

**PLANNING ENVIRONMENT AND DEVELOPMENT COMMITTEE MEETING MINUTES**  
of Gunnedah Shire Council held on Wednesday 7 October 2020 in the  
Council Chambers, 63 Elgin Street, Gunnedah commencing at 4:03pm

1.	COUNCILLOR	PRESENT	APPROVED LEAVE OF ABSENCE	ABSENT
	J Chaffey		X	
	JR Campbell	X		
	C Fuller	X		
	OC Hasler	X		
	R Hooke	X		
	A Luke	X		
	D Moses	X		
	M O'Keefe		X	
	RG Swain		X	
	<b>STAFF</b>			
	General Manager (E Groth)	X		
	Acting Director Corporate and Community Services (T Muldoon)	X		
	Director Planning and Environmental Services (A Johns)	X		
	Director Infrastructure Services (J Bartlett)			X
	Chief Financial Officer (D Connor)			X

*Council Resolution*

*Moved Councillor C FULLER*

*Seconded Councillor A LUKE*

**2. DECLARATIONS OF INTEREST**

COUNCILLOR	ITEM	REPORT	P	SNP	LSNP	RC	REASON
D MOSES	3.2	S4.55(1A) Application to Modify Development Consent No. 2019/031.002			X		CLOSE FRIEND TO OWNER
STAFF	ITEM	REPORT	P	SNP	LSNP	RC	REASON
NIL.							

P – Pecuniary

SNP – Significant Non Pecuniary

LSNP – Less than Significant Non Pecuniary

RC – Remain in Chamber during consideration/discussion of item

**3. DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES' REPORT**

<b>ITEM 1</b>	<b>S4.55(2) Application to Modify Development Consent No. 2012/185.003 – Temporary amendment to annual extraction limits (360,000 tonnes to 499,000 tonnes per annum) and amendments to definition of extraction, amendment to haulage direction volumes and quarry vehicle type – Lot 22 DP 1216060 &amp; Lot 2 DP 865898 – 334 Pownall Road, Mullaley and 259 Barker Road, Marys Mount</b>
<b>MEETING</b>	<b>Planning, Environment and Development Committee – 7 October 2020</b>
<b>DIRECTORATE</b>	<b>Planning and Environmental Services</b>
<b>AUTHOR</b>	<b>Senior Development Officer</b>
<b>POLICY</b>	<b>Nil</b>
<b>LEGAL</b>	<b>Environmental Planning and Assessment Act, 1979 Gunnedah Local Environmental Plan, 2012 Gunnedah Development Control Plan, 2012</b>
<b>FINANCIAL</b>	<b>Nil</b>

STRATEGIC LINK	<p><b>Community Strategic Plan</b></p> <p><b>2.4.5 Implement and advocate for planning strategies and systems that are streamlined to foster and encourage the establishment of new business.</b></p> <p><b>Operational Plan</b></p> <p><b>2.4.5.1 Provide efficient and effective application, assessment and certification services in accordance with relevant legislation policy and regulation.</b></p>
ATTACHMENTS	Nil

**1.10/20P COUNCIL RESOLUTIONS:**

That the S.455(2) Application to Modify Development Consent No. 2012/185.003, Temporary amendment to annual extraction limits (360,000 tonnes to 499,000 tonnes per annum) and amendments to definition of extraction, amendment to haulage direction volumes and quarry vehicle type – Lot 22 DP 1216060 & Lot 2 DP 865898, at Lot 22 DP 1216060 & Lot 2 DP 865898 – 334 Pownall Road, Mullaley and 259 Barker Road, Marys Mount be approved subject to the deletion and insertion of the following conditions of consent (amended conditions underlined):

**A. General Conditions**

**A1.** Deleted

**A1a.** Deleted

**A1b.** The development shall be carried out in accordance with the details set out in the following

- Development Application form lodged 18/12/2012;
- Environmental Impact Statement (including Executive Summary, Volume 1, Volume 2 and Appendix), prepared by Stewart Surveys Pty Ltd, dated 13/12/2012;
- Amendment to Environmental Impact Statement, prepared by Stewart Surveys Pty Ltd, dated 17/05/2012;
- Traffic Impact Assessment (Revision 5), prepared by Ardill Payne & Partners, dated May 2013;  
and
- Amendment to Application, prepared and submitted by Stewart Surveys Pty Ltd, dated 17/04/2014, including the additional information prepared by Spectrum Acoustics (Noise and Vibration Consultants), dated 17/04/2014, and accompanying plans (Proposed Quarry Site Plan, drawing number 4122 quarry design, dated 11/04/2014, Sheet 2 of 3, Issue G and Haulage Operations to Cease at School Bus Times, both prepared by Stewart Surveys Pty Ltd);
- Section 4.55(2) Modification Temporary Increase in Quarry Extraction Marys Mount Quarry NSW Statement of Environmental Effects Development Consent DA2012/185, dated May 2020; and
- Biodiversity Impact Assessment Report, prepared by Niche Environment and Heritage, dated August 2015,

except as otherwise provided by the conditions of consent.

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

*Advisory Note: The Flora and Fauna Impact Assessment, Compensatory Habitat Assessment and Blackjack Mountain Offset Site Management Plan have been assessed in the application submitted under the provisions of the Environment Protection and Biodiversity Conservation Act, 1999.*

**A2.** Deleted

**A2a.** To confirm and clarify the terms of this approval, consent is given for the following:

- Extraction of Material of no more than 120,000 bank cubic metres (which equates to 360,000 tonnes) per annum;
- Maximum number of truck movements (includes loaded and unloaded) per day - 120 (with no more than 496 truck movements in any one week (Monday-Sunday));

- Period of Extraction of Material of no more than 22 years from the commencement date of extraction operations; and
- Rehabilitation of the site.

Despite the above stated restriction to annual extraction volumes of material (360,000), a maximum total annual extraction of no more than 499,000 tonnes per annum is only permitted for the following project(s):

- Australian Rail Track Corporation (ARTC) Narromine to Narrabri (N2N) and Narrabri to North Star (N2NS) Inland Rail projects.

Note. The quarry operator is required to inform Council of the commencement date of extraction operations approved under this consent. Council will then provide written confirmation of the lapsing date for quarry operations under this development consent.

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

**A3.** Deleted

**A3a.** To confirm and clarify the terms used in this approval, the following definitions are provided:

- Extraction Operations means taking of material out of the ground.

Note: All conditions under Section D – ‘Prior to Operations’ shall be completed prior to the commencement of Extraction Operations.

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

***Surrender of Existing Development Consent***

**A4.** At the commencement date of *extraction operations* (as defined in Condition A3) and approved under this development consent, the owner of Lot 161 DP 755508, “Burleith”, 334 Pownall Road, Mullaley shall, in writing, surrender all previous development consents which relate to extractive industries on the subject land.

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

**A5.** Deleted

***Voluntary Planning Agreement***

**A5a.** The developer is to enter into and comply with the planning agreement under Section 93F of the Environmental Planning and Assessment Act, 1979, being the Voluntary Planning Agreement, signed by Council on 5 December 2019 between Gunnedah Quarry Products Pty Ltd and Gunnedah Shire Council, as agreed to by Gunnedah Shire Council (date of meeting 4 December 2019), in relation to the carrying of the development the subject of this consent. The planning agreement shall be executed by both parties prior to the commencement of any work or action associated with this development consent.

***Reason: To ensure compliance with submitted agreement.***

**A6.** Deleted

**A6a.** All costs, including but not limited to, the assessment of submitted documentation for approval and reporting and required site inspections associated with the implementation and monitoring of the Koala Plan of Management shall be borne by the development.

***Reason: To ensure that all costs associated with the Koala Plan of Management are borne by the developer.***

**A7.** Deleted

**B. Road Construction**

- B1.** Prior to the commencement of each stage (as identified in Figure 5 Road works Staging Plan contained within the Traffic Impact Assessment (Revision 5), prepared by Ardill Payne & Partners, dated May 2013) and component of road works on a Council public road, construction plans and specifications shall be submitted to and approved by Council. All works are to be designed in accordance with Council's Engineering Guidelines for Subdivisions and Developments, Version 2.0, dated August 2013. The design of all works is to be related to the adjoining infrastructure.

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

- B2.** Prior to the commencement of road works at the Kamilaroi Highway and Goolhi Road intersection, a detailed set of construction plans shall be provided to and approved by the Roads and Maritime Services. A copy of the construction plans shall also be provided to Council.

**Reason: To ensure compliance with Council's and Roads and Maritime Services' requirements.**

- B3.** Erosion and sediment control facilities must be installed and maintained for the duration of the road works, to avoid damage to the environment during road work construction. The plan and specification for these facilities are considered an integral part of the development and must be approved with the road work construction plans. The approved erosion and sediment control measures are to be maintained throughout the construction of the development.

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

- B4.** All road works undertaken by contractors (ie. other than Council) on Council's roads and assets shall be inspected by Council to ensure that the works are undertaken in accordance with Council's Engineering Guidelines for Subdivisions and Developments, Version 2.0, dated August 2013. An inspection fee is applicable for each time Council is required to inspect the works in accordance with Condition G1 and shall be paid prior the commencement of road works.

**Reason: To ensure compliance.**

- B5.** The contractors engaged to undertake works on Council's roads or assets must maintain public liability insurance cover to the minimum value of \$20 million. The policy shall specifically indemnify Council from all claims arising from the execution of such works. Documentary evidence of the currency of the policy shall be provided to the Council prior to commencement of work and upon request, during the progress of the work.

**Reason: To ensure compliance.**

**C. Prior to Extraction Operations****Road Construction**

- C1.** Prior to the commencement of the extraction operations, the construction of auxiliary left acceleration lanes (AUL) and channelized right turn treatment (CHR) intersection at the Goolhi Road and Kamilaroi Highway intersection shall be constructed. All road works are to be designed and constructed in accordance with the applicable Austroads Guidelines and Australian Standards with reference to the Roads and Maritime Services Supplements for Austroads/Australian Standards and to the satisfaction of Council's Director of Infrastructure Services.

**Reason: To enable haulage vehicles to safely enter the classified road.**

**Koala Plan of Management**

- C2.** A Compensatory Vegetation Management Plan (VMP) shall be prepared for the site by a suitably qualified person and submitted to Council for approval prior to the commencement of extraction operations. A copy of the approved plan is to be submitted to the Department of Planning and Environment for information within 7 days of it being approved. The VMP will include a detailed works program for all revegetation and rehabilitation works that addresses:

- Timing, budget and bonding of works;
- Aims, key performance indicators, deliverables and allocated responsibilities;
- Contingency plans for issues such as lack of local seed stock, drought, plague, fire, stock grazing, feral animal grazing;

- Tree loss and replanting; and
- Method of tree planting and source of seed stock.

All plantings are to be bonded with an amount equal to the cost of the works. The approved plan shall be implemented in accordance with that plan.

***Reason: To ensure compliance with approved of Koala Plan of Management.***

- C3.** A Monitoring and Reporting Plan shall be prepared by a suitably qualified person and submitted to the Council for approval and approved prior to the commencement of extraction operations. The plan must cover the entire development timeframe for revegetation works and address koala activity and mortality issues. A copy of the approved plan is to be submitted to the Department of Planning and Environment for information. The Monitoring and Reporting plan shall be implemented in accordance with that plan. An annual report shall also be submitted to Council (with a copy to the Department) for the first 10 years of the project, then every three years after that and/or at the end of a stage, that addresses revegetation work outcomes, ameliorative measures undertaken, koala activity and koala mortalities.

***Reason: To ensure compliance with approved of Koala Plan of Management.***

- C4.** A Traffic Management Plan detailing the proposed signage and speed limits for the internal haul route and proposed code of conduct for employees and truck operators, shall be prepared by a suitability qualified person and submitted to Council for approval and approved prior to the commencement of extraction operations. A copy of the approved plan is to be submitted to the Department of Planning and Environment. The approved plan shall be implemented in accordance with that plan.

***Reason: To ensure compliance with approved of Koala Plan of Management.***

***Traffic Management & Parking Control***

- C5.** A Driver Code of Conduct for the transportation of materials on public roads, shall be developed for all heavy vehicle drivers that access the development site (including haulage and delivery vehicles) and shall be submitted to Council for approval and approved prior to commencement of any extraction operations on site. All drivers will be required to sign a register of acceptance to the Driver Code of Conduct. The Driver Code of Conduct shall include the following (but not limited to) School Bus Operating Procedure (signed by Paul Hawkins – Hawkins Bus Service on 19/08/2013 and Paul Hope on 13/08/2013), driver behaviour, compliance with road rules and safety, minimising noise and dust emissions, inform drivers of all known safety considerations along the haul route (including school bus routes and timetables, school zones, concealed driveways, seasonal haulage operations, wet weather safety and any other know local hazards) and ensuring all loads are covered before leaving the quarry site. The code must include enforceable sanctions (to the satisfaction of the Council) for any person who fails to abide by the code. The Approved Code of Conduct shall be strictly adhered to and implemented during the transportation of any material on public roads.

***Reason: To ensure compliance with submitted documentation.***

- C6.** A bus pick-up/set-down area on Goolhi Road, west of Marys Mount Road intersection, shall be constructed to the satisfaction of the Council prior to the commencement of extraction operations. The location of the bus pick-up/set-down area is to be determined in consultation with Council. The pick-up/set-down area shall be constructed in accordance with Austroads Guidelines – Guide to Road Design Part 3: Geometric Design with reference to Roads and Maritime Services’ supplements.

***Reason: To ensure compliance with submitted documentation.***

- C7.** Warning signs shall be erected to the satisfaction of the Council within the vicinity of the quarry entrance off Barker Road, to advise motorists of additional truck movements in the area. The location of the signage shall be determined in consultation with Council. Signage is to be supplied and installed in accordance with Australian Standard 1742 and relevant Roads and Maritime Services’ supplements to Australian Standard 1742.

***Reason: To ensure compliance with submitted documentation.***

- C8.** The pavement of the internal haulage road shall be upgraded and bitumen sealed from the stockpile area to the quarry entrance off Barker Road. A detailed set of construction plans shall be provided to and approved by Council, prior to the commencement of road works. The bitumen seal shall be maintained in a good safe and trafficable condition to the satisfaction of the Council for the life of the development.

***Reason: To ensure compliance with submitted documentation and for dust suppression.***

- C9.** Onsite car parking accommodation shall be provided for a minimum of eight (8) vehicles, to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. The car parking area shall be constructed of all weather material and shall be clearly signposted. An adequate parking area shall be provided for delivery and heavy vehicles.

