



Dungog Shire Council

AGENDA

Ordinary Council Meeting

Wednesday, 16 December 2020

I hereby give notice that an Ordinary Meeting of Council will be held on:

Date: Wednesday, 16 December 2020

Time: 6.00pm

Location: Council Chambers, Brown Street, Dungog

Gareth Curtis
General Manager

DECLARATION OF INTERESTS

It is the duty of staff and Councillors to be mindful of their responsibilities and to properly address conflicts of interest as they arise. A conflict of interest exists when you could be influenced, or a reasonable person would perceive that you could be influenced by a personal interest when carrying out your public duty.

As a Councillor you must appropriately resolve any conflict or incompatibility between your private or personal interests and the **impartial performance** of your public duty.

1. Councillors are under an obligation at law to disclose any interest they may have in any matter before the Council.
2. Councillors must disclose any interest in any matter noted in the business paper prior to or at the opening of the meeting.
3. The nature of the interest shall be included in the notification.
4. Councillors are required during the meeting to disclose any interest in respect of any matter arising during the meeting which is not referred to in the business paper.
5. All declarations of interest shall be recorded by the General Manager.
6. All disclosures of interest shall as far as is practicable be given in writing.
7. Any member of staff or Councillor that has a pecuniary interest shall leave the meeting and remain absent while the subject of the interest is being considered by Council.
8. A non pecuniary conflict of interest (e.g a friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature) Part 4 of Councils Code of Conduct highlights the options available. However the most publicly transparent option is to disclose the interest and absent oneself from the meeting while the subject of the interest is being considered by Council.

References:

- (a) Local Government Act (NSW) 1993 Chapter 14 Part 2 Duties of Disclosure
- (b) Division of Local Government "Model Code of Conduct for Local Councils in NSW" March 2013 adopted as Councils Code of Conduct 19 February 2013.

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1 ACKNOWLEDGEMENT OF COUNTRY

2 APOLOGIES

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4 DECLARATION OF INTERESTS

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6 MATTERS ARISING FROM MINUTES




7 PRAYER

8 MAYORAL MINUTE

Nil

9 PUBLIC ACCESS SESSION

10 PLANNING DEPARTMENT**10.1 DEVELOPMENT APPLICATION 61/2008 - SECTION 4.55(1)(A) TO INCLUDE A DRIVE THRU COFFEE SHOP**

File Number: EF07/92
Author: Town Planner
Authoriser: Manager Planning
Applicant: Perception Planning
Owner: Mildhill Pty Ltd
Proposal: Section 4.55(1)(a) to include a drive thru Coffee Shop
Location: Lot 2 SP 80888
2/119 Dowling Street, Dungog
Zone: B2 Local Centre
Annexures: 1. Conditions [↓](#) 
2. Plans [↓](#) 
3. Submissions [↓](#) 

Precis

The modification is being reported to Council in accordance with the provisions of Council's policy C4:12 *Delegated Authority Policy for the assessment of Development Applications* (Adopted 17 February 2009), this application has been reported to Council for determination due to the following:

- The application is subject to three (3) public or more submissions and is likely to generate public interest due to the nature of the use.

RECOMMENDATION

1. That Council as the consent authority pursuant to s4.16 of the *Environmental Planning and Assessment Act* 1979, grant consent to the modification of Development Application No. 61/2008 being for the change of use to include a coffee shop at Lot 2 SP 80888, 2 / 119 Dowling Street, Dungog, be approved subject to the amended conditions in Annexure 1.
2. That those persons who made a submission to the application are advised of Council's decision.

BACKGROUND

The original application, being DA61/2008, was submitted to Council for a change of use from a personalised furniture and kitchen store to a Bottle Shop. The application was approved subject to a number of conditions. The Bottle Shop has been completed and operating for a number of years.

The approved operating hours for the Bottle shop are:

Monday to Saturday - 10am to 8pm
Sunday - 11am to 6pm

SUBJECT SITE

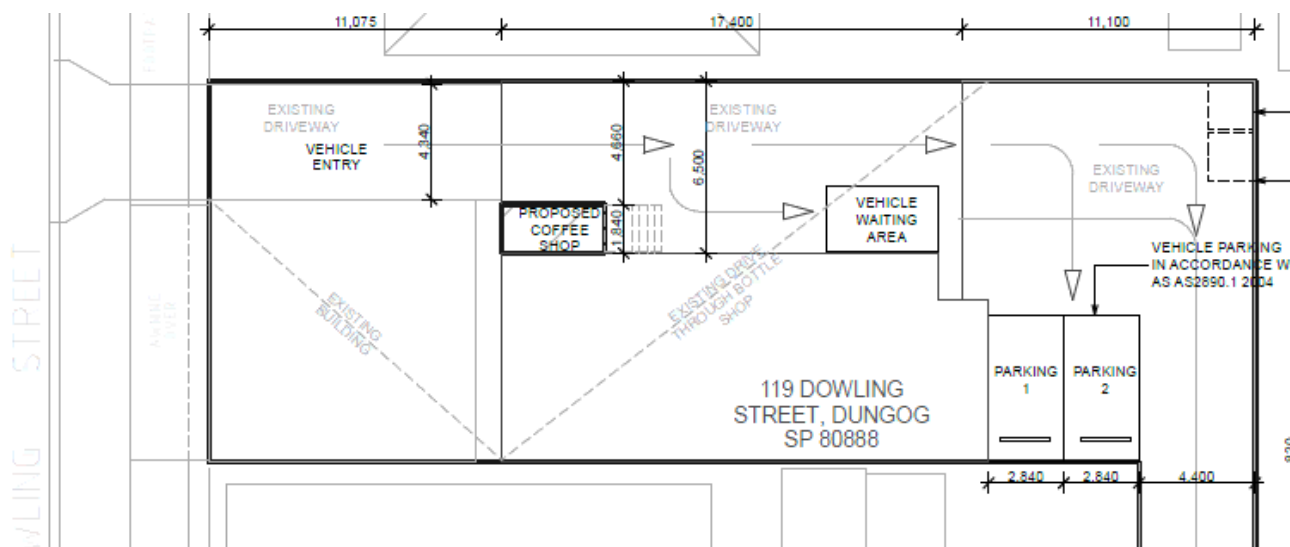
The site is known as Lot 2 SP 80888, 2 / 119 Dowling Street Dungog and is zoned B2 Local Centre under the Dungog Local Environmental Plan 2014. The site is located within the Dungog Heritage Conservation area, but the subject site is not a listed heritage item.

The property is accessed via a driveway off Dowling Street. The vehicles enter from Dowling Street and exit the site via Mackay Street. The properties to the north, south and west of the site contain commercial businesses and to the east are residential properties.



