, Job No.5696, Drawing No. 1 of 1, Issue B is to be planted.

**Reason: To ensure necessary landscaping is planted.**

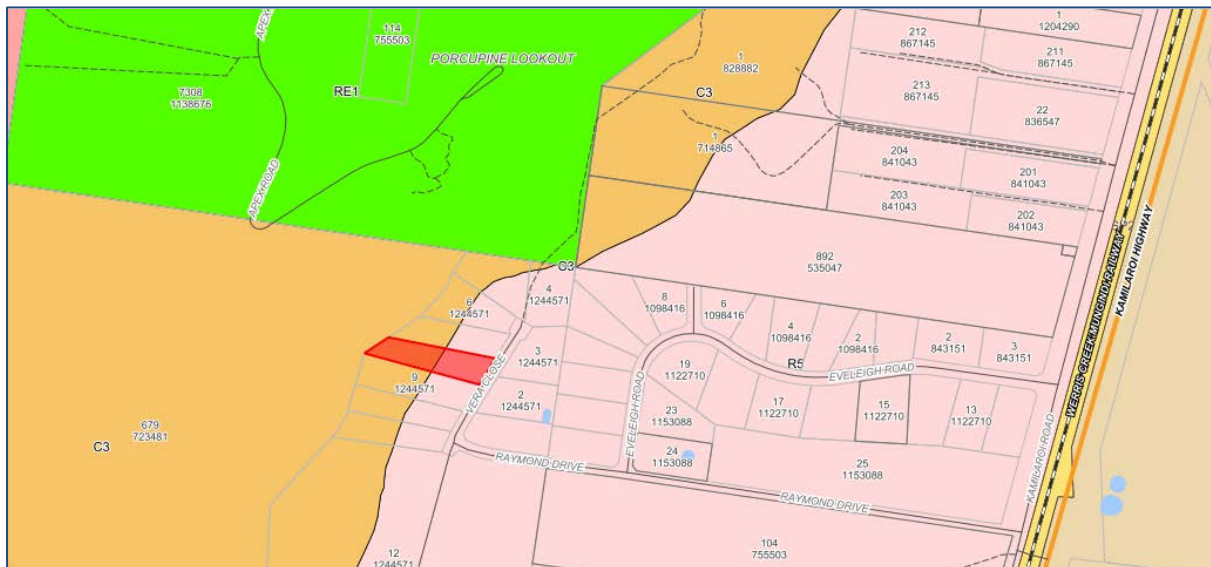
**PURPOSE**

This Development Application is being referred to Council for determination as the proponents have sought a variation to Section 2.1 of the residential development control standard. The application specifically seeks to vary Section 2.1.13 with reference to the required position of the swimming pool and spa in front of the building line; as specified within the *Gunnedah Development Control Plan 2012 (GDGP 2012)*.

Applicant: A Bailey  
 C/- Stewart Surveys  
 Owner: Miss A.T. Smith  
 Property Description: Lot 8 DP 1244571  
 12 Vera Close, Gunnedah

**Proposed Development**

Development consent is sought for a staged residential development with stage 1 works comprising the undertaking of earthworks and construction of a retaining wall, New Dwelling House and attached garage. Stage 2 works will comprise the installation of an in ground swimming pool.