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

***Soil Management***

- C10.** A Soil Management Plan is to be prepared and approved by Council, which includes the availability and suitability of top soil and subsoil, a soil balance for rehabilitation purposes and stock piling location and management plan. The Plan shall also include details of erosion and sediment control and final void management. The approved plan shall be implemented in accordance with that plan.

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

***Identification of Extraction Boundary***

- C11.** The 'limit of extraction' boundary (as identified on the Proposed Quarry Site Plan, prepared by Stewart Surveys Pty Ltd, dated 25 March 2013, Ref: 4122\_quarry design Issue F) shall be clearly marked out with durable pegs or other markers prior to the commencement of extraction operations. The identification marks shall in place remain for the life of the development, with all operators being made aware of the boundary markers and the limits of the extraction boundary.

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

***Other Approvals***

- C12.** Prior to the commencement of the construction of Dam B, consultation with the NSW Office of Water shall be undertaken regarding the Harvestable Rights Dam Policy requirements and all required approvals shall be obtained.

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

- C13.** Prior to the use of water from the existing bore for the development, consultation with the NSW Office of Water shall be undertaken regarding the existing bore licence requirements.

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

***Surface Water Management***

- C14.** The recommendations of the Surface Water Study and Sediment and Surface Water Management Report, prepared by Northwest Project Pty Ltd, dated 30 April 2013, shall be implemented to the satisfaction of Council, with all construction works to be completed prior to the commencement of the extraction operations.

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

- C15.** Prior to the commencement of the extraction operations, supporting documentation is to be submitted to Council (for approval) to demonstrate that Dam A will be of sufficient size to cater for a 1% Annual Exceedance Probability event.

***Reason: To ensure that storage dam is of adequate size and to prevent earthwork failure.***

**Archaeology**

- C16.** The recommendations of the Archaeological Survey (prepared by Patrick Gaynor, dated October 2012) shall be implemented to the satisfaction of Council, with all construction works (including the fencing of the scar tree) to be completed prior to the commencement of the extraction operations.

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

**Bushfire Protection**

- C17.** Prior to the commencement of the extraction operations, a Bushfire Protection Plan shall be prepared and approved by Council. The Plan shall be prepared in accordance with the NSW Rural Fire Service "Planning for Bushfire Protection, 2006" and shall be implemented prior to the commencement of the extraction operations.

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

**Complaints Register**

- C18.** The operator of the quarry shall nominate a contact person and telephone number for the benefit of adjoining neighbours and establish a complaints register that includes records of nature, time and date of complaint, climatic conditions such as wind direction and speed and the action taken to address complaint. The register shall be made available to Council upon request.

The developer shall notify all residents within a 5.0 kilometre distance of the boundary of the development site in writing of the contact details and associated information and that they may contact the quarry operator to complain about the operation of the quarry.

**Reason: To ensure amenity of area.**

**Water Balance**

- C19.** Prior to increasing production beyond 360,0000 tonnes p.a., the proponent must prepare and submit to Gunnedah Shire Council a site water balance that demonstrates the proponent has access to adequate water supply to manage dust generation and support quarrying activities at the premises.

The site water balance must include the following information:

- a. All inputs from surface and/or groundwaters, including onsite storage and associated holding capacities;
- b. All outputs including water requirement needs for crushing, grinding activates and other plant at the premises, as well as dust suppression activities;
- c. Any water volumes provided by a third party or imported to the premises

This information may be provided in the form of a premises map and supporting discussion paper or report.

**Reason: To ensure that an adequate water supply is available to accommodate the increase in development production.**

**D. During Extraction Operations****Extraction Operation Hours**

- D1.** The extraction operation hours are limited to the following:
- Monday to Friday – 7.00am to 6.00pm (Australian Eastern Daylight Time)
  - Monday to Friday – 7.00am to 5.00pm (Australian Eastern Standard Time)
  - Saturday – 8.00am to 3.00pm
  - Sunday and Public Holidays – closed.

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

**Haulage**

- D2.** Haulage operations shall cease when the school bus is travelling along the identified sections of the haul route as illustrated on the submitted plan - Haulage Operations to Cease at School Bus Times, prepared by Stewart Surveys Pty Ltd, at the following times on school days:
- Marys Mount Road to Quia Road – 7.50am-8.10am and 3.50pm-4.10pm;

- Emerald Hill to Quia Road – 7.50am-8.10am and 3.50pm-4.10pm; and
- Quia Road to Gunnedah – 8.00am-8.30am and 3.30pm-4.00pm.

**Note:** Should a school bus operating time or the bus route change, an amendment to the above time and/or route shall be submitted to and approved by Council prior to any change in haulage operations.

**Reason: To ensure compliance with submitted documentation.**

**D3.** Deleted

**D3a.** All haulage operations are to be limited to the following routes:

- Via Barker Road – Marys Mount Road – Goolhi Road – Kamilaroi Highway (at Emerald Hill); and
- Via Barker Road – Marys Mount Road – Goolhi Road – Quia Road – Blackjack Road – Oxley Highway (west of Gunnedah).

A record of movements shall be kept, noting the direction, date, and type of haulage vehicle utilised. The record of movements shall be submitted to Council every 12 months. The register shall also be made available to Council upon request.

Note: There shall be no haulage of material extracted from the development site on any other public road, without an amendment to this development consent.

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

**D4.** Deleted

**D4a.** The haulage of material is only permitted to be undertaken in vehicles legally permitted by the road authority to be used within the road network of the haulage route identified in condition D3.

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

**D5.** The haulage of material along Blackjack Road shall not be undertaken during the three (3) days of the Ag-Quip Field Days.

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

**Koala Surveys**

**D6.** Target surveys for koalas are to be undertaken by an ecologist, who is experienced and qualified in such surveys, within the 24 hours immediately prior to tree clearing.

**Reason: To ensure compliance with approved Koala Plan of Management.**

**Groundwater**

**D7.** The quarry operator shall conduct bi-annual water testing of open water storages to ensure that groundwater penetration has not occurred. The testing shall be undertaken by a NATA accredited laboratory. The results are to be forwarded to Council. The first of such tests shall be conducted within 6 months of the commencement of extraction operations.

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

**D8.** Should groundwater be intercepted at any stage during extraction operations, all works are to cease immediately and Council and the NSW Office of Water are to be notified immediately. No works will be permitted to recommence without the written authorisation of the NSW Office of Water.

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

**Documentation**

**D9.** A copy of all the approved documents related to this consent, shall be kept on site at all times and shall be made available upon inspection by Council or an authorised government agency.

**Reason: To ensure all documents are available on inspection.**



- D10.** A copy of the Annual Return required in the General Terms of Approval shall be provided to Council in addition to the requirements of the Environment Protection Authority.

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

**Dust**

- D11.** To minimise the potential for dust nuisance generated by the development, the Best Practice Mitigation Measures outlined in the Air Quality Impact Assessment (prepared by Pacific Environment Limited, dated 12 December 2012, Job No. 7338) and amended Air Quality Impact Assessment (prepared by Pacific Environment Limited, dated 9 May 2013, Job No. 7338) shall be implemented during the extraction operations.

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

**Sediment and Water Control**

- D12.** The recommended monitoring, reporting and corrective action noted in the Sediment and Surface Water Management, prepared by Northwest Project Pty Ltd, dated 30 April 2013 shall be implemented during the extraction operations.

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

**Electricity Relocation**

- D13.** Prior to the relocation of the overhead electricity line on the property boundary, consultation with the adjoining property owner of Lot 182 DP 755508 ("Verona", 125 Pownall Road, Mullaley) is to be undertaken with regard to the location of new line.

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

**Blasting and Fly-rock Management**

- D12.** The fly-rock management actions outlined in the additional information prepared by Spectrum Acoustics (Noise and Vibration Consultants), dated 17/04/2014 shall be implemented during any blasting event.

*Reason: To ensure compliance with submitted documentation.*

**E. During Road Works Construction**

- E1.** The construction of road works shall be limited to the following hours to prevent unreasonable disturbance to the amenity of the area:-

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

No work to be carried out on Sunday or Public Holidays if it is audible on the residential premises.

The developer shall be responsible to instruct and control his sub-contractors regarding the hours of work. Council will exercise its powers under the Protection of the Environment Operations Act 1997, in the event that the construction operations cause noise to emanate from the property on Sundays or Public Holidays or otherwise than between the hours detailed above.

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

**F. Inspection of Road Works**

**Inspections by Council**

- F1.** Council shall be notified, 48 hours prior, by the contractor that the following works are ready for inspection:
- (a) Pavement – In accordance with RMS QA Specification R71 Appendix C1 Schedule of Hold Points
  - (b) Seal – In accordance with RMS QA Spec R107 Appendix C1 Schedule of Hold Points

*Reason: To ensure compliance before, during and after construction.*

**G. Completion of Road Works**

- G1.** One set of approved construction drawings shall be amended to show the “work-as-executed”. These drawings in both hard copy and electronic form shall be provided to Council within three (3) months of completion of each stage of the road works. The drawings are required to ensure that adequate records are maintained of community infrastructure. The drawing shall be certified by a registered surveyor or a Chartered Professional Civil Engineer. An electronic copy of the “work-as-executed” in dwg format shall also be provided to Council with the drawings.

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

**H. Completion of Extractive Industry Operations**

- H1.** At the completion of operations, as determined by Council, the quarry operator will commission the completion of a Contamination Assessment Report for the site. Any recommended remediation actions are to be completed by the quarry operator and shall be identified within the report.

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

**I. General Terms of Approval – Environment Protection Authority**

- I1.** The development shall be carried out in accordance with the General Terms of Approval issued by the Environmental Protection Authority, attached in Annexure A to this consent.

*Reason: To ensure compliance.*

**J. BioBanking Statement**

- J1.** Deleted.

**MOTION** Moved Councillor C FULLER  
 Seconded Councillor D MOSES

COUNCILLOR	COUNCILLORS FOR	COUNCILLORS AGAINST	COUNCILLORS ABSENT	COUNCILLORS DECLARING AN INTEREST
JR Campbell	X			
J Chaffey			X	
C Fuller	X			
OC Hasler	X			
R Hooke	X			
A Luke	X			
D Moses	X			
M O’Keefe			X	
RG Swain			X	

**PURPOSE**

This Development Application is being referred to Council for determination as Council is the consent authority for the proposed development and the original development determination was made by the Northern Joint Regional Planning Panel (NJRPP), now Northern Regional Planning Panel.

Council is the determining body for this modification application proposal under Clause 123BA(2) of the *Environmental Planning and Assessment Regulation 2000*. Clause 123BA and the *Instruction on Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels—Applications to Modify Development Consents* published on the NSW planning portal on 30 June 2020, enables Council to determine this modification application proposal as the modification does not propose to amend a condition included or amended by the NRPP during the original determination or subsequent S4.55 modifications to the determinations. The proposal does not meet the criteria relating to conflict of interest, is not considered to be a contentious development or a departure from a development standard of an environmental planning instrument.

The application to modify a development is not considered to be a contentious development as the exhibition of the application did not receive more than 10 unique submissions, being submissions which are substance unique, distinctive or unlike any other submission. Council received 3 submissions during the exhibition of the application to modify a development. Submission are addressed under heading 4.15(1)(d), later in this report.

Applicant: Outline Planning Consultants Pty Ltd,  
 Owner: Gunnedah Quarry Products Pty Ltd & Messrs B J & T C & M R Lee,  
 Property Description: Lot 22 DP 1216060 and Lot 2 DP 865898,  
 334 Pownall Road, Mullaley and 259 Barker Road, Marys Mount

*Proposed Development*

This modification proposes to allow for a temporary increase in annual quarry extraction at the existing approved quarry. The temporary increase will enable an increase from the currently approved 360,000 tonnes per annum, to a limit of 499,000 tonnes per annum. The increase of 139,000 tonnes per annum will service the major infrastructure project, the Australian Rail Track Corporation (ARTC) Narromine to Narrabri (N2N) and Narrabri to North Star (N2NS) Inland Rail projects. Upon completion of this major infrastructure project, the quarry annual extraction limit will revert back to 360,000 tonnes per annum.

The modification does not propose an increase in the total resource extraction volume (approximately 7,912,500 tonnes) or the development’s total lifespan, footprint, operational hours, quarrying method, number of blasts or number of traffic movements to accommodate the proposed increase in extraction limits. The development will accommodate the increased haulage volumes through the use of larger capacity vehicles for the duration of the ARTC Inland Rail project. The proposal seeks to remove percentage restrictions for vehicle haulage along the identified haulage route, to enable vehicle movements along the dedicated haulage route defined by the product destination.

The proposal also seeks to redefine the term “extraction” within the A3 condition. The redefinition is in response to alignment with the definition adopted by the Land and Environment Court late last year (**Hy-Tec Industries (Queensland) Pty Ltd v Tweed Shire Council [2019] NSWLEC 175**). The new definition will be ‘*Extraction Operations*’ which is defined as “taking of material out of the ground”.