PROPOSED DEVELOPMENT

The applicant is seeking a modification to Development Application 61/2008 to include a drive thru coffee shop as an ancillary use to the existing commercial development. As part of the modification, there will be some changes to the internal layout for the building as well as the incorporation of external windows to allow for the ease of ordering.



The modification lodged with Council was seeking approval to operate a drive thru coffee shop from 5am seven days per week. Due to a number of submissions being received, the applicant amended the hours of the drive thru component.

In this regard, the drive thru coffee shop will be taking orders, via phone and in person, from 5am. The orders will be delivered to vehicles parked on Dowling Street. The drive thru component for the coffee shop will operate from 7am. The applicant has stated in their supporting documentation that the coffee shop will close by 12noon.

STATUTORY CONSIDERATIONS

Environmental Planning and Assessment Act 1979

S4.55 Modification of consents—generally (cf previous s 96)

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) *it is satisfied that the proposed modification is of minimal environmental impact, and*

Comment:

(b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: The proposed modification is considered to be substantially the same as the original development. The development is considered to be a take away food and drink premises under the Dungog Local Environmental Plan 2014 which is permissible within the B2 Local Centre Zone.

Further, the building classification will not need to be amended. A condition has included requiring an updated fire safety schedule and fire safety certificate to be submitted prior to the occupation certificate being issued.

(c) *it has notified the application in accordance with:*

(i) *the regulations, if the regulations so require, or*

(ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment: The modification was placed on public exhibition from 14 October 2020 to 29 October 2020.

(d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment:

During the exhibition period Council received 3 submissions, of which two were from the same property. These submissions are attached as Annexure 3

The main concerns raised in the submissions are listed below:

Issue	Planning Comment
Concern over hours of operation for the coffee shop component and the impact of the drive through on residents sleep.	The modification, when originally submitted was proposing to operate the drive thru coffee shop from 5am through to 12noon. The customers were to utilise the drive through to order and pick up their orders. As a result of the submission, the applicant has amended the hours that vehicles can access the site from 5am to 7am. For orders received between 5am and 7am, the staff will delivery coffees to customers on Dowling Street.
Noise generation and offensive language during the day from the	The existing bottle shop operation allows vehicles to use the drive through during their opening hours which has been

drive through	<p>operating for approximately 12 years.</p> <p>The concern raised regarding the language of customers is a matter for the operator of the business and not a planning consideration.</p> <p>The coffee shop will close from 12noon, in this regard, the afternoon traffic would be associated with the existing bottle shop and not a direct impact from the inclusion of the coffee shop component.</p>
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- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.**

Discussion:

Referrals – Development Engineer

The modification was referred to Council's Development Engineer for consideration and comment. The following comments were received in relation to the modification:

Traffic

With regard to traffic, the applicant has provided an estimate for existing hourly bottle shop patronage (count prepared by Dark Liquor) and an estimate of potential hourly customer numbers for the coffee shop (Perception Planning email 26/10/2020).

The two sets of data have been reproduced below to provide estimated hourly traffic volumes for the site.

Note: It is expected that demand for the coffee shop will increase on a Saturday morning, thus the figures provided by Perception Planning have been doubled below.

	MONDAY			TUESDAY			WEDNESDAY			THURSDAY			FRIDAY			SATURDAY			SUNDAY		
	Bottle-o	Coffee	Total	Bottle-o	Coffee	Total	Bottle-o	Coffee	Total	Bottle-o	Coffee	Total	Bottle-o	Coffee	Total	Bottle-o	Coffee	Total	Bottle-o	Coffee	Total
5AM to 6AM		6	6		6	6		6	6		6	6		6	6		6	6		6	6
6AM to 7AM		15	15		15	15		15	15		15	15		15	15		15	15		15	15
7AM to 8AM		15	15		15	15		15	15		15	15		15	15		30	30		15	15
8AM to 9AM		15	15		15	15		15	15		15	15		15	15		30	30		15	15
9AM to 10AM		10	10		10	10		10	10		10	10		10	10		20	20		10	10
10AM to 11AM	6	6	12	6	6	12	3	6	9	3	6	9	6	6	12	17	12	29		6	6
11AM to 12PM	8	6	14	7	6	13	6	6	12	5	6	11	4	6	10	9	12	21	9	6	15
12PM to 1PM	6		6	3		3	14		14	8		8	7		7	20		20	11		11
1PM to 2PM	4		4	8		8	11		11	7		7	9		9	14		14	6		6
2PM to 3PM	6		6	8		8	11		11	19		19	14		14	23		23	14		14
3PM to 4PM	20		20	21		21	18		18	11		11	22		22	10		10	10		10
4PM to 5PM	22		22	22		22	28		28	39		39	28		28	9		9	11		11
5PM to 6PM	10		10	20		20	20		20	28		28	29		29	24		24	10		10
6PM to 7PM	7		7	6		6	16		16	15		15	14		14	11		11			0
7PM to 8PM	6		6	5		5	6		6	12		12	5		5	8		8			2

From the table, it appears that the morning peak demand for the coffee shop, including the morning cross over in hours with the bottle shop, will not exceed the existing afternoon peak for the bottle shop. On a Saturday an extended morning peak is expected, however again it is expected that the hourly traffic volumes will not exceed the existing afternoon bottle shop peak.

Car Parking

Existing Use:

Approved documentation associated with the original DA and CC for the bottle shop show 2 parking spaces external to the building (1 disabled), 1 parking / loading space within the building at the side of the drive through, and 3 queued vehicles within the internal driveway. i.e. a total of 6 spaces.

If the existing use were assessed under the current DCP:

- 1 space per employee PLUS
- 2 spaces for 'browse room' customers, which should not inhibit the free flow of vehicles

Allowing for 2 employees and 2 customers, a total of 4 off street parking spaces would be required for the existing development under Council's current DCP.

Proposed Use:

Classifying the development as a drive-in take away food shop/outlet, Section C20 of the DCP requires:

- 1 space per every 5m² of GFA of dining, plus
- 1 space per every 5 seats, plus
- 1 space per every 3 employees, plus
- queuing for 5-12 cars (RTA guidelines)

For the proposed development with no seated dining area, the applicant would be required to provide 1 parking space for staff, which is already available on site. It is considered that the existing on site parking arrangements are compatible with the proposed additional use.

Queueing

From information available on line, drive through coffee outlets in regional NSW could be expected to generate in the order of 100 vehicle movements per hour in the AM peak and queue lengths up to 6 vehicles long (Bitzios 2015).

Considering the relative populations of the towns in the study (Dubbo and Bathurst) compared to Dungog, it is expected that the peak hour volume for the proposed development would be significantly less. However, the queue length may reach a similar figure, being based on instantaneous demand rather than overall traffic volume. This can be seen in operation of the existing bottle shop. During "inspection" of the site during the 4 – 6pm peak on a Thursday or Friday evening, a queue of up to 6 vehicles will often be witnessed despite the overall hourly volume of approximately 30 customers. Interestingly the Bitzios study found maximum queue lengths to be reasonably consistent, not necessarily varying with size of the outlet or number of customers served, with long queues thought to discourage further customers during periods of peak demand.