**Figure 1 – Site Location**



Figure 2 – View looking west on Vera Close towards the subject land

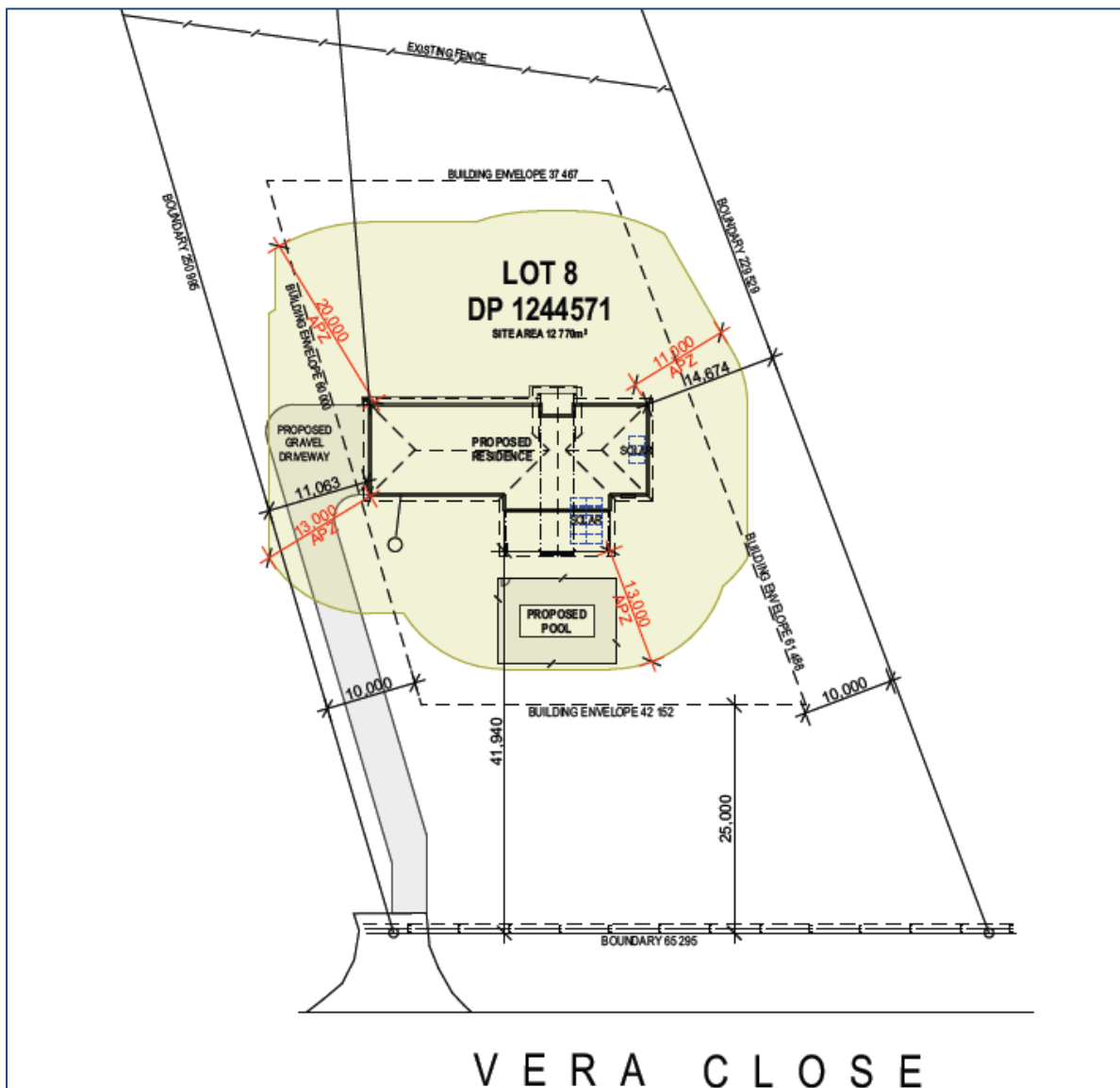


Figure 3 – Site Plan



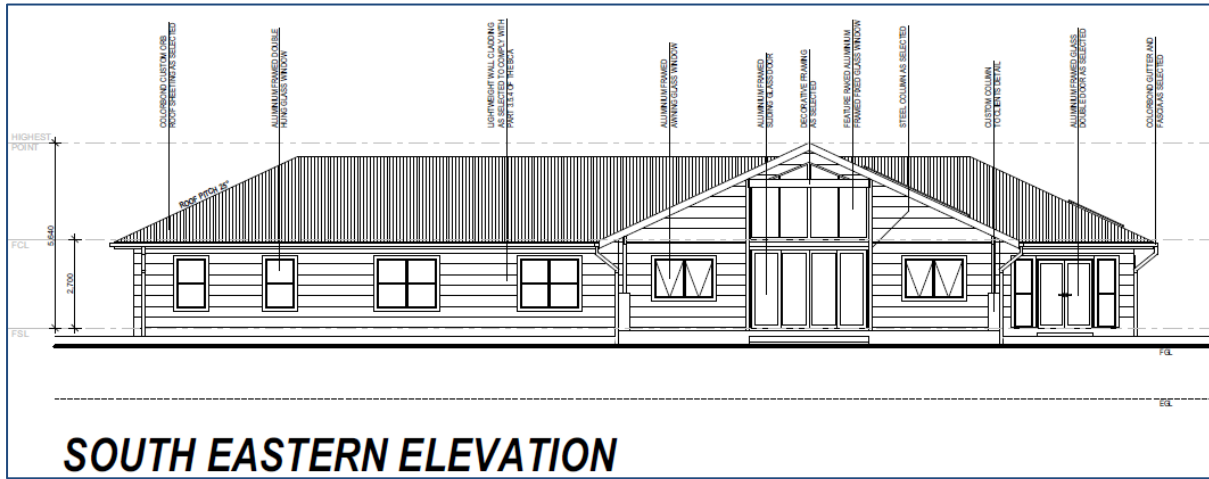


Figure 4 – Elevations

**COMMENTARY**

*Issues*

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

**51.7 Application of Part 7 of the Biodiversity Conservation Act 2016**

The land is split zoned, C3 – Environmental Management and R5 – Large Lot Residential, under the provisions of Gunnedah LEP 2012 however, the proposal is wholly contained on the R5 – Large Lot Residential portion of the site within an approved building envelope.

The subject land is not identified on the Biodiversity Values (BV) Map and the site is also not identified as an ‘Area of Outstanding Biodiversity’ in accordance with Part 3 of the Biodiversity Act and Part 3 of the *Biodiversity Conservation Regulation 2017*.



Figure 5 – Biodiversity Values Map

The construction footprint of the residential development including the trees to be removed have been used for determining the area of clearing as well as potential laydown/stockpile areas, effluent disposal fields and the like.

A 1.2 hectare minimum lot size applies to the site. Therefore, the threshold for clearing above which the Biodiversity Assessment Method (BAM) and Biodiversity Offset Scheme apply is 0.5 hectare or more. The approved building envelope is approximately 0.2 hectares and the proposed or potential area of works/land associated with the development is well under 0.2 hectares which is wholly contained on the residential zoned portion of the land.

The proposed development, including the removal of two (2) Koala preferred feed trees, is determined to have minimal impact on koalas and their habitat. The development site is not known to contain any of the critical habitat or any threatened ecological species.

#### ***5.4.15 (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 split zoned, C3 – Environmental Management, and R5 – Large Lot Residential, under the provision of the *Gunnedah Local Environmental Plan, 2012* (GLEP 2012).

Development for the purpose of a Dwelling House is a permissible use with consent within the R5 zone of the GLEP 2012. The development is also consistent with the land use objectives of the R5 zone as the development will provide a residential dwelling for occupation within Gunnedah Local Government Area.