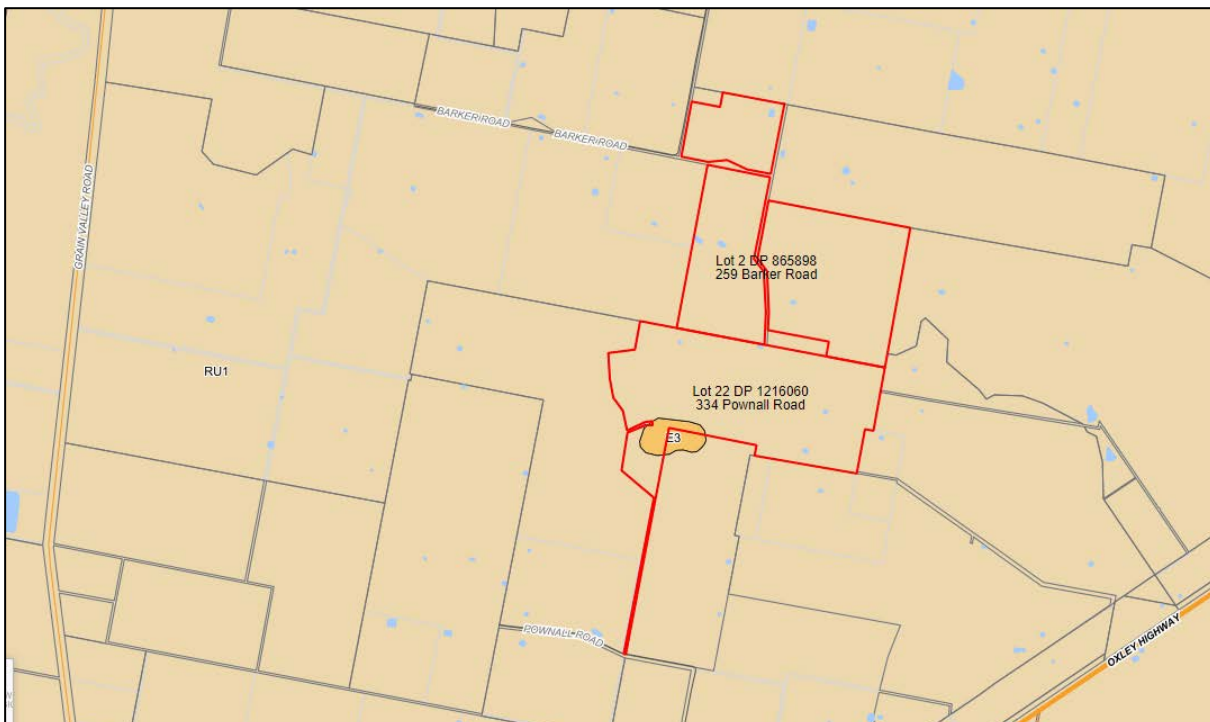


Figure 1 – Site Location

7 October 2020

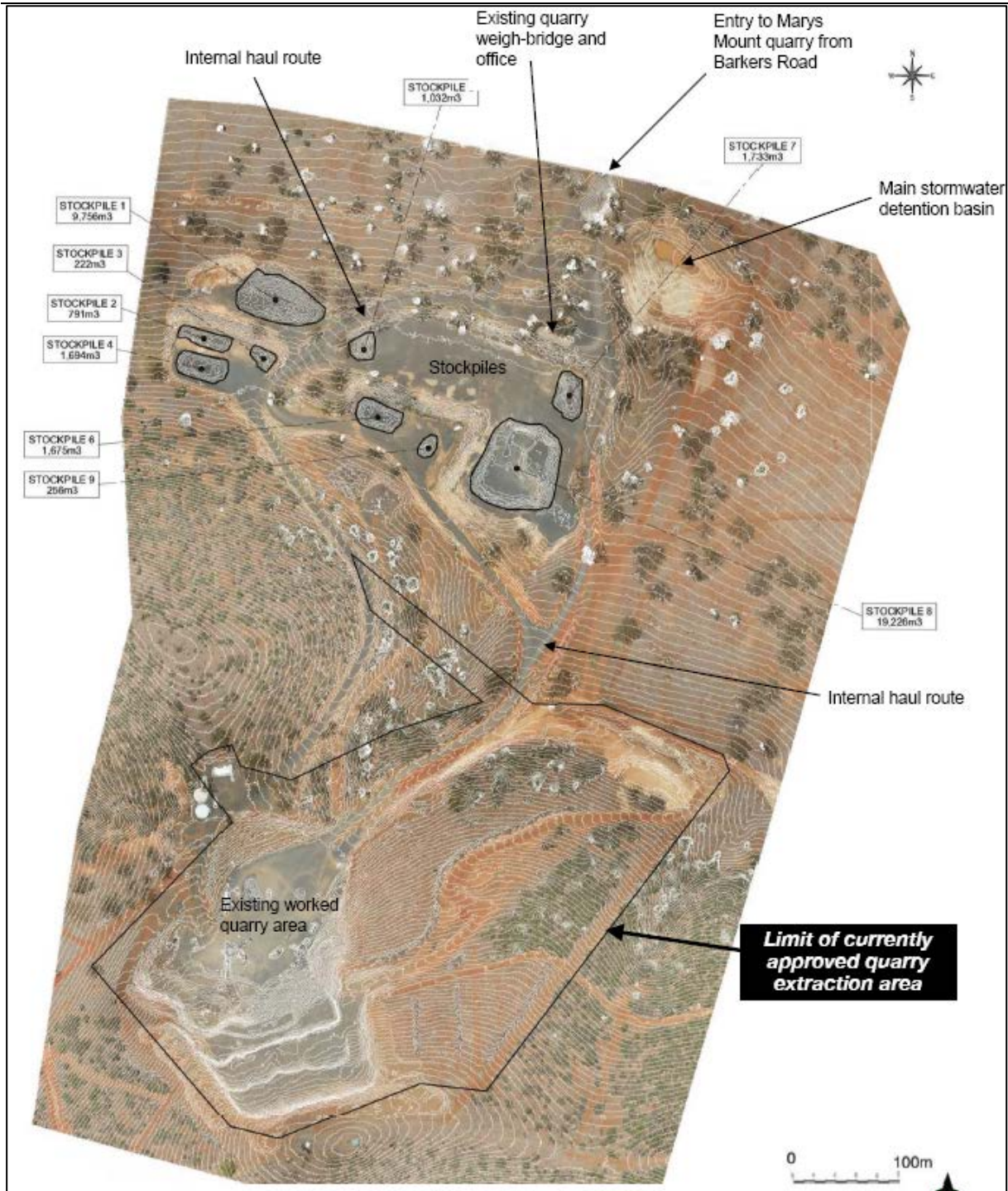


Figure 2 – Quarry footprint area

**BACKGROUND**

Development Application No. 2012/185 was approved by the Northern Joint Regional Planning Panel on the 3 May 2014 for the operation of an Extractive Industry with an extraction limit of 360,000 tonnes per annum over a 23 year life span, which includes a year for rehabilitation.

Council resolved on the 21 October 2015 (Resolution No. 4.10/15) for the amendment to condition reference to BioBanking Agreement, Flora and Fauna Assessment, Compensatory Habitat Assessment and Black Jack Mountain Offset Site Management Plan, as these documents were to be submitted to the Commonwealth Government under the provisions of the *Environment Protection and Biodiversity Conservation Act 1999*.

Council resolved, on the 4 December 2019 (Resolution No. 2.12/19P), for the alteration to the endorsed Voluntary Planning Agreement (VPA) relating to the approved Extractive Industry, to amend timeframes for the completion of works to Marys Mount Road.

## COMMENTARY

### *Issues*

#### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

##### **S4.55(2) Other Modifications**

The proposed development is considered to be substantially the same development as the development to which development consent was originally granted, despite any previous modifications to the consent. The development was not considered as a S4.55(1) or a S4.55(1A) modification as the development was not a misdescription or minor error and the modification was considered to involve more than minimal environmental impact.

The proposed modification proposes to temporarily increase the annual extraction volumes to 499,000, with 139,000 tonnes to be dedicated to service the major infrastructure project, the ARTC N2N and N2NS Inland Rail projects. The increase in volumes is not proposed to be used for any other project. The modification will include removal of percentage of haulage route use and vehicle volume as well as clarifying the definition of extraction as previously outlined.

However, despite the changes listed above, the development does not propose to change the size of the approved quarry footprint, quarrying method, employment numbers, quarry staging, number of blasts, operating hours, maximum number of quarry hauling vehicles numbers or nature of noise generating activities such as the crushing of rock or blasting currently permitted within Development Consent No. 2012/185.004. Hence, the development is considered to be substantially the same development.

The modification included referral to the NSW Environmental Protection Authority (EPA) as a concurrence authority to the original development proposal. The EPA provided comments for matters that should be considered as part of the development assessment. These matters have been identified and addressed further throughout this report. The submitted correspondence indicated that if the matters contained within the correspondence were satisfied with no changes to the development proposal, that concurrence could be assumed. Council's staff have confirmed this with EPA prior to the preparation of this report.

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

##### **Gunnedah LEP, 2012**

The development site is zoned RU1 Primary Production, under the provision of the Gunnedah Local Environmental Plan, 2012 (GLEP 2012). The following GLEP 2012 clauses are applicable to the development:

##### **2.3 – Zone Objectives and Land Use Table**

The development was originally determined to be consistent with the land use objectives of the RU1 land zone. The proposed modification is substantially the same development and the proposed changes are not expected to contradict the land use objectives.

##### **6.5 – Essential Services**

Arrangements have been made as part of the operation of the development for the management of water, stormwater and sewage onsite. There is no Council infrastructure located within the vicinity of the site that could or was required to be extended to the site. The site has vehicle access to Pownall Road via a battle-axe handle, however, this is not constructed and does not provide the vehicle access to the site. The development is currently accessed over the adjoining allotment through private agreement, with a sealed internal access from Barker Road to the quarry site.

The modification will not require further upgrade of vehicle access or internal driveways. The proponent is required to prepare and provide a Site Water Balance Report, which must address the required water volumes, the availability of this resource and supplier/sources, prior to exceeding the current approved annual production limit of 360,000 tonnes per annum. This matter has been addressed in a proposed condition of consent.

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

##### **State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)**

The submitted modification does not propose a change to the land use of the site. Hence, no further investigation was required.

**State Environmental Planning Policy (Koala Habitat Protection) 2019**

The development site has an approved Koala Plan of Management (KPoM) that was endorsed with the original development proposal. The proposed modification is considered to be consistent with this KPoM.

**State Environmental Planning Policy (Infrastructure) 2007**

Prior to the determination of the original development, the compatibility of the proposed development to the surrounding area was considered and determined to be acceptable. The proposed modification does not change the nature of the development to be conducted. The proposed modification will not change the zone of influence of the development as the development does not increase vehicle haulage numbers, noise or dust impacts or the total resource to be extracted.

**State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

Quarry extraction occurs within the RU1 Primary Production zone of the site, which does not apply to this clause. The modification will not change the footprint of the development or location of the associated infrastructure. The modification does not require the removal of any additional vegetation.

**S4.15(1)(a)(iii) provisions of any development control plan****Gunnedah Development Control Plan 2012 (Gunnedah DCP)****6.2 – Parking Requirements**

The development requires the provision of 8 onsite parking spaces. The modification does not propose the alteration to the obligations of this existing condition. The modification does not increase the required provision of onsite parking spaces.

**6.3 – Landscaping**

The development does not trigger the requirement for provision of landscaping onsite.

**6.4 – Outdoor Lighting**

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

**6.5 – Outdoor Advertising/Signage**

The modification does not include the installation of any additional signage.

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

The modification of consent proposal does not require any changes to development conditions pertaining to the number of vehicle movements permitted to and from the site over a daily or weekly period. The modification pertains to the alteration of annual extraction limits and changes to conditions, relating to haulage vehicle within the local road network. The modification does not require an increase in the number of vehicle movements as a result of the increase in production as the developer proposes to undertake material haulage via larger truck and dog vehicles, with increased vehicle capacities in this vehicle combination since the determination of the original development determination. The developer has indicated that the current expectation is that 43 tonne capacity truck and dog vehicles will be used for haulage of material, which grants the additional 139,000 tonne capacity of the modification without the need for additional vehicle movements.

Condition D3 currently commits the percentage usage of each of the two haulage routes, currently requiring 75% of vehicle movements via Barker Road – Marys Mount – Goolhi Road – Kamilaroi Highway and the remaining 25% via Barker Road – Marys Mount – Blackjack Road – Oxley Highway. The imposition of percentages of haulage routes are considered unreasonable and over prescriptive as the vehicle haulage route is dependent on the market demand. Hence, the removal of percentage of each haul route use is supported. However, the condition will retain the specific haulage routes as these are the vehicle routes that have been considered by Council for safety and acceptability of intersections for the movement of quarry vehicles against the current formation and usage of the network. Haulage along any other road networks was not considered as part of this modification of consent proposal.

The original modification proposal requested the removal of condition D4 which reads thus:

- D4.** The haulage of material shall be undertaken in the following heavy vehicles:
- 75% of heavy vehicles used shall be truck and dog (capacity of 32 tonnes);
  - 20% of heavy vehicles used shall be single semi-trailers (capacity of 27 tonnes); and
  - 5% of heavy vehicles used shall be B-doubles (capacity of 38 tonnes).

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

However, to ensure that haulage vehicles do not exceed the capacity of the road network based on the original traffic assessments conducted during the original development assessment, Council requested that the condition be amended rather than be removed to state that haulage be restricted to those vehicle combinations legally permitted within the road network (proposed condition D4a). This allows Council, as the roads authority, to manage the suitability of traffic based on the formation and traffic conditions within any of the approved haul routes. It is this assessment's expectation that this will enable for increase efficiency in haulage volumes and will not inhibit the future operation of the quarry. The amendment to this condition would not be restricted to the increased extraction limitation and could be an ongoing change, that is it would not need to revert post completion of the ARTC N2N and N2NS Inland Rail projects.

#### *Flood Liability*

The development site is not flood prone land. The modification will not result in the development increasing potential for flooding on surrounding areas or result in the development encroaching into areas subject to flooding.

#### *Slope*

The current quarry excavation occurs into the side of Marys Mount, resulting in a final land void from the extraction of material from the hillside. The modification to the development consent does not result in a change to the extent of the extraction area or change in the final rehabilitation land form.

#### *Construction Impacts*

The modification does not require any construction works. Construction impacts are within the scope of the existing development.

#### *Solid and Liquid Waste*

The modification is not expected to generate any additional solid or liquid waste. Existing waste management procedures are to be maintained for the life of the development.

#### *Air Quality (Odour and pollution)*

The proposal is not expected to result in any change to air quality impacts, with no additional dust generation from the site or creation of air pollutants. The modification proposal does not absolve the developer from complying with the current air quality management plan. The development will not extend the quarry footprint, exceed current traffic movements or increase the number of blasts conducted onsite. Hence, it is considered that air quality impacts are adequately addressed through the original assessment of the development.

#### *Noise Emissions*

The modification of consent does not propose to increase the number of blasts permitted for the development per annum or the number of vehicle movements permitted within the local road network for haulage of quarry material from the site. Noise impacts are addressed in detail further throughout this report.

#### *Water Quality*

The modification of consent proposal is not expected to increase any detrimental impacts on water quality from the development. Existing soil and water management plans are unchanged and sediment and erosion controls are still to be retained. The increase in extraction or change to haulage proposed is not expected to change the impacts on any of these plans or controls. Water resource availability is addressed elsewhere within this report.

#### *Sustainability*

The development is an unsustainable development by its nature with the extraction of non renewable material for sale and use off site. The original development proposal included a rehabilitation plan required for the eventual decommission of the quarry after the 22 year lifespan of the development. The modification does not absolve the rehabilitation works or any of the ongoing environmental and ecological management impact mitigations proposed to be carried out during the ongoing operation of the development.