During periods of peak demand, the site could provide 3 queued spaces within the building, 1 parking space within the building, and a further 2 vehicles able to queue on the driveway i.e. a total of 6 vehicles can park/queue on the site without causing inconvenience to Council's road network. This is considered reasonable.

Vehicle Noise

It is noted that a submission has been received with regard to vehicle noise during the early hours of operation of the coffee shop.

Considering the POEO Act and advice available from the EPA, vehicle noise (excluding a vehicle entering or leaving a residential property) should not be heard within a bedroom of a dwelling before 7am Monday to Friday and before 8am on weekends and public holidays.

It is understood that the applicant has agreed not to utilise the drive through (walk up customers only) prior to the above hours. A condition of consent has been included restricting the hours of the drive thru component associated with the coffee shop.

Referrals – Building

The application was referred to Council's Building Surveyor for consideration and comment. The assessment found that the existing use of the building is considered to be Class 6 under the Building Code of Australia.

The coffee shop component will be located within this building and therefore does not constitute a change of use under the provisions of the Environmental Planning and Assessment Regulations building classification.

In this regard, the application has been supported subject to the inclusion of a number of additional conditions, one of which relates to an amended fire safety schedule and fire safety certificate.

Referrals – Environmental (food component)

The application was referred to Council's Environmental Health Officer as the modification included a food premises. The modification has been supported subject to the inclusion of a number of conditions relating to food premises.

Referrals – Environmental (Noise)

The application was referred to Council's Manager Environmental Services for the consideration of potential noise generation for the coffee shop component. The following comments were provided:

Noise Impact of the proposal

The SEE seems to indicate a proposal for the drive through coffee shop to operate from 5am each morning. This is concerning having regard to the proximity of the premises to residential properties and whilst there doesn't appear to be any other potential noise impacts, a drive through operation of any type, commencing operations at 5am is not appropriate. It is noted that the consent for the bottle shop stipulates hours of usage from 10am.

As a general concept, the Protection of the Environment Operations (Noise Control) Regulation discourages the generation of offensive noise, or noise that could be heard within a habitable room in a residential property, from being emitted outside of stipulated times- in a residential area.

Whilst this premises is commercial, it borders residential properties with next door being aged housing and considered a sensitive receptor. The introduction of vehicle and possible people noise from 5am is not considered appropriate and the stipulated hours of operation under the regulation for residential areas should be also applied in this instance- even though Clause 8 of the Regulation does not specifically apply to commercial properties.

The hours where vehicle noise that is audible or offensive is prohibited on residential properties but should be applied in this instance due to proximity to residential properties are -

- (i) before 8 am or after 8 pm on any Saturday, Sunday or public holiday, or
- (ii) before 7 am or after 8 pm on any other day.

In lieu of a full acoustic assessment of the proposal which could examine compliance with noise targets from 5am and methods to mitigate noise impacts, It would be appropriate to apply a development consent condition that the drive through coffee shop component of the proposal is limited to between the hours of 7am and 8am on weekdays and 8am to 8pm on weekends and public holidays.

If customers parked on Dowling street and attended the coffee shop on foot or were served in another manner that was passive, it is my opinion that this could be supported from a noise impact perspective.

Comment As discussed earlier, the applicant amended the hours of the drive thru to operate from 7am each morning, rather than 5am which was originally proposed.

However, in order to comply with the Protection of the Environment Operations (Noise Control) Regulation, a condition will be imposed on the consent restricting the drive through for the coffee shop to be operating from 7am on week days and 8am on weekends.

- (4) *The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.***

Comment: Noted.

The suitability of the site for the development

The subject site is zoned B2 Local Centre under the Dungog Local Environmental Plan 2014. The proposed additional use is permissible with development consent.

Social and Economic Impact

The proposed take away coffee outlet will have a positive economic impact providing an early bird service to commuters and local business people.

The Public Interest

The establishment of another retail component within a pre-existing business is consistent with the public interest if undertaken in a way that respects the amenity of the locality.

CONCLUSION

The application has been assessed in accordance with the Environmental Planning and Assessment Act 197, Dungog Local Environmental Plan 2014 and Dungog Development Control Plan and other applicable legislation.

It is recommended that the modification be supported subject to the amended conditions in Annexure 1.

Prior to Issue of Construction Certificate

1. Provide detailed plans of construction of transition zones, driveway, internal walls, ramp and exit driveway.

New Condition:

- 1A Pans/Details of the food preparation/serving area including location of hand wash basin, floor and wall finishes and to be provided to Council for approval.

General

2. The development is to be carried out in accordance with the plans (numbered 61/08 and dated 16/5/08) and statement of environmental effects submitted to and stamped by Council as part of the application. Any amendments to these plans will require the approval of Council.

Reason: To ensure all works are carried out in accordance with the approved plans.

3. All aspects of the building design shall comply with the applicable performance requirements of the BCA for a Classification of the building or structure so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by:-

- (a) complying with the deemed to satisfy provisions; or
- (b) formulating an alternative solution which:-
 - (i) complies with the performance requirements; or
 - (ii) is shown to be at least equivalent to the deemed to satisfy provisions;
- or
- (c) a combination of (a) or (b)

4. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
5. All fees, Section 94 and other Contributions will need to be adjusted in accordance with Councils Fees & Charges applicable at the time of payment.

Reason: To ensure all Fees & Charges are paid at the correct rate at the time of payment.

6. The applicant shall comply with conditions of Development Consent No 61/08 dated 19 August, 2008 issued by Dungog Shire Council.
7. The building shall NOT BE USED OR OCCUPIED until completed and conditions of consent have been complied with and an Occupation Certificate has been issued.

During Construction

8. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:-

- (a) stating that unauthorised entry to the work site is prohibited; and

- (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted.
- (c) identifying the Principal Certifying Authority and a telephone number at which that person may be contacted.

Any such sign is to be removed when the work has been completed.

- 9. A waste containment facility to Council's requirements is to be provided on the building site immediately after the first concrete pour for the building and is to be regularly serviced.

Council and the Environmental Protection Authority may issue "on the spot" fines if breaches of the Environmental Offences and Penalties Act, are detected.

Note - your attention is drawn to your responsibility to control any litter arising from building works associated with this consent.

- 10. To reduce nuisance to the surrounding properties, all demolished material and excess spoil from the site shall be disposed of to a location and in a manner to the approval of this office.

Note - No material shall be burnt or buried on site.

- 11. The site shall be kept clean and tidy during the construction period and all rubbish shall be removed from the site upon completion of the project to the satisfaction of this office.
- 12. ALL BUILDING MATERIALS, plant and equipment is to be placed ON THE BUILDING SITE. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves etc.