The development does not propose any works on the C3 – Environmental Management zoned portion of the land and as a result, the dwelling and ancillary works are not expected to cause an adverse impact on the ecological, scientific, cultural or aesthetic values of the site.

###### ***4.2A – Erection of dwelling houses on land in certain rural and environment protection zones***

The dwelling will be located entirely within the R5 portion of the development site, within the building envelope. Hence, as discussed above, no works will be conducted within the C3 portion of the land and this clause does not apply to this development.

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

It is considered that there will be negligible impact from the proposed residential development. The proposed dwelling is compatible with the existing rural residential context of the vicinity. The proposed dwelling has also been allocated a building envelope in the R5 zone that will ensure minimal impact to the adjoining E3 zone.

###### ***6.5 – Essential Services***

The development site is currently serviced by Council's reticulated water infrastructure, underground electrical services and has frontage to Vera Close on the eastern boundary. The site does not have access to Council's reticulated sewer or stormwater network. However, there is adequate area onsite for the management and disposal of sewerage and stormwater.

##### **State Environmental Planning Policies (SEPPs)**

###### **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The application is accompanied with a BASIX Certificate (Certificate number 1330757S\_03) and the development application commitments have been duly noted on the proposed plans. A condition has been included as part of the recommended conditions of development consent in order to ensure that the relevant commitments are fulfilled.

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

###### ***Chapter 2 – Vegetation in non-rural areas***

The development site is partly zoned C3 which is identified within this SEPP as being a land zoning to which this SEPP applies. The development proposes to remove sixteen (16) pieces of native vegetation including two (2) *Eucalyptus albens* (White Box trees) and fourteen (14) Wilga shrubs. These species are not identified within the Gunnedah Development Control Plan 2012 as requiring a permit from Council prior to removal. The trees are located on the R5 portion within the approved building envelope.