### **6.6.2 – Erosion and Sediment Control**

Current Sediment and Erosion obligations are unchanged as part of the modification of consent proposal.

---

**54.15(1)(b) the likely environmental impacts on the natural and built environments and social and economic impacts in the locality***Context & Setting*

The development site is located within a rural locality to the north west of the Village of Mullaley and West of the township of Gunnedah. The development site contains an existing operational Extractive Industry (Quarry) that sources material from the side of Mary Mount. The development includes onsite stockpiles, a weigh bridge, storage tanks and other associated infrastructure. The development is not located within any public reserves and hence, the modification will have no bearing on the streetscape. As the modification will not change the number of vehicle movements, blasting limits or haulage route the development is not expected to have any additional impact to the setting of the area.

*Access, Transport and Traffic*

The modification of consent application does not propose a change to the number of vehicle movements permitted daily or weekly from the site. The development is able to accommodate the haulage of the increase in annual volume for the extent of the ARTC N2N and N2NS Inland Rail projects, with the use of larger haulage vehicles. The modification proposes alterations to condition D4 to remove the restriction imposed on the combination and percentage of haulage vehicles use. This condition will be replaced by proposed condition D4a, which ensure that haulage vehicles are limited to vehicles permitted by the road authority. This ensures that only vehicles determined by the road authority as being safe within the road network are utilised for haulage of material. Legally authorised vehicle sizes will be considered based on the formation of the roadway, road widths, intersections and other matters for consideration.

*Heritage*

Heritage assessment was considered as part of the original development assessment with an identified aboriginal heritage site located on the property. The original quarry development and the quarry pit area did not impact on this site. Hence, as the proposed modification does not propose to extend the overall footprint of the quarry site, the development is not expected to have any further impact on any item of aboriginal or European heritage.

*Other Land Resources*

The development area was not considered to be prime productive agricultural land and the temporary increase in production does not result in additional impacts to surrounding agricultural land. The modification of consent proposal does not increase the area that the development will operate over. Despite an increase in the total annual extraction limit, the total resource volume will be unchanged.

*Water*

The development will require an increase in water resource availability for the increase in annual extraction for the life of the ARTC N2N and N2NS Inland Rail projects. The increase in annual extraction is not expected to require additional water usage for haul road dust suppression as the internal haul road is now sealed. The increase in extraction will trigger an increase in water resource allocation from the increased dust suppression during the crushing and screening of material onsite and the predicted or potential increased usage of onsite amenities.

Water resources are available from a groundwater bore, onsite surface water runoff dams (2) and tank storage. The developer has a commercial license for 20ML per annum for the use of the quarry. The previous Environmental Impact Statement accompanying the original development application indicated that this bore had a sustainable yield of 50kL/h considering typical annual rainfall the two storage dams have an annual average runoff volume of 44ML, with the two dams having a combined volume capacity of 9ML. The site has storage tank capacity in excess of 200,000L.

When considering the potential 38% increase in annual production proposed by this modification proposal, the developer anticipates that crushing of material will require approximately 21kL/day. The supplied water balance indicates that the total demand of water by the development when considering development usage requirements as well as evaporation and seepage loss from onsite storage dams, will be 18.2ML/annum. Although the application to modify consent has indicated that there is in excess of 60ML/year available for the operation of the development, in the event that lower than average rainfall is recorded at the site there is adequate capacity in the bore license to accommodate the entire water usage requirement of the proposed increase in extraction in excess of the currently approved development.

The NSW EPA recommendation for the inclusion of a water balance has been accepted by the developer. However, a Water Balance for the increased production rates was prepared by Martens Consulting Engineers and accompanied the developers response to submissions. This report informed the above assessment.



*Flora and fauna*

The modification does not change the area of impact for the development to facilitate the additional annual extraction limits. The development will not require additional vegetation removal or an increase loss of habitat for Flora and Fauna.

*Waste*

The modification proposal will not result in additional waste generation from the development.

*Noise & vibration*

The modification of consent does not propose to change the development operation hours that were granted, including the permitted hours for vehicle haulage. The modification will result in an increase annual extraction of material from the quarry site, allowing for an additional 139,000 tonnes of material without the need for an increase in number of blasts. The development currently has consent to undertake 7 blasts per year. Noise, vibration and fly rock generated in the undertaking of the 7 blasts was considered and determined to be acceptable for the original development. The developer has been able to operate the current operations within as few as 2-3 blast per year. Hence, the modification is able to be conducted within the current consent conditions and assessment of noise and vibration from blasting of the original development proposal and no additional noise or vibration impacts are expected.

The modification of consent proposal does not propose an increase in vehicle traffic levels. The modification will amend conditions pertaining to the size and combination of haulage vehicles and the percentage of trips along the two approved haul routes. No change will occur to the existing approved haul routes. The sealing of the haul routes has resulted in a reduction of traffic noise from haulage vehicles. With the sealing of the entire haulage route the impacts from operational traffic will have been reduced over the route, this coupled with existing driver code of conduct, paving of the internal haul route and limits on haulage times are expected to ensure that the development complies with the *NSW Road Noise Policy (2011)*, which was determined to be able to be met during the assessment of the original development assessment. The modification does not increase the number of vehicle permitted for material haulage. Hence, the modification is not expected to exceed the noise impacts form vehicle movements within the local road network.

*Natural hazards*

The development site is not mapped as being flood prone land within the Gunnedah Local Environmental Plan 2012. The development site is identified as being bushfire prone land. The proposed modification does not impact any further on the areas of bushfire prone land nor is it expected to increase the threat of bushfire to the development.

*Social & Economic impact in the locality*

The modification proposal does not indicate an increase in employment opportunities as a result of the development. However, the increase capacity of the development will attribute to the viability of the operation of the enterprise to continue its ongoing employment of local operators and staff, which current includes over 25 staff. The modification does not have any negative social or economic impacts on the surrounding locality or the broader community.

*Cumulative impacts*

The original development was not expected to have any significant negative cumulative impact that would need to be addressed. The modification proposal will increase the annual extraction limits for a limited period to service the major infrastructure project, the ARTC N2N and N2NS Inland Rail projects. Upon completion of this major infrastructure project the quarry annual extraction limit will revert back to 360,000 tonnes per annum. Hence, the modification is not expected to increase the cumulative impacts of the development.

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

The proposed development is consistent with the existing development in the locality. The modification proposal is considered substantially the same development as that of the original approved and operating development. The development site was considered to be suitable for the development during the assessment of the original development.

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

There was an obligation for the modification proposal to be notified to the adjoining land holders and be publicly exhibited in accordance with the Gunnedah Community Participation Plan 2020 (CPP) and Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, as the original development proposal was notified and advertised.

Council staff also elected to notify all previous submission makers to the development (including subsequent modifications) and all adjoining land holders. The notification period was from the 25 June 2020 to 30 July 2020.

As Designated Development the modification proposal was exhibited on Council's webpage for the extent of the exhibition period and an exhibition notice was placed at the development site in accordance with *Clause 77-78* of the *Environmental Planning and Assessment Regulations 2000*.

Council received three submissions during the exhibition period. Matters raised within these submissions are detailed and addressed as per the following:

- WaterNSW, offered no objection to the development.
- Transport for NSW identified the following matters for consideration:
  - *No limitation to the modification extension to production limits*  
The modification proposal for the increased annual production limits is to be granted for the extent of the ARTC N2N and N2NS Inland Rail projects only. It is not practical to impose a specific time period for the extent of the increase in extraction limits as the commencement of the ARTC N2N and N2NS Inland Rail projects are not under the control of the developer. The imposing of a time period may impact the developer's ability to provide product in the event that the project commencement is delayed or the works exceeds an expected construction period. Conditions are to be drafted to ensure that the increase from 360,000 tonnes to 499,000 tonnes (139,000 tonne increase) is clearly permitted for this project only and as a result would cease once this project is completed.
  - *Haulage routes are not approved for B-Double usage.*  
Condition D4 has been amended to identify that vehicle haulage is to be undertaken by vehicles that are permitted by the road authority as being acceptable for the road network configuration, including intersections.
  - *No consideration of the safety of level crossing at Emerald Hill*  
There is no change to number of vehicle movements to that of the original development proposal. The modification proposal is not expected to have any increased impacts on the level crossing within the village of Emerald Hill.
  - *Is there a need for Traffic Management Plan and Code of Conduct to be updated?*  
The Traffic Management Plan was considered during the assessment of the original development determination. Consent conditions address the impact of the development by haul route, children and school bus safety, regular toolbox meetings, complaints resolution register community consultation. The imposition of conditions A1, A2, C4, C5, C6, C7, C18 and D2, serve the same purpose as updating the Traffic Management Plan and Code of Conduct. Hence, there is no obligation for the Traffic Management Plan and Code of Conduct to be updated as part of this proposal.
- NSW Environmental Protection Authority (NSW EPA) identified the following matters for consideration:
  - *Need for the update of the current Environmental Protection License (EPL) to clarify the development land title description is accurate.*  
The developer has indicated that they understand that this license has to be updated.
  - *Water balance to ensure adequate water is available for increase in production.*  
The development has accepted the proposed condition suggested by the NSW EPA. The developer has provided a Water Balance report as part of the response to submissions. This report was utilised in the assessment of this modification proposal.
  - *Impacts of blasting or noise from the increase operation*  
The development does not require an increase in number of blasts. The original development assessment included the consideration for up to seven blasts per annum. The modification proposal indicates that the developer has been able to achieve the current extraction of the quarry with as few as 2-3 blasts per year. Hence, the increase in annual extraction does not require additional blasts that could impact on the surrounding environment. The development does not increase traffic movements or extend approved operating hours, additionally internal haul routes have been sealed since the original development evaluation. Hence, when considering these matters the development is not expected to result in additional noise impacts as the development is able to be undertaken within the limits of the current assessment and consent.
  - *Does the modification comply with NSW Road Noise Policy (2011)*  
As identified within this report, the development does not increase number of daily haul vehicles to or from the site. The nearing completion of the entire seal to the development haul route (sections of Mary Mount Road awaiting final seal by the developer in accordance with the adopted Voluntary Planning Agreement) is expected to have had a reduced impact on the noise generation from vehicle traffic along the haulage route.

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

The original development was regarded as being integrated and designated development. The NSW EPA was notified of the modification as a concurrence body to the original determination. The EPA has provided comments. Matters raised have been addressed previously through this report.

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 modification.

**Conclusion**

The Application to Modify a Development Consent is seeking consent for the temporary amendment to annual extraction limits (360,000 tonnes to 499,000 tonnes per annum) and amendments to definition of extraction and adjustments to quarry truck traffic. The application has been assessed under the provision of the *Environmental Planning and Assessment Act 1979* and other applicable legislation, plans and policies. The evaluation of this Application to Modify a Development Consent has concluded that the proposed modification is compliant with the legislative requirements and is regarded to be substantially the same development as the original development consent granted.

As per the recommendation of this report, it is concluded that Application to Modify Development Consent No. 2012/185.005, at Lot 22 DP 1216060 & Lot 2 DP 865898 – 334 Pownall Road, Mullaley and 259 Barker Road, Marys Mount should be approved subject to the amended conditions requested.

*Councillor D Moses declared an interest, left the Chamber and took no part in the discussion or consideration of this item.*

<b>ITEM 2</b>	<b>S4.55(1A) Application to Modify Development Consent No. 2019/031.002 – Amendments to development site plan, floor plan and elevations, increase in number of onsite parking spaces, removal of subdivision, consolidation and associated conditions – Lot 1 DP 1229687 &amp; Lot 7 Sec 33 DP 758492 – 209-211 &amp; 205-207 Bloomfield Street, Gunnedah</b>
<b>MEETING</b>	Planning, Environment and Development Committee – 7 October 2020
<b>DIRECTORATE</b>	Planning and Environmental Services
<b>AUTHOR</b>	Senior Development Officer
<b>POLICY</b>	Nil
<b>LEGAL</b>	Environmental Planning and Assessment Act, 1979 Gunnedah Local Environmental Plan, 2012 Gunnedah Development Control Plan, 2012
<b>FINANCIAL</b>	Nil
<b>STRATEGIC LINK</b>	Community Strategic Plan 2.4.5 Implement and advocate for planning strategies and systems that are streamlined to foster and encourage the establishment of new business. Operational Plan 2.4.5.1 Provide efficient and effective application, assessment and certification services in accordance with relevant legislation policy and regulation.
<b>ATTACHMENTS</b>	Nil

**2.10/20P COUNCIL RESOLUTIONS:**

**That the S.455(2) Application to Modify Development Consent No. 2012/185.003, for the Amendment to development site plan, floor plan and elevations, increase in number of onsite parking spaces, removal of subdivision, consolidation and associated conditions – Lot 1 DP 1229687 & Lot 7 Sec 33 DP 758492 – 209-211 & 205-207 Bloomfield Street, Gunnedah be approved subject to the deletion and insertion of the following conditions of consent (amended conditions underlined):**

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

**A1.** Deleted

**A1a.** The proposed development shall be carried out strictly in accordance with the details set out in the following:

- Development Application form lodged 12/04/19;
- Statement of Environmental Effects, prepared by Stewart Surveys Pty Ltd, dated 10 April 2019, ref: 5161;

- Further Information, provided Stewart Surveys Pty Ltd, dated 15 May 2019, Ref: 5161;
- Submitted plans:
  - Prepared by Alto Architects Pty Ltd, dated 25/09/2020, Ref: 181202BLO, Drawing No. TP-100, Issue A (Site Plan – Ex/Dem), Drawing No. TP-101, Issue A (Site Plan - Proposed), Drawing No. TP-201, Issue A (Ground Level), Drawing No. TP-202, Issue A (Roof Level), Drawing No. TP-400, Issue A (Building North & South Elevation), Drawing No. TP-401, Issue A (Building East & West Elevation);
  - Prepared by Stewart Surveys Pty Ltd, dated 19 June 2020, Ref: 5161, Drawing No. 1, Rev C (Site Servicing Strategy);
- Supporting Documentation:
  - Site Servicing Strategy Report, prepared by Stewart Surveys Pty Ltd, dated 10 April 2019, Ref: 5161;

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 approval, consent is granted for a childcare centre with a maximum of 128 children.