Reason: To ensure pedestrian and vehicular access is not restricted in public places.

Principal Certifying Authority

As your principal Certifying Authority, Council wishes to inform you of the following requirements:-

- 13. Timber framework shall comply with the provisions of the NATIONAL TIMBER FRAMING CODE, AS 1684 - 2006.

Note: Special attention should be given to the frame bracing and tie down requirements of AS 1684 - 2006.

- 14. SECOND HAND and previously used building materials are subject to inspection and approval by Councils Building Surveyor prior to use.
- 15. Treads and rises in all stairways shall comply with the requirements of the Building Code of Australia Clause D2.13.
- 16. The floors of bathrooms, laundries and W.C. compartments shall be impervious to water and graded and drained to a suitable floor waste.

The construction and installation of all equipment, fixtures and fittings within shall be in accordance with: Australian Standards 4674-2004,

- The premises must be operated at all times in accordance with Food Act 2003 and Food Regulation 2004 for Food Premises

Floors

- Floors shall be appropriate for the area, able to be effectively cleaned, non-absorbent and laid according to the relevant Australian Standards 4674-2004

Walls

- Walls shall be of solid construction and be finished with a material that is impervious to moisture and can be effectively cleaned. All corner joints must be coved with a minimum 25 mm radius. The finishing materials of the wall surfaces shall provide a smooth even surface, free of buckles or ledges fixing screws, picture rails, open joints, cracks or crevices this prevents the harbouring of bacteria and vermin (Australian Standards 4674-2004).

Ceilings

- Ceilings shall be non-perforated and finished free of joints, cracks, services to prevent contamination of food and to allow effective cleaning. It also pest proof the ceiling.

The intersection of the walls and the ceiling shall be tight jointed sealed and dust proof. Where a sealant is used, the sealant shall be of washable, impervious materials (Australian Standards 4674-2004).

- The cool room temperature must be kept below 5°C at all times
17. The whole of the plumbing and drainage work shall be carried out in accordance with the National Plumbing & Drainage Code AS 3500 and Council's Policy.
18. The demolition and disposal of materials containing asbestos should be carried out in accordance with WorkCover Authority Guidelines. The material may be disposed of at Council's Waste Depot site by phoning 4992 1634. Details of the materials and forty eight (48) hours notice is necessary and only on Council tip days of operation.

Fire Conditions

19. Prior to Council approving occupation of the building, the applicant shall submit to Council a Certificate in respect of each ESSENTIAL SERVICE installed in the building (as detailed on attached schedule) indicating that:-
- (a) the service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such an inspection and test; and
 - (b) the service was or was not (as at the date on which it was inspected or tested) found to have been designed and installed, and to be capable of operating, to a standard not less than that required by or under this regulation or by the Council.

The building owner shall cause Council to be given a Certificate as indicated above every twelve months after the first certificate is supplied.

Note: The certificates shall be in a form approved by Council.

Reason: To ensure that each of the essential services is installed and is capable of operating standard.

20. Prior to occupation of the building the applicant shall provide Council with a copy of an Emergency Procedures Manual which details procedures to be adopted in the event of the fire alarms in the building activating.

Council Policy.

Reason: To ensure that the building occupants are aware of emergency procedures to be adopted in the event of fire in the building.

Commercial Premises

21. EXISTING PLUMBING AND DRAINAGE FIXTURES, affected by the building works shall be modified or relocated by a Licensed Plumber in accordance with the requirements of the Hunter Water Corporation and the National Plumbing and Drainage Code, AS 3500.
22. ACCESS to the building shall be provided for DISABLED PERSONS in accordance with the provisions of Part D3 of the Building Code of Australia.

Special Conditions

23. A new Development Application for the signage must be applied for and approved by Council prior to erection.

Condition No. 24 to be deleted:

- ~~24. Deliveries must occur between the hours of 8.00am and 10.00am Monday to Friday.~~
25. Delivery vehicles must not be kept at the premises during business hours.
26. Delivery vehicles must be garaged at a property other than 119 Dowling Street, Dungog when not in use.

Condition No. 27 has been amended and now reads:

27. Hours of operation shall be:

Drive Through Bottle Shop

Monday to Saturday	10.00am to 8.00pm
Sunday	11.00am to 6.00pm

Coffee Shop

Monday to Sunday	5am to 12 midday
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28. The development is to be carried out in accordance with the plans submitted to and stamped by Council as part of the application. Any amendments to these plans will require the approval of Council.
29. The applicant is to supply Council with the liquor license from the NSW Department of Gaming and Racing, prior to occupation.

30. Building work shall not commence on the site before 7.00am on weekdays and Saturdays and 8.00am on Sundays and public holidays. All works are to cease by 8pm on any day.
31. Cool Room - Joints at the floor to wall intersections are to be coved and the vertical wall to wall intersections are to be finished with a cove or splay and the edges of all joining moulds are to be tight fitting and water repellent.
32. The use of particle board for shelving is not permitted unless the shelving is laminated on all surfaces with an approved impervious material.
33. The developer is to implement the following to ensure the safety of people;
- a) Enable people to be seen, to see and to interpret their surrounds through;
 - Adequate Lighting
 - Clear Sightlines
 - The elimination of entrapment spots
 - The use and design of landscaping and fencing
 - Enable people to be able to leave an area or seek assistance when in danger, through legible design and comprehensive surveillance
 - Surveillance
34. Development should promote the security of property by:
- a) Clearly defining ownership and legitimate use of private, public and community space
 - b) Avoid the use of materials which are likely to be susceptible to damage and vandalism.
 - c) Avoid fencing and landscaping which may present a security risk by obscuring doors and windows.
 - d) Surveillance cameras should be installed to run 24/7
 - e) Alarm system should be installed
35. The developer will remove and replace the fence on the eastern boundary to the satisfaction of the owner of the adjoining property and Council. The cost of these works will be borne by the developer.
36. The developer will upgrade the exit driveway including:
- sealing of the axe handle type egress into Mackay Street providing full width seal for its full length on 150mm depth compacted gravel formation and
- Reason:** To provide an appropriate standard of vehicle egress from the property to accommodate the traffic likely to be generated from the development.
37. Install traffic calming devices and signage in accordance with AS 2890 Parking Facilities and the plans and specifications submitted to Council as part of the application.

Reason: to provide adequate safety to pedestrians and vehicles exiting the development.

Lighting**Minimum standards:**

As the development (Liquor Store) will be used at night, the lighting should allow visibility. Pedestrian pathways, laneways and access routes in outdoor public spaces should be lit to the minimum Australian Standard of AS 1158 (Public Lighting Code).

Consistency of Lighting:

Lighting should be consistent in order to reduce contrast between shadows and illuminated areas.