See response to the requirements of the Biodiversity Conservation Act 2016 previously through this report.

#### *Chapter 4 – Koala habitat protection 2021*

The subject land is zoned R5 Large Lot Residential and C3 Environmental Management with an area of at least 1 hectare. The site does have an approved koala plan of management and therefore, Section 4.9 of this SEPP applies.

A Biodiversity Conservation Assessment has been provided with the application, prepared by a qualified person (Kathryn Stewart of Stewart Surveys) on the 8th of September 2022 to determine the likely impacts of the development on Koalas or their habitat.

The submitted Biodiversity Assessment advises that one (1) Koala preferred feed tree species listed in schedule 2 of SEPP (Koala habitat Protection) 2021, was observed on site. However, there were no koalas observed during the site inspection and there were no activities that indicated the presence of koalas on the subject land.

The Biodiversity Assessment also notes that the environmental zoned portion on the western part of the site was not readily accessible and no building works proposed on that portion and concludes that the proposed development including the removal of two (2) Koala preferred feed trees will have low impact on koalas and their habitat. Hence, in accordance with Section 4.9 of this SEPP Council is not prevented from granting development consent to the development.

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

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

The site is currently vacant and zoned for residential purposes. An inspection of the site revealed no indication that the site has been used for any activities that could potentially contaminate the site. Subsequently, no further consideration is deemed necessary in this instance.

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

##### *Chapter 2 – Infrastructure*

The development fronts Vera Close 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 generate 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***

##### *2.1.1 - Building Setbacks*

The site fronts Vera Close as the primary frontage. The proposed development is compliant with the setbacks of the R5 zone from the DCP and provides minimum setbacks as listed in the table below.

| Setback                             | Required | Provided | Compliance |
|-------------------------------------|----------|----------|------------|
| <b>Primary Frontage (Vera Cloe)</b> | 25m      | 25m      | ✓          |
| <b>Side and Rear</b>                | 10m      | 11m      | ✓          |

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

The resulting maximum height of the roof will be approximately 5.64 metres from the natural ground level and does not exceed 10 metres building height requirement. The proposed development is not expected to have any unreasonable implications in terms of overlooking or overshadowing.

### *2.1.3 – Utilities*

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

### *2.1.4 – Privacy*

The proposed additions to the dwelling are single storey and are compliant with the required development setbacks from side boundaries. Hence, the development did not require any specific privacy controls.

### *2.1.5 – Design and Solar Access*

The development will not impede solar access on adjoining buildings and will not result in the creation of any blank walls along road frontages. The visual appearance of the new dwelling will contribute positively to the existing neighbourhood. The location of the proposed dwelling is considered suitable having regard for the site design and internal layout.

### *2.1.10 – Access*

The development site has a 66 metre frontage with existing vehicular access from Vera Close, which is sealed without kerb and gutter. The development will require the creation of an all weather access capable of servicing two wheel drive vehicles and with dust suppression, from the property boundary to the dwelling onsite.

### *2.1.10a – Discretionary Development Standard*

*The site is zoned R5 with a lot size greater than 3,000m<sup>2</sup>.*

### *2.1.12 – Slope*

The development site has a slope greater than 15% and therefore requires a detailed geotechnical investigation with the application. A geotechnical assessment by Geotechnical Solutions (ref. RGS33423.1-AA) is provided with the application which provides the site classification and recommendations for the footings.

The development proposes 1 metre high retaining walls and a condition will be included on the consent requiring details on slope stability and the structural design for the retaining walls to be provided before the construction certificate is issued.

### *2.1.13 – Pools and Spas*

The development proposes an inground integrated swimming pool and a spa as part of stage 2 works. The pool and spa is positioned in front of the building line and does not comply with this control. The applicant provided justification for the variation, and the variation is supportable in this instance due to the following reasons:

- The proposed pool and spa is setback over 25 metres from Vera Close and will not be readily visible from the street
- The applicant has provided a performance solution and provides landscaping to further ensure the privacy of the pool and spa users is not unreasonably diminished from users of the public road reserve downslope from the site. The position of the site and site topography ensures that the pool will not be readily visible from public reserves and enables privacy of private users.
- The pool location will not diminish the privacy or amenity of adjoining parcels, due to setbacks and appropriate screening.
- The application is referred to Council due to the above non-compliance for determination.