**Reason: To ensure compliance with development controls.**

**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 80A (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 80A (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 187 or 188, subject to the terms of any condition or requirement referred to in clause 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 80A (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 certifying authority 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 109R 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 certifying authorities 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 certifying authority 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 certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

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

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

**B4. Condition relating to shoring and adequacy of adjoining property**

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

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

**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 dwelling. **NO BUILDING WORKS SHALL COMMENCE WITHOUT FIRST OBTAINING A CONSTRUCTION CERTIFICATE.**

*Reason: To meet statutory requirements.*

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

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

**Building Works**

- C3.** Prior to building works for the centre-based childcare facility, Council's sewer main is to be reconstructed in accordance with the submitted Servicing Strategy, prepared by Stewart Surveys Pty Ltd, dated 10 April 2019, Ref: 5161, and the amended services plan, prepared by Stewart Surveys Pty Ltd, dated 14 June 2019, Ref: 5161, Drawing No. 1, Issue B.

*Reason: To ensure no construction works occur over Council's Infrastructure.*

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

- D1.** Prior to the issuing of a Construction Certificate by the Council or an Accredited Certifier, the Long Service Levy is to be paid.

*Reason: To comply with statutory requirements.*

- D2.** 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.*

- D3.** Prior to the issuing of a Construction certificate, the Developer shall pay to Council a levy as applicable at the time of payment, relative to the total project value, in accordance with the Council's Section 94A Contributions Plan 2013 under Section 94A of the Environmental Planning and Assessment Act 1979. The current calculated levy payable is \$4,000, revised construction cost may incur a varied levy fee.

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

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

- D4.** In accordance with Clause 94 of the Environmental Planning and Assessment Regulation 2000 plans are to be submitted with the Construction Certificate demonstrating how the building will fully conform to fire and spread of fire requirements of the Building Code of Australia.

**Reason: To ensure fire safety.**

- 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 sewerage works
  - (c) Carry out stormwater drainage works

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

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

#### **Infrastructure Works**

- D6.** Engineering drawings and specifications for the construction and installation of all works relative to the proposed subdivision shall be submitted to Council for approval prior to infrastructure works commencing. The design of all works is to be related to the adjoining infrastructure. All drawings and specifications are to be in accordance with Council's Engineering Guidelines for Subdivision and Development, 2013.

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

#### **E. GENERAL**

- E1.** Roof water caught and drainage from the sealed car parking area is to be discharged directly to the street gutter sealed stormwater pipes or to existing internal stormwater infrastructure servicing the site so long as the internal stormwater system is connected to Council's reticulated stormwater system.

**Reason: To ensure stormwater is appropriately disposed of.**

#### **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.**

#### **Traffic and Parking**

- E3.** All internal driveways, parking areas, loading bays and vehicular turning areas are to be constructed with a base course of adequate depth to suit design traffic, being hard sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers or other alternative product which has been approved by Council. Parking areas must comply with AS 2890 – *Parking Facilities* and Council's Engineering Guidelines for Subdivisions and Developments, 2013.

**Reason: To ensure compliance with relevant Australian Standards and to facilitate the use of vehicular access and parking facilities.**

- E4. Onsite car parking accommodation shall be provided for a minimum of twenty six (26) vehicles, to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. Such being set out generally in accordance with the details indicated on the submitted plans, except as otherwise provided by the conditions of this consent.

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

- E5. Exit only signage is to be provided in a prominent position at the new Bloomfield Street vehicle access, being clearly visible from the street. A designated left turn only sign is to be placed in a prominent position within the property boundary at the driveway exit onto Bloomfield Street. A left turn only directional arrow shall be painted on the car park pavement within the property boundary.

*Reason: To ensure adequate information is provided to Council.*

- E6. The developer is to provide a privacy screen, consistent with the existing privacy screen, along the south property boundary between the development site and Lot C DP 342233, 50B Carroll Street, to a height not exceeding 2.5 metres.

*Reason: To minimise impacts on the amenity of the adjoining residential property.*

#### Infrastructure Works

- E7. All works undertaken by contractors (ie. other than Council) shall be inspected by Council to ensure that the works are undertaken in accordance with Council's Engineering Guidelines for Subdivision and Development, 2013. The inspection fee for each section of the work carried out by contractors shall be paid to Council prior to the issue of a Construction Certificate.

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

- E8. The contractors engaged on the development of the subdivision must maintain public liability insurance cover to the minimum value of \$20 million. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Documentary evidence of the currency of the policy shall be provided to the Council prior to commencement of work and upon request, during the progress of the work.

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

#### Easements

- E9. A three (3) metre wide easement in Council's favour shall be created over all water, stormwater and sewer mains located within lot boundaries.

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

#### F. DURING CONSTRUCTION WORKS

- F1. The dwelling and outbuildings shall only be demolished or removed from site in accordance with the requirements of AS2601-2001 "The Demolition of Structures" and the requirements of the Workcover Authority of New South Wales including but not limited to:
- (a) Protection of site works and the general public.
  - (b) Erection of hoardings where appropriate.
  - (c) Asbestos and lead based paints handling and disposal where applicable.

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

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

- F2. Prior to the commencement of demolition works or the relocation of the existing dwelling, all water and sewerage connections to Council's infrastructure are to be capped off by a licensed plumber so as to prevent any contamination of Council's reticulation systems.

*Reason: To ensure the integrity of Council's sewerage and water systems.*



- F3.** All work on the demolition is to be carried out strictly in accordance with current Workcover requirements and only between the hours of 7.00am and 5.00pm on weekdays and 8.00am and 4.00pm on Saturdays. No demolition work shall occur on Sundays or Public Holidays.

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

- F4.** The developer shall ensure all practicable measures are taken to minimise the release of dust into the atmosphere from the onsite and from vehicles transporting material off-site.

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

- F5.** The deliberate burning of the building and/or demolition material shall not be permitted.

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

- F6.** All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and they must be properly guarded and protected to prevent them from being dangerous to life or property.

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

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

**G1. Inspections by the Principal Certifying Authority – Mandatory Critical Stage Inspections**

48 hours prior to the covering of the following works, the Principal Certifying Authority appointed pursuant to Section 81(2)(b) of the Environmental Planning and Assessment Act 1979 shall be notified that works are ready for inspection. (Note: Inspections in **bold type** are mandatory critical stage inspections under the Act and **MUST** be carried out by the Principal Certifying Authority. If these inspections are not carried out by the Principal Certifying Authority an Occupation Certificate cannot be issued).

- (a) **Piers (if any) prior to pouring of concrete**
- (b) **Footing trenches with reinforcement prior to pouring of concrete**
- (c) **Concrete slab formwork with reinforcement prior to pouring of concrete**
- (d) **Structural framework including roof members. When completed prior to the fixing of any internal sheeting**
- (e) **Wet area, damp proofing and flashing before lining**
- (f) **Bearers and joist inspection, including tie down requirements and ant capping. When completed and prior to the laying of the floor.**
- (g) **Final inspection prior to use of the building.**

The above listed works may not be covered until approval is obtained from the Principal Certifying Authority or his/her duly appointed delegate.

*Reason: To ensure compliance before, during and after construction.*

- G2.** 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.*

- G3.** No permanent structures are to be placed on any easement.

*Reason: To ensure legal requirements.*

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

*Reason: To ensure site safety.*

- G5.** Any damage caused to kerb, guttering and/or footpath during building operations, shall be rectified by the developer in accordance with Council's Driveway crossing standards and specifications.

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

- G6.** Before erection of any permanent structure such as fences, concrete car drives, garages etc. adjacent to street boundaries, correct street levels must be ascertained from the Council's Infrastructure Services Department.

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

- G7.** Any redundant driveway layback and footpath crossing located along either of the road frontages is to be removed. Kerb and guttering and level footpath is to be constructed where the layback is removed to match existing footpath crossover and gutter levels.

***Reason: To ensure safety and amenity of council footpath and road reserve.***

- G8.** The removal of the single silky-oak tree in front of Lot 7 Sec 33 DP 75849, from the footpath of Bloomfield Street is to be removed at the developers cost by a suitably licensed contractor.

***Reason: To ensure safety and amenity of council footpath and road reserve.***

- G9. 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.***

- G10.** 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.***

- G11.** The developer shall install to Bloomfield Street a full width concrete kerb layback and concrete driveway crossing across the footpath to give access to the development site in accordance with the approved site plan, Prepared by Alto Architects Pty Ltd, dated 22/08/2019, Ref: 181202BLO, Drawing No. SD-101, Issue B. All works are to be undertaken and inspected in accordance with Council's Engineering Guidelines for Subdivision and Development, 2013. A copy of the concrete crossover specification sheet can be downloaded or viewed on Council's website at: <http://www.gunnedah.nsw.gov.au>

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

***Reason: To ensure access is maintained and to implement Council's policy***

**G12.** Deleted

**G13.** Deleted

- G14.** Prior to the back filling all mains, a visual inspection is to be undertaken by Council.

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

- G15.** All back fill over sewer mains shall be a 3-5 mm granular grit.

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

- G16.** Vacuum or air testing is required to all mains as per Sewer Code of Australia WSA 02-2002 clause 22.4.2

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

- G17.** A mirror inspection to gauge deflections of the sewer main is to be undertaken by Council after 14 days of the installation date on each section from manhole to manhole with full moon witnessed.

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

**H. PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

**H1.** Deleted

**H2.** Deleted

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

- I1.** 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.**

- I2.** Prior to the issue of an Occupation Certificate the subdivision certificate for the consolidation of Lots 7 Sec 33 DP 758492 and Lot 1 DP 1229687 into one lot, is to be registered with the land and property information and notice of the registration provided to Council.

**Reason: To ensure no structures are positioned over lot boundaries.**

- I3.** Prior to issue of an Occupation Certificate all statutory fire safety measures listed in the fire safety schedule (attached to the Construction Certificate) are to be installed in accordance with the standards detailed and the owner of the property shall provide a fire safety certificate for each statutory fire safety measure to the Principal Certifying Authority.

**Reason: To ensure compliance and fire safety of building.**

- I4.** A Compliance Certificate for each stage under Division 2 of Part 3 of the Water Supply Authorities Act 1987 must be obtained from the Council (as the local water supply authority).

**Note:** Council requires the following contributions to be paid prior to issuing a compliance certificate to allow continued funding of water and sewer facilities.

- \$7,868 for Water headworks
- \$20,437.50 for Sewer headworks

The contributions for the works shall be paid prior to the issue of an Occupation Certificate.

The contributions are determined in accordance with the Development Servicing Plan for Gunnedah Shire Council Water Supply and Development Servicing Plan for Gunnedah Shire Council Sewerage commencing on 01 July 2012, a copy of which may be inspected at the office of the Council. The above contributions have been adopted under the Council's 2019/2020 Operational Plan. Revised rates adopted by Council in the subsequent Operational Plans will apply to lots released in later financial years.

**Reason: To ensure compliance with Council's Development Services Plans.**

**J. CONTINUED OPERATIONS**

- J1.** The owner of the building shall submit to Council at least once in each period of twelve (12) months following the building's completion, an Annual Fire Safety Statement with respect to each essential fire safety measure associated with the building.

**Reason: To ensure compliance and fire safety of the building.**

- J2.** The development operating hours are limited to the operation of the premises between the following hours:

- Monday – Friday: 7.00am until 6.00pm
- Saturday – Sundays: Closed

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

- J3.** All landscaping shall be maintained at all times in accordance with the approved landscape plan.

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

- J4.** The sealing to all vehicular parking, manoeuvring and loading areas is to be maintained at all times.

**Reason: To ensure maintenance of car parking areas.**

**MOTION**    *Moved Councillor J CAMPBELL*  
                  *Seconded Councillor C FULLER*

COUNCILLOR	COUNCILLORS FOR	COUNCILLORS AGAINST	COUNCILLORS ABSENT	COUNCILLORS DECLARING AN INTEREST
JR Campbell	X			
J Chaffey			X	
C Fuller	X			
OC Hasler	X			
R Hooke	X			
A Luke	X			
D Moses				X
M O'Keefe			X	
RG Swain			X	

**PURPOSE**

This Development Application is being referred to Council for determination as Council made determination of the original development proposal.

Applicant:                    Richard Partiquin,  
    C/- Stewart Surveys Pty Ltd,  
 Owner:                         Mr R & Mrs B Patriquin,  
 Property Description:      Lot 1 DP 129687 and Lot 7 Sec 33 DP758492,  
    209-211 & 205-207 Bloomfield Street, Gunnedah

*Proposed Development*

This application proposes to amend the development proposal to removal the subdivision from the development, re-orientate the building to improve solar access and allow for greater fire separation and increase the onsite parking area from 26 spaces to 37 spaces.