38. External lighting is to be designed in accordance with AS1158 lighting for roads and public spaces.
39. All of the above must be fulfilled prior to Council issuing an occupation certificate.
40. Off street car parking and queueing shall be provided for the life of the development in accordance with the site plan prepared by Sorensen Design and Planning and shall comprise:
 - 2 off street car parking spaces external to the building
 - 1 off street car parking space (waiting bay) within the building, located clear of the vehicle egress / queueing area
 - Queueing for 3 vehicles within the building, along the drive through vehicle egress route

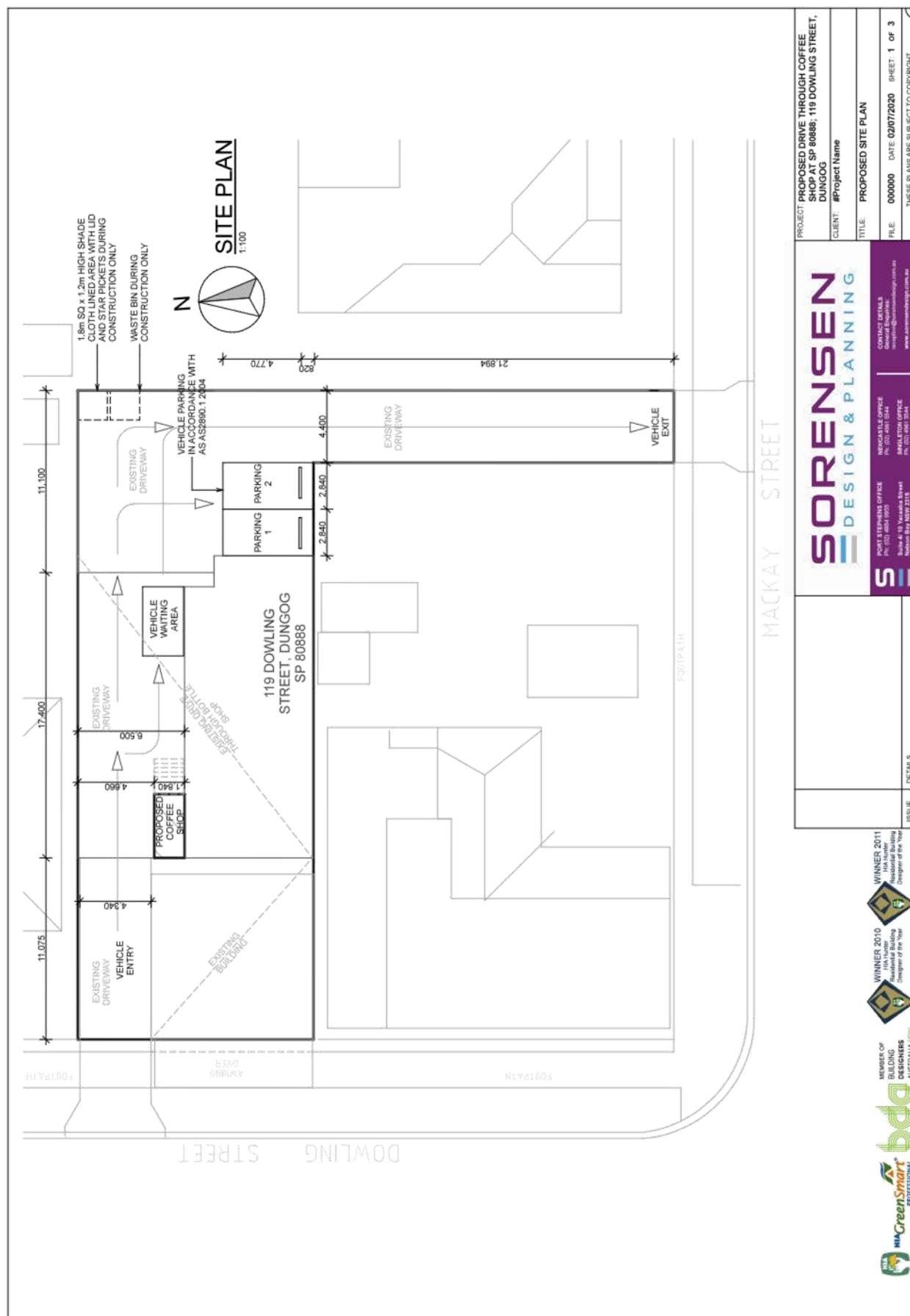
The required off street parking, queueing and vehicle manoeuvring areas must be kept clear of goods and must not be used for any storage purposes.

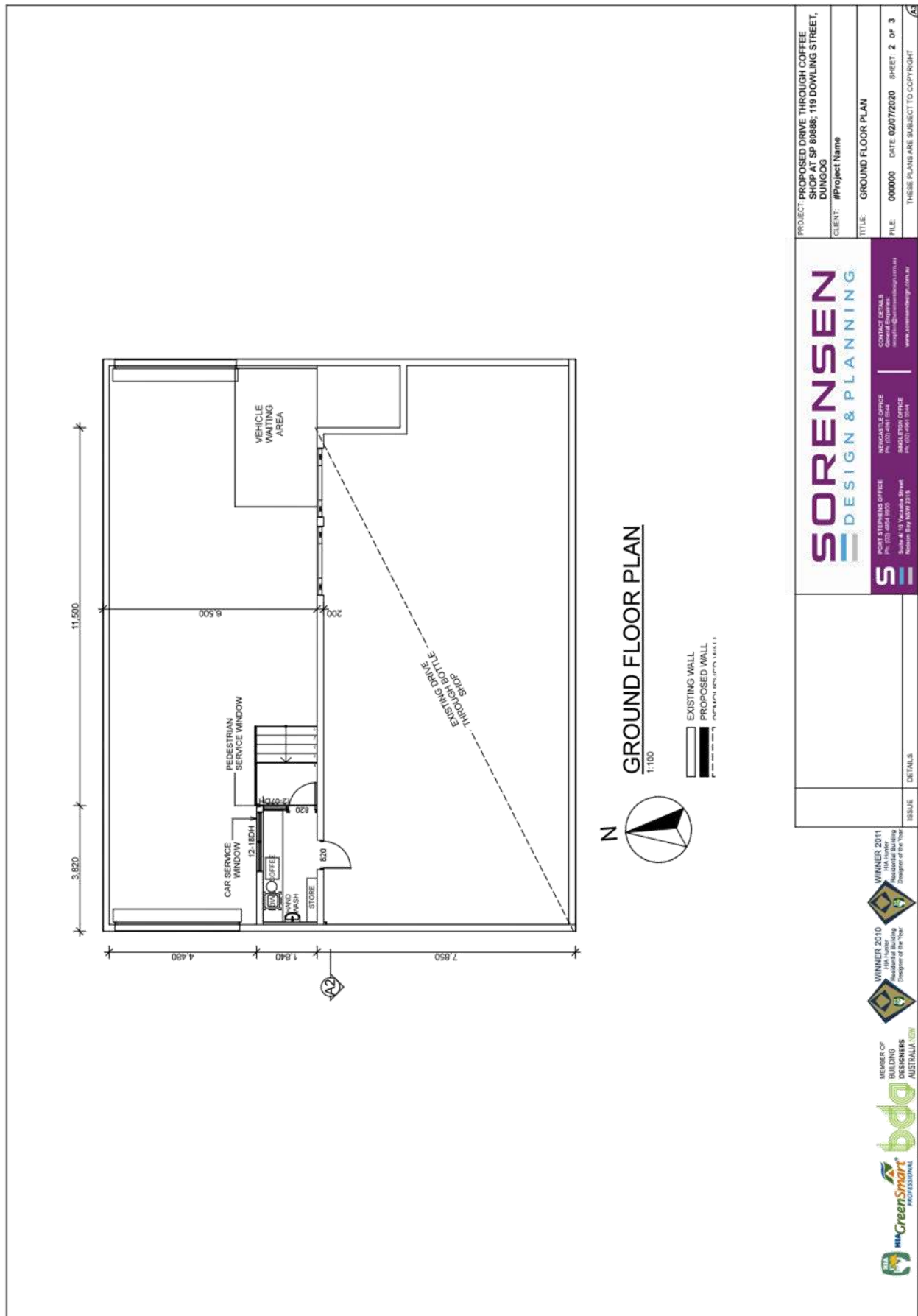
41. Vehicles must not be permitted to enter the drive through before 7am Monday to Friday and before 8am on weekends and public holidays. Only pedestrian traffic from Dowling Street shall be permitted prior to these times.