### *2.1.14 – Water tanks*

The proposed water tanks are located behind the street setback of the dwelling and will be screened from view by the dwelling and proposed landscaping. The water tanks are also of non-reflective material and do not exceed 3.2 metres in height.

### *6.2 – Parking Requirements*

The development proposes an attached garage with three (3) off street parking spaces and which provides sufficient onsite parking spaces for onsite parking of vehicles.

### *6.6 – Environmental Controls*

Council's standard condition will be imposed for sediment and erosion control measures to be implemented during construction. The required sealing of the internal vehicle driveway and manoeuvring areas will reduce any potential impact of the release of dust from the site.

### ***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 land and contains stands of remnant vegetation. The surrounding area is predominately rural residential usage with lots containing dwelling houses and vacant rural land. The subject site is situated within a semi-rural residential environment and the proposed development is not expected to result in any significant land use conflicts or adversely affect the amenity of surrounding land. The position, design and size of the development is consistent with the surrounding development.

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

The site has frontage to and existing access from Vera Close, which is sealed without any kerb and gutter. The development is expected to result in a minor increase in vehicle movements with the introduction of traffic from occupants of the dwelling. Approval of the subject application is expected to have a negligible impact on the operation of the existing road network, and the assessment of the application has not identified any deficiencies in the current road network.

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

No negative impacts on the public domain have been identified as a result of the development. The development does not require the dedication of any public space and there are no existing pedestrian linkages between the development site and the surrounding community due to the rural location of the site.

The proposed pool located in front of the dwelling is to be screened by landscaping and is not expected to diminish the privacy of the future residents or create any negative impact on the public domain.

#### ***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 development is not productive agriculture land and conducting of the development nearby agriculture will have no impact on the land use. Mining and extractive resources are prohibited in the area and therefore development would have no impact on valuable land resources.

#### ***Water***

The development site has provision of Council's water services to the development site. A new water metre is to be installed and water connection extended to the dwelling as required. Stormwater is to be disposed of onsite or to the table drain in Vera Close.

#### ***Soils***

There is no previous history of usage on the site that could potentially lead to a risk of site contamination. It is considered that the sites soil's are adequate for the development.

***Air and microclimate***

The proposed development is considered to have minimal impact on the existing microclimate in the area.

***Flora and fauna***

The application includes the removal of sixteen (16) native vegetation including two (2) *Eucalyptus albens* (White Box trees). The applicant provided considerations against the relevant planning instruments and provided supporting documents including a Koala Habitat Assessment with the application.

The subject land is not identified on the Biodiversity Values (BV) Map and the site is also not identified as an 'Area of Outstanding Biodiversity' in accordance with Part 3 of the Biodiversity Act and Part 3 of the Biodiversity Conservation Regulation 2017. The trees proposed to be removed do not exceed the clearing threshold to which an offset scheme is applicable and the proposed residential works are also contained within the approved building envelope.

A biodiversity assessment was also undertaken and it concluded that two (2) Koala preferred feed tree species listed in schedule 2 of SEPP (Koala habitat Protection) 2021 was observed on site however, there were no koalas or any threatened flora or fauna observed during the site inspection.

***Waste***

The surrounding area is serviced by Council's kerb side collection. Kerb side collection bins can be applied for upon the issue of an Occupation Certificate.

There is adequate area within the site to accommodate an onsite sewerage management system (OSSM) for management of effluent. The developer is to make an application under S68 of the Local Government Act 1993, for the operation of an OSSM onsite.