Figure 1 – Site Location

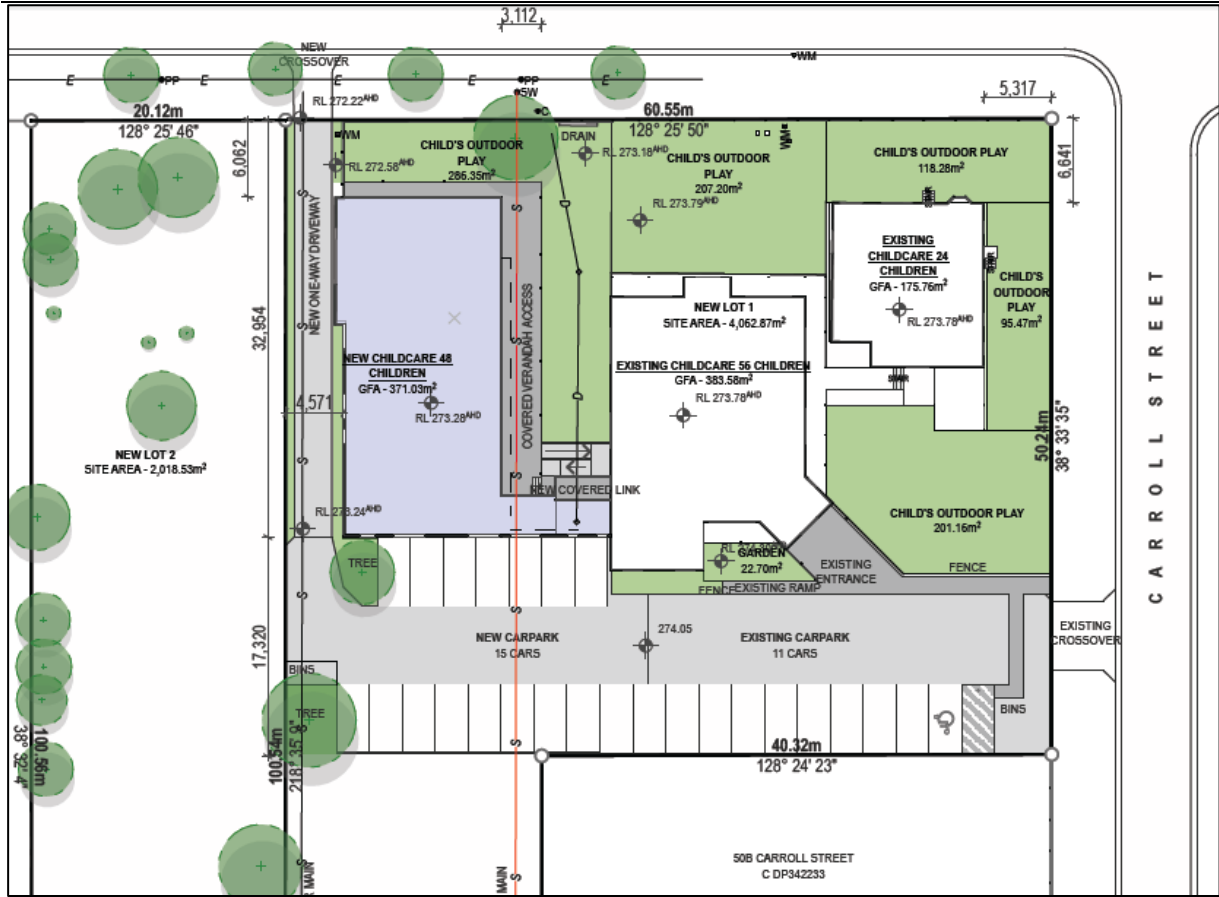


Figure 2 – Development Site Plan (As Approved)

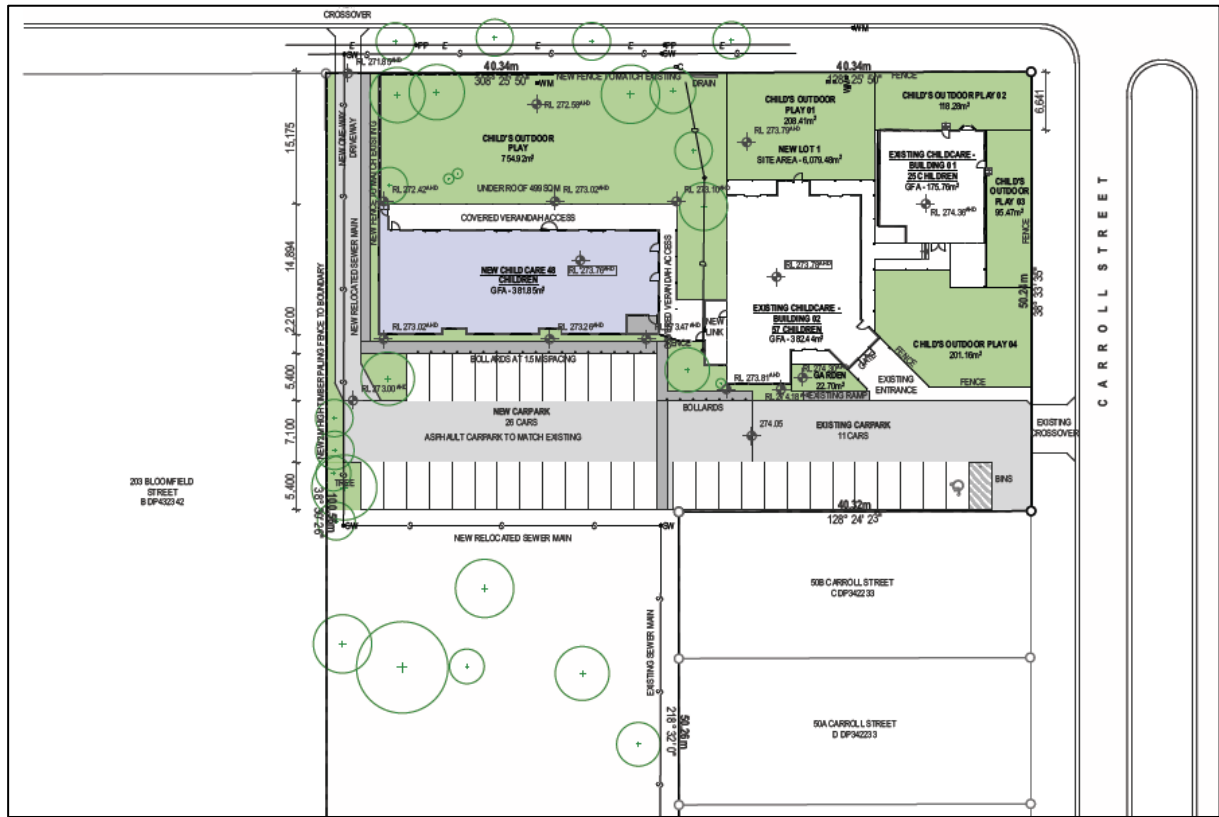


Figure 3 – Development Site Plan (As Amended)

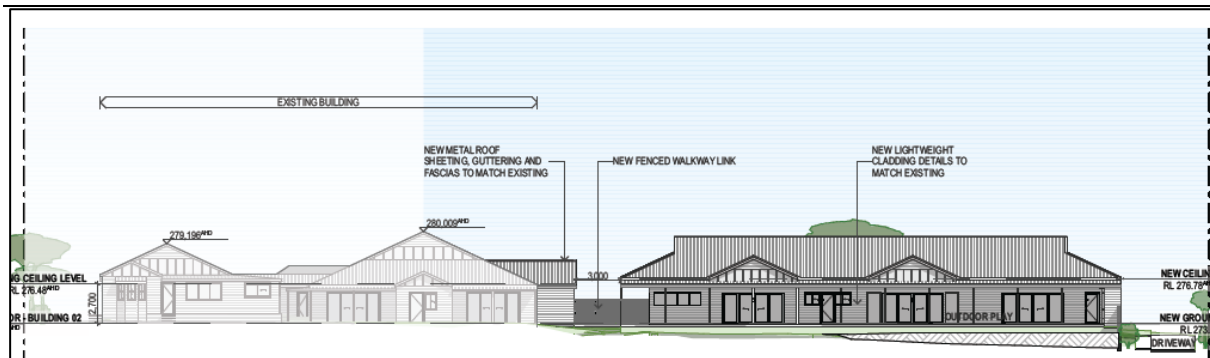


Figure 4 – Elevation Plan

**BACKGROUND**

In August 2014 Council granted conditional development consent (No. 2014/065), for the operation of the site as a Childcare Centre with an original capacity of 25 children. In February 2017, Council approved an extension to the existing Childcare Centre (Development Consent No. 2016/096) for the construction of a new building for the purposes of childcare, with an increase in capacity to 80 children. Council has also issued development consent on two separate occasions (DA No. 2015/024 and DA No. 2018/083) for the installation of shade sail structures within the building setback.

Development Application No. 2019/031 was approved by Council (Resolution No. 1.09/19P) on the 4 September 2019 for the relocation of the existing dwelling house, demolition (relocation) of existing outbuildings, construction of an extension to the existing Centre based Child Care Facility to accommodate an additional 48 children and the consolidation of two lots into one lot.

**COMMENTARY**

*Issues*

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

**S4.55(1A) Modification Involving Minimal Environmental Impact**

The proposed development is considered to be substantially the same development as the development to which development consent was originally granted. The application was not considered as a S4.55(1) as the development was not a misdescription or minor error within the development documentation or plans and the application is not regarded as a S4.55(2) as the development will have minimal environmental impacts.

The modification proposes minor alteration to the development plans to change the orientation of the proposed building and provision of additional parking spaces within the parking area. The amendments to conditions will include the removal of and conditions apply to the undertaking the subdivision. The amendment does not propose any works that where outside of the original development assessment. Hence, the development is considered to be substantially the same development.

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

**Gunnedah LEP, 2012**

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

**2.3 – Zone Objectives and Land Use Table**

The development was originally determined to be a permissible land use within the R2 Land Use Table. The proposed modification is substantially the same development and the proposed changes are not expected to contradict the land use objectives.

**4.1 – Minimum Lot Size**

This clause no longer applies to this development as the subdivision of the land is to be removed as part of this modification proposal.

#### 4.4 – Floor Space Ratio (FSR)

The modification will result in a minor increase in Gross Floor Area (GFA) of 10m<sup>2</sup> (371.03m<sup>2</sup> to 381.85m<sup>2</sup>). The current proposal was calculated as having a FSR of 0.153:1. The minor increase in GFA will not result in the development exceeding the site specific FSR of 0.5:1.

#### 6.5 – Essential Services

The development has provision of relevant infrastructure. The modification does not impact on the provision of any of these services to the development.

#### State Environmental Planning Policies (SEPPs)

##### State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The proposed modification does not propose a change to land use of the site. Hence, no further investigation was required.

##### State Environmental Planning Policy (Koala Habitat Protection) 2019

The development site does not have an adopted Koala Plan of Management which applies. The development site is located on the *Koala Development Applications Map*, refer to Figure 5 below. However, the site does not have an area of greater than 1 hectare. Hence, Council is able to determine the development without needing to consider the impacts on Koala Habitat.



Figure 5 – Koala Development Applications Map.

##### State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017

Part 3, Clause 22 of *State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017* (Education SEPP), states that despite any DCP controls, Centre-Based Child Care Facilities are to have unencumbered indoor and outdoor space which complies with Regulation 107 and 108 of the *Education and Care Services Nation Regulation*.

Regulation 107 requires that a minimum 3.25m<sup>2</sup> be provided for indoor space, excluding areas used for purposes such as nappy changing, storage, staff rooms and amenities. The proposed modification of consent does not propose any alteration to the interior space of the building or any of the rooms. It was determined that the development had provision of adequate indoor space to satisfy these provisions for the additional children proposed. Hence, concurrence was not required from the Regulatory Authority by this clause.



Regulation 108 requires that a minimum 7m<sup>2</sup> be provided per student for outdoor space, excluding areas used for purposes such as pathways or thoroughfares, car parking areas or storage sheds. The proposed modification of consent will result in an increase in outdoor play area to 754.92m<sup>2</sup>. It was determined that the development had provision of adequate outdoor space to satisfy the provisions for the additional children proposed. Hence, concurrence was not required from the Regulatory Authority by this clause.

Part 3, Clause 23 of the Education SEPP, requires the development to comply with the provisions of the *Child Care Planning Guideline*. The original development was reviewed against the *Child Care Planning Guideline* and through the provision of onsite parking spaces, provisions of adequate indoor and outdoor play spaces and the provisions of adequate facilities such as children change rooms, etc. The development does not have a detrimental impact to the character of the area and the proposed activity is consistent with that of the surrounding locality. As the modification does not propose the amendment to any of these provisions the proposed modification of consent complies with the requirements of the *Child Care Planning Guideline*.

#### **State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

The development occurs within the R2 Low Density Residential zone of the Gunnedah Shire. Hence, this clause applies. The original development included the removal of trees from the site. The SEPP was considered as part of this development and no offsets were required. The proposed modification of consent does not propose the removal of any additional vegetation.

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

##### **Gunnedah Development Control Plan 2012 (Gunnedah DCP)**

###### **2.1.1 – Building Setbacks**

Council's building line map positions Council's building line 7.5 metres from Bloomfield Street as the primary property frontage. The original development consent required a variation to this development standard to enable the proposed building to be positioned 6.036 metres from the Bloomfield Street frontage.

The amendment to the building orientation within the site has resulted in the building no longer being located within the building line setback. The proposed modification to the development site plan proposes a setback of 15.056 metres from Bloomfield Street, which satisfies the building line setback. Hence, the proposed modification is favourable to the building line setback of the surrounding area and the development existing onsite. The building will be 4 metres from the western side boundary, being the closest side or rear boundary.

###### **Part 5 – Subdivision**

This section no longer applies as the modification proposes to remove the subdivision of the land from the development consent.

###### **6.2 – Parking Requirements**

Council's Development Control Plan requires the provision of one onsite parking space per 5 children accommodated at the site. The extension to the childcare centre will result in a total capacity of 128 children onsite. The increase in children required a total of 26 onsite parking spaces. The proposed modification does not propose to amend the maximum number of children to be accommodated onsite. However, the modification proposes to increase the number of onsite parking spaces to accommodate a total of 37 onsite parking spaces, which includes one accessible parking space. The proposed parking layout complies with AS 2890. The resulting number of onsite parking spaces is acceptable for the development.

###### **6.3 – Landscaping**

The modification will require the provision of more than 10 onsite parking spaces. Hence, the development had to retain onsite landscaping to soften the appearance of the large hard stand area. Despite the development providing more than 30 onsite parking spaces the development is not required to provide shaded structures over onsite parking spaces as the development is only required to provide 26 parking spaces, based on the parking demand of the development. Hence, the development does not trigger the provision of covered parking spaces.

###### **6.4 Outdoor Lighting**

The requirement of external lighting is not to be modified.

**6.6.1 – Environmental Effects***Traffic*

The original development was considered for the increase in traffic generation within the surrounding road network, including a traffic impact assessment. The modification does not propose the amendment to the access points to the site or any of the traffic mitigation measures that were imposed on the original development. The modification will not result in any change to traffic generation number to or from the site as the modification will not change the number of children that the site can accommodate. Hence, the traffic from the development is considered to be adequately managed.

*Flood Liability*

The development site is not subject to flood inundation as mapped within the Gunnedah LEP flood mapping being the expected 1 in 100 year flood event level. Hence, there are no specific flood planning requirements.

*Slope*

The site has a gentle slope falling from the rear of the site towards Bloomfield Street.

*Construction Impacts*

The modification does not impact on restricted construction or demolition hours. It is considered that the modification will have no alteration to construction impacts.

*Solid and Liquid Waste*

The modification will not impact on management of liquid and/or handling of solid waste.

*Air Quality*

The development is not expected to produce any potentially harmful pollutants. The hard sealing of the internal driveways will ensure that dust generation from vehicle movements will not become an issue.

*Noise Emissions*

The development is not expected to result in any noise and vibration with the exception of the construction phase. Assessment has been completed further through this report.

*Water Quality*

The development is not expected to have any impact on water quality. Stormwater is to be discharged directly to Council's stormwater network.