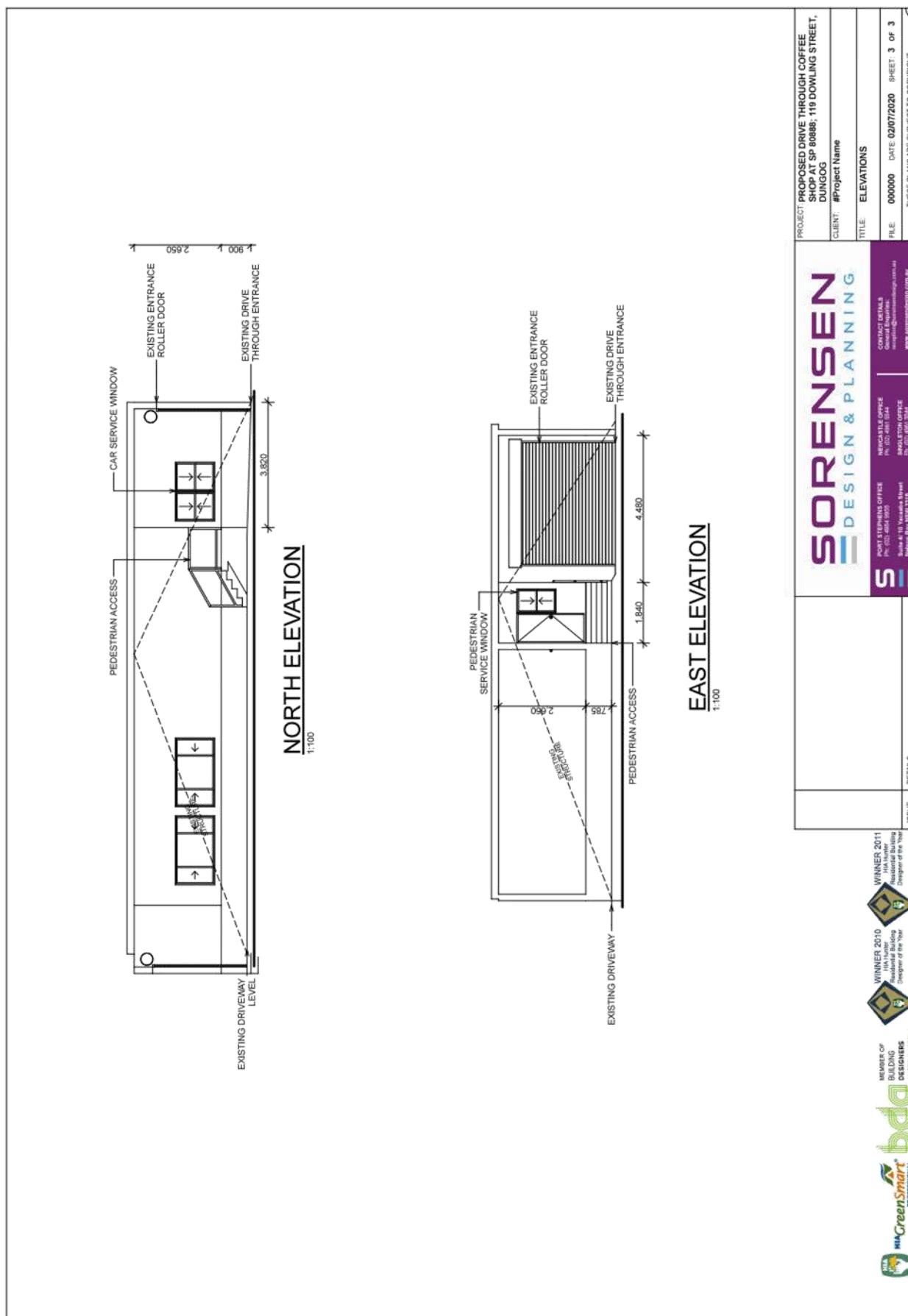
Coffee Shop component

42. For the purposes of hygiene, food safety and compliance with the Food Act 2003 and Food (General) Regulation 2001, the construction and fitout of the food premises, including all equipment, fixtures and fittings, must comply with the requirements of the Food Standards Code (Food Safety Standard 3.2.3), Australian Standard AS 4674-2004 and the National Food Premises Code.
43. Notification details of the food business should be forwarded to the NSW Food Authority before the commencement of operations, to comply with Food Safety Standard 3.2.2.
44. The premise will be subject to regular inspections in accordance with council's food surveillance program.
45. The food business must be registered with Dungog Shire Councils Environmental Services Department upon completion of the work. Prior to commencing operation of the food business the premises must be inspected by Councils Environmental Health Officer to establish compliance with the relevant Food Safety Standards. (For registration and inspection fees please refer to Councils Management Plan).