***Energy***

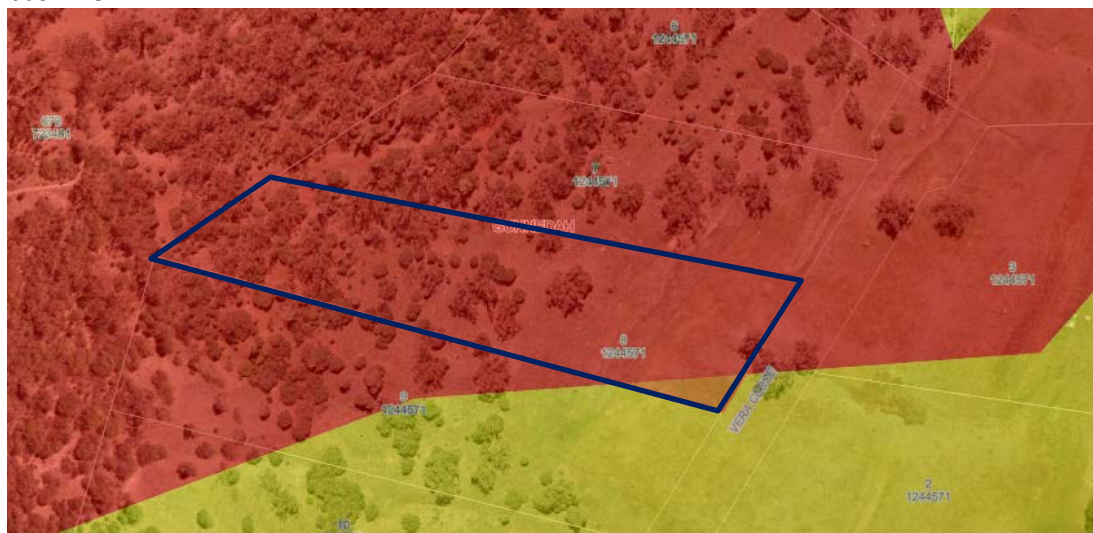
The New Single Dwelling and Swimming Pool is to be constructed in compliance with the submitted BASIX certificate. A condition is to be imposed to ensure that all identified requirements within the certificate are met.

***Noise & vibration***

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

***Natural hazards***

The site is not identified as being subject to flooding. However, the site is identified as affected by bushfire.



**Figure 6 – Bushfire Hazard map of the subject land.**

A Bushfire Assessment Report (BAR) was provided with the application and an assessment has been carried out which determined the forest vegetation to the west and woodland vegetation to the north will require Asset Protection Zones (APZ's) of 20 metres and 11 metres to the west and north respectively for a BAL 29 rating. The relevant condition has been applied to the consent to reduce risk to inhabitants.

#### ***Technological hazards***

There are no additional technological hazards present on the subject land that require consideration as part of the assessment of the proposed development.

#### ***Safety, security & crime prevention***

The development will not result in any decrease in safety, security and prevention of crime in the surrounding area. The addition of the dwelling will provide an increase in passive surveillance within the surrounding environment

#### ***Social & Economic impact in the locality***

The development will have little social impact on the surrounding area. The proposed construction of the single dwelling will be consistent with development on adjoining allotments.

#### ***Site design and internal design***

The proposed new dwelling will be located with adequate setbacks from all lot boundaries. The new dwelling will be constructed within the approved building envelope. There is adequate area within the site to accommodate the development and future development potential.

#### ***Construction***

Any construction works must be compliant with the Building Code of Australia and a condition has been included on the consent.

#### ***Cumulative impacts***

The proposal is considered to be compatible with surrounding land uses and approval of the application is not expected to result in any unacceptable land use conflicts. The Proposal involves the erection of a single dwelling and staged ancillary works and pertinent matters have been addressed in detail in this assessment report. The development is considered to be consistent with applicable planning legislation.

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

The proposed development is consistent with the existing and future development in the locality. The development has access from a public road and Council's utility services are available to the site. The site is not identified as being subject to flood or and relevant considerations have been given to the bushfire hazard to ensure there is no additional risk to life and property as a result of the development. The subject land does not contain an item of heritage significance and the site is considered to be suitable for the development.

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

The development application was notified to adjoining land holders for a period of 14 days in accordance with the Gunnedah Community Participation Plan.

No submissions were received during the public notification period.

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

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

**Conclusion**

The development application is seeking consent for a staged residential development with stage 1 works comprising the undertaking of earthworks and construction of retaining wall Dwelling House and Attached Garage. Stage 2 works will comprise the installation of an in ground swimming pool.

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 generally 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. 2022/112 Lot 8 DP 1244571, 12 Vera Close Gunnedah, should be approved subject to conditions.

**Andrew Johns**

**DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES**





**Gunnedah**Shire