**6.6.5 – Noise**

The development is not expected to result in any substantial noise generation. The modification to the development does not propose to extend the existing operating hours that are approved between 7am to 6pm, Monday to Friday. Children's outdoor play areas and class rooms are retained along the road frontages to Bloomfield Street, away from adjoining property boundaries, to ensure that any general noise that is generated from these areas will have little impact on adjoining land holders. Car parking areas and driveways positioned around rear and side property boundaries will ensure that this creates a buffer zone between the operations and neighbours. As a result the levels of noise are not expected to have any impact or become a nuisance to the amenity of the surrounding area. The expected noise levels generated from a childcare centre are expected to be minimal. Noise generation during construction will be limited to Council's standard operation hours.

**6.6.2 – Erosion and Sediment Control**

Current Sediment and Erosion obligations are unchanged as part of the modification of consent proposal.

**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 two allotments. One lot contains the existing childcare centre and the other contains an existing dwelling house and associated outbuildings. The surrounding area is primarily made up of residential dwelling houses and a motel in close proximity. The development will involve the removal of the existing dwelling to enable the extension of the childcare centre. The proposed development is not similar to adjoining development but is considered to be a suitable land use that will not have any significant impact on adjoining land holders.

*Access, Transport and Traffic*

The proposed modification of consent proposal does not propose a change to the number of vehicle movements expected to be generated by the development each day. The development site has frontage to Carroll Street and Bloomfield Street for vehicle access. The modification will retain the through movement of vehicles onsite to reduce potential for vehicle conflict or incidence, with vehicle to enter from Carroll Street with left turn only exit from the site onto Bloomfield Street. Traffic impacts have been addressed previously through this report and as part of the original development evaluation.

*Other Land Resources*

The development is not productive agriculture land 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 will not impact on the provision of services to the site. Conditions relating to the provision of additional water service to allotments created by subdivision are to be removed as there is the development proposes to remove the subdivision from the development consent.

Council's Infrastructure Services Team have reviewed the development services contributions for water usage and determined that there would be no amendment to the headwork contributions required for the development as no headwork contributions were imposed for the subdivision of land in error on the original development determination. Development headwork contributions are applicable to the development of the Child Care Facility only. The headwork calculations were previously calculated for the original development determination utilising the credit that is granted by the existing two allotments. Hence, condition I4 is unchanged as a result of the removal of the obligation to remove the subdivision of the land into one allotment.

*Flora and fauna*

The modification does not involve the removal of any additional vegetation.

*Waste*

The development will not impact on the provision of services to the site. Conditions relating to the provision of additional sewer service junction to Council's main to any allotment created by subdivision are to be removed, as there is the development proposes to remove the subdivision from the development consent.

As per comments for water headwork contributions, Council's Infrastructure Services Team have reviewed the development services contributions for sewer usage and determined that there would be no amendment to the headwork contributions required for the development. No headwork contributions were imposed for the subdivision of land in error on the original development determination. Hence, condition I4 is unchanged as a result of the removal of the obligation to remove the subdivision of the land into one allotment.

*Noise & vibration*

The modification is not expected to result in any additional noise impacts to those considered in the original development assessment. Noise impacts are expected to be unaffected with Council's standard hours of operation will be imposed during construction works and the orientation of outdoor play areas being unchanged.

*Social & Economic impact in the locality*

The modification will not result in any additional social or economic cost not considered during the assessment of the original development determination.

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

The proposed development is consistent with the existing and future development in the locality. The modification proposal is considered substantially the same development to that of the original development, which was deemed to be suitable for during the assessment of the original assessment. Hence, the development site is still regarded to be suitable for the proposed development.

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

There was an obligation for the modification proposal to be notified to the adjoining land holders and be publicly exhibited in accordance with the Gunnedah Community Participation Plan 2020 (CPP) as the development is a non residential use within a residential zone. Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* also required the development to be notified, as the original development proposal was notified and advertised.

Council elected to notify all previous submitters to the development and current adjoining land holders. The notification period was from the 17 August 2020 to 31 August 2020.

Council received two (2) submissions during the exhibition period. Matters raised within these submissions are detailed and addressed as per the following:

- *Safety of other motorists in close proximity to the site, possible give way or stop sign for vehicles exiting the site*  
The development requires that vehicles exit the site in a left direction. Vehicles are unable to turn right across traffic due to the potential vehicle conflict and chance for traffic incidents. The proposed modification of consent does not propose any changes to the level of traffic generated by the development or the direction of travel through the site as part of this modification of consent proposal. Vehicle traffic was considered to be satisfactory during the assessment of the original development.
- *Use of adequate signage to identify Child Care Centre for safety*  
As identified above, traffic generation has been addressed previously during the assessment of the original development. The original development assessment did not identify a need for signage of this nature. The modification does not propose any change to this aspect of the development.
- *No standing zone outside of site during operations*  
The modification does not have the ability to change the parking of vehicles on the street. This parking area is currently permitted for 45<sup>o</sup> parking along Bloomfield Street and parallel parking on Carroll Street. On street parking along Carroll Street and Bloomfield Street or the creation of no standing zones is not a consideration for this modification.
- *Internal roundabout and exit to Carroll Street, including internal dividing fence to separate direction vehicles.*  
The access and exit of vehicles via Carroll Street is not possible with the dimensions available to the development to satisfy AS2890.1. The original development determined that the flow of vehicles into the site via Carroll Street and exit to Bloomfield Street was acceptable. The modification of consent proposal does not result in any change to the prior approved movement of traffic through the site.
- *Provision of staff parking onsite*  
The development required the provision of adequate parking spaces onsite to accommodate the proposed development. The minimum requirement of 26 parking spaces for the development will not be removed. The modification includes the proposed provision of an additional 11 parking spaces up to 37 total spaces provided. It is considered that the development meets the minimum requirement for onsite parking spaces. The parking of vehicles along either road frontage of the development is unable to be prohibited for the development, as parking along these sections is legally permitted.
- *Grass and weed control of un-developed portion of the allotment*  
The management of weed and potential for overgrown allotments is not part of the consideration of this modification. The modification proposes to amend the development plans and remove the subdivision of land. The management of weeds is able to be enforced by Council if the site becomes overgrown.

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

The original development was not regarded as being Integrated or Designated Development and did not require concurrence from any other Department body. 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 modification.

#### **Conclusion**

The Application to Modify a Development Consent is seeking consent for the amendment to the development site plan, floor plan and elevations, increase in the number of onsite parking spaces, removal of subdivision, consolidation and associated conditions. The application has been assessed under the provision of the *Environmental Planning and Assessment Act 1979* and other applicable legislations, plans and policies. The evaluation of this Application to Modify a Development Consent has concluded that the proposed modification is compliant with the legislative requirements and is regarded to be substantially the same development as the original development consent granted.

As per the recommendation of this report, it is concluded that Application to Modify Development Consent No. 2012/185.005, at Lot 1 DP 1229687 & Lot 7 Sec 33 DP 758492 – 209-211 & 205-207 Bloomfield Street, Gunnedah should be approved subject to the amended conditions requested.

*Councillor D Moses returned to the Chamber.*

ITEM 3	Development Application No. 2020/059 – Construction of Detached Garage – Lot 1 DP 18131 – 87 George Street
MEETING	Planning Environment and Development Committee – 7 October 2020
DIRECTORATE	Planning and Environmental Services
AUTHOR	Town Planner
POLICY	Nil
LEGAL	Environmental Planning and Assessment Act, 1979 Gunnedah Local Environmental Plan, 2012 Gunnedah Development Control Plan, 2012
FINANCIAL	Nil
STRATEGIC LINK	Community Strategic Plan 2.4.5 Implement and advocate for planning strategies and systems that are streamlined to foster and encourage the establishment of new business. Operational Plan 2.4.5.1 Provide efficient and effective application, assessment and certification services in accordance with relevant legislation policy and regulation.
ATTACHMENTS	Nil

3.10/20P COUNCIL RESOLUTIONS:

That the Development Application No. 2020/059, for the Construction of a Detached Garage, at Lot 1 DP 18131 – 87 George 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 17.06.2020
  - Statement of Environmental Effects, prepared by S.A.E Design dated 08.07.2020;
  - Submitted plans: Prepared by S.A.E Design:
    - Prepared by S.A.E Design dated 27.07.2020: Reference: 702-20; A001 (Site Plan); A002 (Roof Plan); A003 (New Garage Plan); A004 (Elevations); A005 (Section Plan); A006 (Sediment Erosion Control Plan)

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

- A2. To confirm and clarify the terms of this consent the outbuilding is not to be used for residential accommodation or 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.*

**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.** The internal driveway garage is to be hard sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers or other alternative product which has been approved by Council, from the property boundary adjoining the vehicle access from Rodney Street to the proposed detached garage.

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

**F. DURING CONSTRUCTION WORKS**

- F1.** Inspections by the Principal Certifying Authority – Mandatory Critical Stage Inspections  
48 hours prior to the covering of the following works, the Principal Certifying Authority appointed pursuant to Section 4.18(2) of the Environmental Planning and Assessment Act 1979 shall be notified that works are ready for inspection. (Note: Inspection in bold type are mandatory critical stage inspections under the Act and MUST be carried out by the Principal Certifying Authority. If these inspections are not carried out by the Principal Certifying Authority an Occupation Certificate cannot be issued).
- (a) **Piers (if any) prior to pouring of concrete**
  - (b) **Footing trenches with reinforcement prior to pouring of concrete**
  - (c) Retaining walls and reinforcement (if any) prior to pouring of concrete
  - (d) **Concrete slab formwork with reinforcement prior to pouring of concrete**
  - (e) **Structural framework including roof members. When completed prior to the fixing of any internal sheeting**
  - (f) **Wet area, damp proofing and flashing before lining**
  - (g) Swimming pool safety fence prior to filling the pool with water
  - (h) Foundation material before installation of the swimming pool or laying of any bedding material
  - (i) Works in relation to road reserves, footpath, kerb and gutter, road shoulder and drainage within public lands or road reserves
  - (j) **Bearers and joist inspection, including tie down requirements and ant capping. When completed and prior to the laying of the floor**
  - (k) Insitu concrete formwork (excluding paving) with reinforcement prior to pouring of concrete
  - (l) **Final inspection prior to use of the building**

The above listed works may not be covered until approval is obtained from the Principal Certifying Authority or his/her duly appointed delegate.

***Reason: To ensure compliance before, during and after construction.***

- F2.** The existing vehicle access from Rodney Street is to be upgraded to a concrete driveway across the footpath in accordance with Council's standards and specifications. A copy of the concrete crossover specification sheet can be downloaded or viewed on Council's website: <http://www.gunnedah.nsw.gov.au>
- a) Before commencement of this work, construction levels are to be obtained from Council's Infrastructure Services. A security bond being half of the estimated cost of the construction work is to be lodged with Council, before work on the driveway is commenced.
  - b) Upon the satisfactory completion of the driveway by the developer, the security bond will be released.

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

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

- F3.** 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.***

**F4. 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.***

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

Monday to Friday - 7.00am to 5.00pm;

Saturday - 8.00am to 1.00pm if audible on other residential premises, otherwise 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.***

- F6. Protection of public places**

If the work involved in the construction 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.***

**F7. 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.*

**F8. The storage of all building materials shall be confined within the boundaries of the allotment.**

*Reason: To ensure site safety.*

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

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

*Reason: To meet statutory requirements.*

**MOTION** *Moved Councillor A LUKE*  
*Seconded Councillor C FULLER*

COUNCILLOR	COUNCILLORS FOR	COUNCILLORS AGAINST	COUNCILLORS ABSENT	COUNCILLORS DECLARING AN INTEREST
JR Campbell	X			
J Chaffey			X	
C Fuller	X			
OC Hasler	X			
R Hooke	X			
A Luke	X			
D Moses	X			
M O'Keefe			X	
RG Swain			X	

**PURPOSE**

This Development Application is being referred to Council for determination as the development application includes a request for the variation to a development control standard within the Gunnedah Development Control Plan 2012.

Applicant: Sara Newman,  
 332 Curlewis Common Road, Gunnedah  
 Owner: Sara Newman  
 Property Description: Lot 1 DP 18131,  
 87 George Street, Gunnedah  
 997m<sup>2</sup>

*Proposed Development*

The development application is seeking consent for the construction of a detached garage and widening of an existing driveway.