46. A hand wash basin must be provided in the food preparation area. Hand wash basins must be provided with hot and cold water via a common mixing spout. Liquid soap and single use towels must be provided at each hand wash basin.
47. Fridges, fittings, fixtures and equipment should be installed on approved metal legs of not less than 150mm in height or approved commercial castors where applicable.
48. Vinyl and similar preformed materials - In food display, food storage and other selected positions in food preparation areas commercial grade vinyl sheeting with welded joints or similar preformed material laid over a solid impervious base or an approved underlay is acceptable providing they are laid strictly in accordance with the manufacturer's specifications.
49. The floor finish is to be smooth and even, free of cracks, crevices or surface protrusions that will prevent easy cleaning, graded and drained where necessary.
50. In all food preparation areas, kitchens, sculleries and the like walls shall be finished to a height of at least 2m above floor level with:-
 - (i) Glazed tiles fixed in accordance with the requirements of Australian Standard 3958.1; or
 - (ii) Stainless steel, laminated plastics, formica, laminex, panelyte or other similar approved impervious material adhered directly to the wall.
51. Ceiling Finish - The surface finish shall be free of open joints, cracks, crevices or openings in which grease, vapours or vermin may collect.
52. Ceiling light fittings are to be installed flush with the ceiling surface or alternatively, provided with an approved diffuser cover to prevent the accumulation of dust or harbourage of vermin.
53. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS2601-2001: The Demolition of Structures.
54. All asbestos waste is to be removed, handled, transported and disposed of in accordance with the requirements of Safe Work NSW.
55. Evidence such as weighbridge dockets and invoices for waste disposal or recycling services are to be retained and are readily accessible for inspection by regulatory authorities such as Council, NSW EPA or SafeWork NSW.
56. Prior to the issue of each Occupation Certificate, a fire safety schedule and a fire safety certificate issued under Divisions 2 and 4, Part 9 of the Environmental Planning and Assessment Regulations 2000 (the Regs) must be submitted to the Principal Certifying Authority, Council and the Commissioner of New South Wales Fire Brigades. A copy of the schedule and certificate must also be prominently displayed in the building. Subsequent annual fire safety statements issued under Division 5, Part 9 of the Regs are to be provided to the authorities listed in this condition and displayed within the building each year.



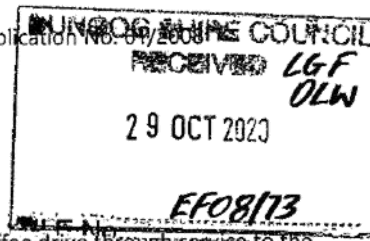




[REDACTED]

From: [REDACTED]
Sent: Wednesday, 28 October 2020 7:37 PM
To: Shire Council
Subject: CM: FAO Donna Watson re Development Application No. 04/2008

Record Number: 20/21353



Dear Donna,

[REDACTED] I am writing to oppose the application to add a coffee drive through service to the existing business at 119 Dowling Street.

DA61/2008

[REDACTED]

[REDACTED] The current drive through does generate a fair bit of noise through the day and into the evening, this currently has some impact [REDACTED] at times the awful language that can be heard from patrons and garbage that is thrown out of their car windows [REDACTED] extremely concerned that the new business will be operating outside of social hours and will severely impact on the [REDACTED]

We would greatly appreciate your consideration in declining this proposal.

[REDACTED]

Acknowledged
29/10/2020 JH

Donna Watson

From: [REDACTED]
Sent: Monday, 16 November 2020 1:44 PM
To: Donna Watson
Subject: Re: Da61/2008 - modification - coffee shop @ Dark Liquor

Hi Donna,

Thanks so much for your response.

Unfortunately we do not want to withdraw our submission. If the coffee shop is going to operate from 5am there will of course be noise associated with this, including opening the large metal roller door, the noise from the large fridges, general noise from customers voices etc.. The traffic noise is just a part of the problem and 7am is still too early to start letting traffic through.

Please don't hesitate to contact me if further information is required,



On 16 Nov 2020, at 1:32 pm, Donna Watson [REDACTED] wrote:

Hello

I wish to advise that Council has forwarded your concerns onto the applicant.

In their response, they have advised that the drive through component of the modification will not operate until 7am. Should orders be made between 5am and 7am, the vehicles will be parked on Dowling Street and the coffee delivered to the vehicles.

I hope this addresses your concerns in relation to traffic noise. If you are satisfied with the applicant's response, you can withdraw your submission.

Please advise by 20 November if you are going to withdraw your submission.

Regards

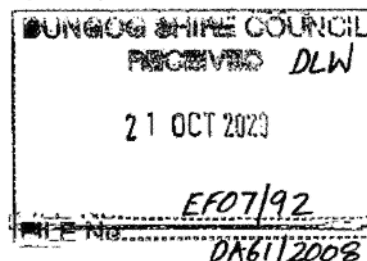
Donna Watson | Town Planner
Dungog Shire Council
198 Dowling Street
P O Box 95 Dungog NSW 2420
T: 02 4995 7777



[REDACTED]

From: [REDACTED]
Sent: Tuesday, 20 October 2020 9:03 AM
To: Shire Council
Subject: CM: Reference to DA 61/2008:dw/gm Bottle Shop Change of Use Query Donna Watson Development Officer/ Town Planner

Record Number: 20/20568



I refer my query to Donna Watson Development Officer/ Town Planner

My query is;

If there is a change to opening times. I don't see any reference to that in the correspondence received and dated 13/10/2020.

Can you please advise if there is a change to opening and closing and if there is what they are proposing.

Or confirmation that there is no change proposed.

Many thanks in anticipation of your reply.

[REDACTED]

Donna Watson

From: [REDACTED]
Sent: Thursday, 29 October 2020 4:02 PM
To: Shire Council
Subject: Development No. 61/2008

To whom it may concern,

[REDACTED]
way , I am writing to oppose said change or add on of business coffee shop as the opening times and traffic flow would cause to much distress [REDACTED]
bottle shop and will no doubt cause [REDACTED] I hope you please
take this into careful consideration .

Many thanks and kind regards [REDACTED]

10.2 DA122/2019 - SECTION 8.2 REVIEW - 483 BLACK ROCK ROAD, MARTINS CREEK

File Number: DA122/2019
Author: Town Planner
Authoriser: Manager Planning
Applicant: HDB Town Planning & Design
Owner: Estate Late D C Vogeles
Proposal: Section 8.2(1)(a) Review of determination
Location: Lot 104 DP 752445
483 Black Rock Road, Martins Creek
Zone: RU1 Primary Production
Annexures: 1. Conditions [↓](#) 
2. Supporting documentation [↓](#) 

Precis

The following report is a review of the determination of Development Application No. 122/2019 for a two storey tourist facility and conversion of rural shed to a function centre, which was approved subject to conditions at the May 2020 Council meeting.

RECOMMENDATION

That the Section 8.2(1)(A) review of Development Consent DA122/2019 be approved subject to the amended conditions in Annexure 1.

REPORT

This review is undertaken under Section 8.3 of the Environmental Planning and Assessment Act 1979 (formerly known as Section 83A).

The review involves the consideration of the requirements of Condition 29, being the upgrade of the sealed and unsealed sections of Black Rock Road.