Figure 1 – Subject Site – 87 George Street

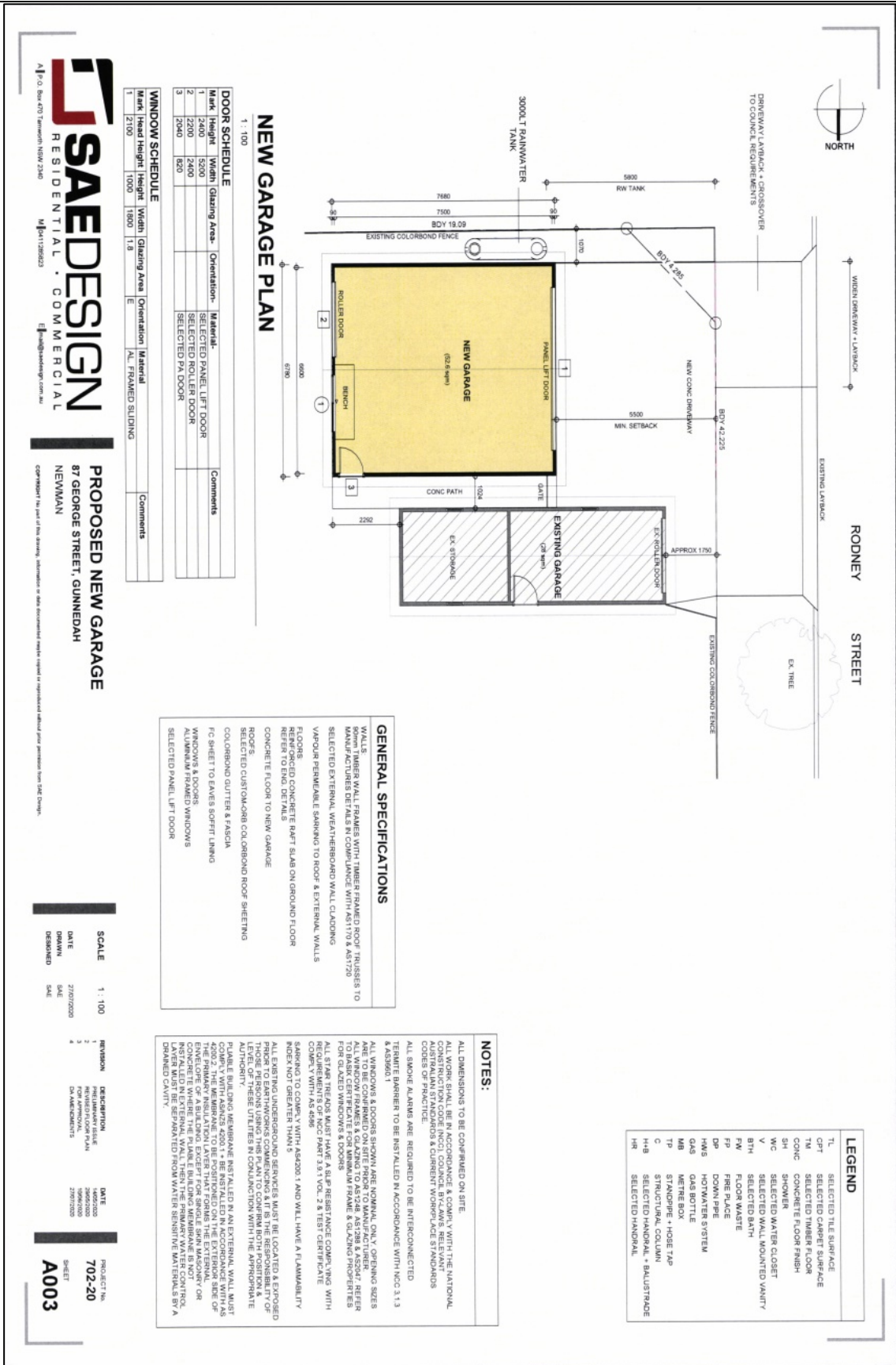


Figure 2 – Floor Plan of Proposed Development

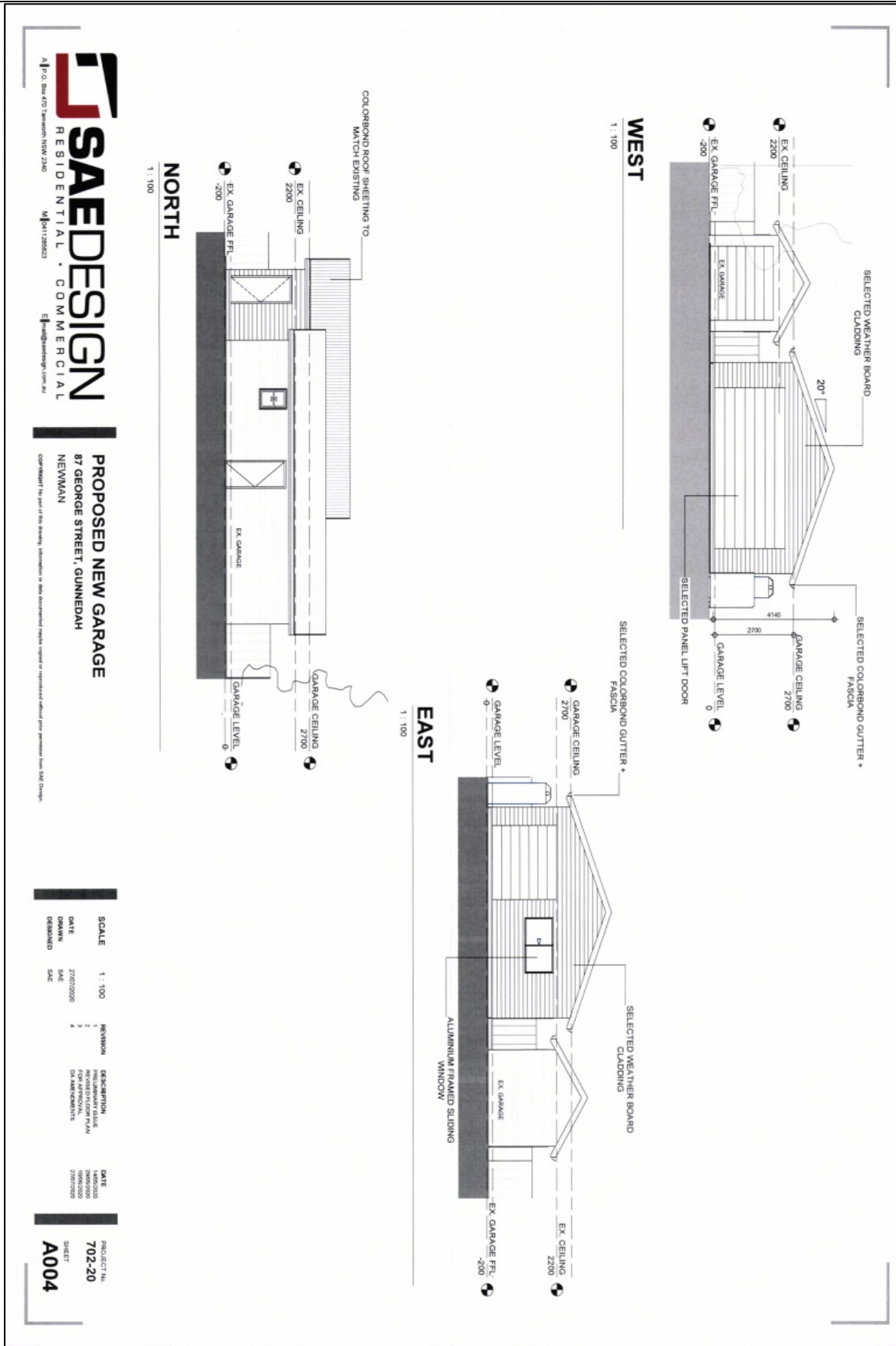


Figure 3 – Elevation Plan

COMMENTARY

Issues

**4.15(1)(a)(i) the provisions of any environmental planning instrument  
Gunnedah LEP, 2012**

The development site is zoned R2, Low Density Residential, under the provisions of the *Gunnedah Local Environmental Plan, 2012* (GLEP 2012). The subject site currently contains an existing Dwelling House and Outbuilding (detached garage). The proposed development involves the construction of a new detached Garage.

**2.3 – Zone Objectives and Land Use Table**

The development site is zoned R2 Low Density Residential. The development and existing dwelling house are permitted in the zone. The development is complimentary to the existing residential use which is consistent and permitted in the low density residential zone, the development is considered to be consistent with the land use objectives.

**4.4 – Floor Space Ratio**

The development site has a maximum allowable Floor Spaces Ratio of 0.5:1. The proposed development has a floor space of 52.6m<sup>2</sup>. The existing dwelling and garage have a combined floor space of 307.6m<sup>2</sup>. The resulting development FSR will be 0.36. Hence, the development does not exceed the floor space ratio of the site and complies.

**6.5 – Essential Services**

The development site has the provision of the Council’s water, stormwater and sewer services connected to the site. The dwelling has an existing electrical supply. The site has an existing vehicle access from Rodney Street. The driveway access will be upgraded to accommodate the proposed development.

**State Environmental Planning Policies (SEPPs)**

**State Environmental Planning Policy – Koala Habitat Protection**

The development site does not have a Koala Plan of Management registered against the land title. The development site is identified on the Koala Development Application Map (Figure 4). However, the site does not have an area of greater than 1 hectare. Hence, Clause 10 of the GLEP 2012 does not prevent the granting of development consent.

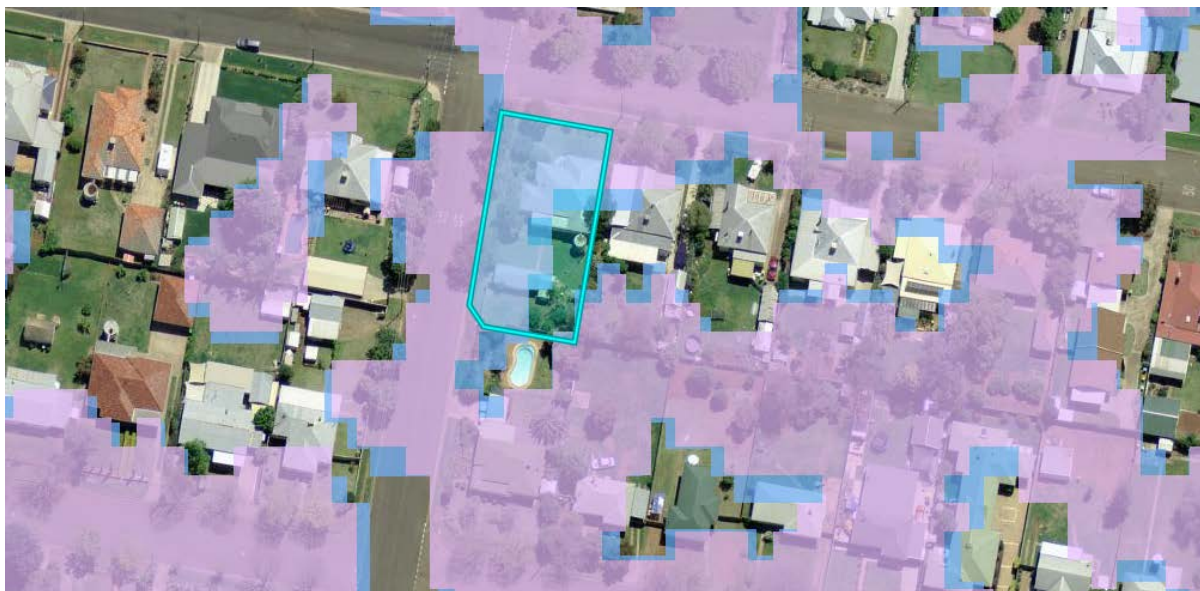


Figure 4 – Koala Development Application Map

**State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

The development site is located within the R2 zone, which is identified within this SEPP as being a land zone to which this SEPP applies. The development proposal does not include the removal of any trees or vegetation from the site. The site is highly modified and does not contain any vegetation or ground cover in the position of the proposed works.

**State Environmental Planning Policy No. 55 – Remediation of Land**

The site is currently being used for residential purposes. The development will not result in a change of use of the site. A search of Council’s records and supplied Statement of Environmental Effects does not identify that there has been any previous usage that could potential lead to any site contamination. Hence, no further investigation was required.

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

**Gunnedah Shire Council Development Control Plan – 2012**

**2.1.1 - Building Setbacks**

	Required	Provided	Compliance
Primary Frontage (George Street)	7.5m	8m	✓
Secondary Frontage (Rodney Street)	3.6m	5.5m	✓
Rear	5.5m	1m	✓
Side	900mm	8.909m	✓

The detached garage is consistent and compliant with the required setbacks for the primary, rear and side frontages. Hence, the development proposal is located within the allotment in a compliant fashion.

**2.1.3 – Utilities**

The detached garage is not going to be constructed over any utility infrastructure. The development has existing provision of Council’s water services.

**2.1.8 – Outbuildings, carports and detached garages**

	Maximum Allowable	Proposed	Compliance
Maximum size	54m <sup>2</sup>	52.6m <sup>2</sup>	✓
Cumulative	72m <sup>2</sup>	80.6m <sup>2</sup>	x
Maximum length of one horizontal dimension	9m	6.9m	✓
Maximum wall height at eaves line	3.3m	2.7m	✓
Maximum Roof Pitch	24 <sup>o</sup>	20 <sup>o</sup>	✓
Maximum Height	4.2m	4.1m	✓

The proposed garage has a floor area of 52.6m<sup>2</sup>, which is compliant with the maximum floor size provision for the R2 Zone. The existing garage, which is proposed to be retained, has a floor area of 28m<sup>2</sup>. Therefore, combining the two floor areas of the structures will exceed the allowable cumulative size of outbuildings under this standard. The development included a request to vary this development standard.

The detached garage is not considered an overdevelopment of the site as the proposal would be consistent with the cumulative sizes permitted. Furthermore, the maximum size, building setbacks and Floor Space Ratio of the development ensures that the development will not be imposing or detract from the nature of the site. The development remains consistent with the existing infrastructure onsite and does not impact the streetscape of the surrounding allotments. Hence, the variation is supported under these circumstances.

**2.1.10 – Access**

The development has an existing access from Rodney Street. Council’s staff have determined that the existing access is required to be upgraded to accommodate access to the development. The development is required to construct an all weather hard sealed access from the property boundary along Rodney Street to the proposed detached garage.

**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 subject site currently contains a dwelling house and detached garage. The development application proposes the construction of a detached garage. The site is located on the corner of George and Rodney Street, with the adjoining lots being used predominately utilised for residential dwellings. The design, shape and appearance of the proposed garage will be consistent with the existing structures onsite and the surrounding neighbourhood.

**Access, transport and traffic**

The development site has primary frontage to George Street, which is sealed, including kerb and gutter. The site has an existing vehicle access to Rodney Street. The access will be positioned at the furthest practical point of the site from the George and Rodney Street intersection.

The development will be complimentary to the existing dwelling. Council does not allow the outbuilding to be used for residential purposes. Furthermore, the development will not result in an increase in vehicle movement within the road network of the immediate area surrounding the site.

**Natural Hazards**

No natural hazards are mapped on the subject site. Hence, no further investigation is required.

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

The proposed development is consistent with the existing and expected future development in the locality. The development has access from a public road and Council's utility services are available to the site. However, the garage does not require a connection to Council's utilities. The site is not identified as being subject to flood or bushfire and does not contain an item of heritage significance. The site is considered to be suitable for the development. However, the proposed development is subject to a variation to the development control plan regarding the cumulative size of the outbuildings.

**S4.15(1)(d)&(e) any submissions made in accordance with this Act or the regulations and the public interest**

The development application is requesting variations to development standards relating to the proposed cumulative size of the outbuildings on site. The Gunnedah Community Participation Plan required that the development be notified to adjoining land holders. A public exhibition was triggered for the development; however, Council did not receive any submissions from the community regarding the variation of the development control plan. The development was notified for a period of 14 days to adjoining neighbours. No submissions were received.

**Conclusion**

The Development Application is seeking consent for the construction of a detached Garage ancillary to the existing dwelling house. The 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 variations have been considered.

As per the recommendation of this report, it is concluded that Development Application No. 2020/059, at 87 George Street, should be approved subject conditions.

There being no further business the meeting concluded at 4:16pm.

**Mayor J Chaffey**  
**CHAIRPERSON**