BACKGROUNDOriginal application – DA122/2019

A pre DA meeting was held with the previous owners and Council staff in January 2018 regarding the establishment of a function centre and tourist and visitor accommodation. Minutes of the meeting were issued which outlined what information Council required with the lodgement of a Development Application.

The land was sold to new owners and they lodged the Development Application with Council on 16 August 2019. A search of Council's records only finds one previous application lodged for the subject site, this being DA 165/2001 – New Rural Shed. The shed was approved and has been constructed.

The subject application was lodged with Council on 16 August 2019. The proposal required additional reports to support the application, these being Noise Assessment and a Traffic and Carparking Assessment. The additional information was requested on 22 October 2019 and provided by the applicant on 25 February 2020.

The application was determined, subject to a number of conditions, at the May 2020 Council meeting. No construction certificates have been received for this development.

SUBJECT SITE

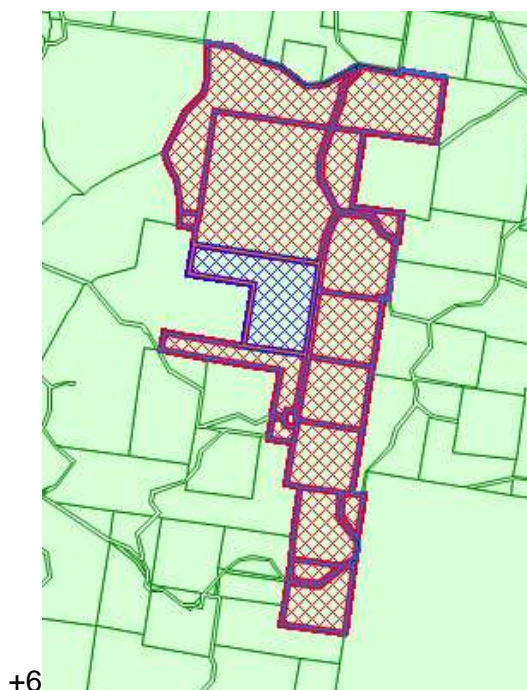
The site is described as Lots 59 and 141 DP 752445 and has a street address of 483 Black Rock Road, Martins Creek. The overall land holding is irregular in shape with an approximate area of 224ha and contains 10 separate parcels. The site of the function centre and accommodation is 16.18ha. The site is reached by a 4.8km drive along Black Rock Road from its junction at Martins Creek Road. It has a moderate to steep undulating terrain with a combination of cleared grazed paddocks, vegetated windbreaks and creeks.

The site is accessed off a Council owned unmaintained gravel road which is in poor condition and narrow width. The location of the proposed structures will be sited as to reduce the amount of vegetation to be removed.

Figure 1: Aerial photograph of the site location



Figure 2: land holding



The subject site is affected by the following constraint(s):

- Bushfire
- Williams River Drinking Water Catchment

These constraints are not considered to cause the site to be unsuitable for the proposed development. Appropriate conditions of consent were recommended to mitigate the potential impacts in relation to bushfire.

STATUTORY CONSIDERATIONS

Under Section 8.2 of the Act, the subject application is able to be reviewed as the application was not a Complying Development Certificate, Designated Development or Crown Development. In this regard, the applicant has requested a review in accordance with Section 8.3(1) of the Act.

Section 8.3(4) of the Act states that the review of a determination, or decision made by a delegate of a Council, is to be conducted by the Council or by another delegate of the Council who is not subordinate to the delegate who made the determination or decision.

In this instance, the review is being reported to Council for determination as the application was determined at a Council meeting.

Section 8.4 of the Act provides that after conducting its review of a determination or decision, the consent authority may confirm or change the determination or decision.

Section 8.5(2) of the Act provides that the functions of Council in relation to a matter subject to review are the same as the functions in connection with the original application or determination which requires an assessment of the application under s4.15 of the Act.

REVIEW REQUEST

The applicant officially requested a Section 8.2(1)(a) review of Development Application on 8 September 2020, with the application being lodged with Council on 23 September 2020.

The applicant has stated that the reasoning behind the imposition of the condition, being Condition No. 29, is not in accordance with Section 4.17 of the Act as it fails the “Newbury Tests” set out in *Newbury District Council v Secretary of State for the Environment* [1981] AC 578 at 607. As a result of this case, the principals of imposing conditions on development consents were subject to certain limitations, being:

- It must have a planning purpose;
- It must relate to the permitted development to which it is annexed; and
- It is so clearly unreasonable that no reasonable planning authority could have imposed it.

The applicant feels that condition 29, as it currently stands, does not meet at least 1 potentially 2 of these principals. In this regard, the applicant has provided an estimate costing to carry out the works in order to comply with condition 29 in its current form. The preliminary costings are in the range of \$3,000,000. For that reason, the applicant has stated that the required upgrading of Black Rock Road would make the development cost prohibitive.

A copy of the supporting documentation submitted by the applicant is attached as Annexure 2.

DISCUSSION

In determining the initial application, referrals received during the assessment indicated that it was reasonable to require the upgrading of both the sealed and unsealed sections of Black Rock Road to meet the requirements of the NSW Rural Fire Service and Council's Roads Management Strategy.

Upon lodgement of the review, the application was placed on public exhibition for a minimum of two weeks, referred back to government agencies and Council's departments for consideration.

Referral comments received from the NSW RFS have confirmed there is no change to the original Bushfire Safety Authority issued 22 October 2019.

Further, as the review primarily relates to changes to the road upgrade condition, the review was referred to Council's Executive Manager of Infrastructure and Assets and the following comments were provided:

The applicant is seeking section 8.2 review of Council's determination of DA122/2019 for a tourist facility and function centre at 483 Black Rock Road, Martins Creek. Specifically, as stated on the application form, the applicant is seeking review of road upgrade requirements specified by Condition 29 of the development consent.

With regard to the road upgrade requirements, Council's engineering assessment of DA122/2019 was based on the following:

1. *An assessment of the existing road formation with regard to its traffic capacity under Council's Roads Management Strategy, and*

Comments: *From the Traffic and Parking Assessment prepared by Intersect Traffic, week long traffic counts for Black Rock Road and an assessment of the traffic generation for the proposed development indicate that the existing Black Rock Road formation has sufficient capacity to cater for traffic generated by the proposed development when considering the requirements of Council's Roads Management Policy and assuming that the tourist facility will only operate for 1 event per week.*

2. *An assessment of the existing road formation with regard to the requirements of NSW Rural Fire Service Planning for Bushfire Protection*

Comment: *With regard to Planning for Bushfire Protection (2006), which was current at the time of lodgement of the original DA and used by NSW RFS in their assessment, the critical consideration is the classification of the development as being Special Fire Protection Purposes.*

From Planning For Bushfire Protection 2006:

4.2 Planning controls for Special Fire Protection Purposes

4.2.7 Standards for Bush Fire Protection Measures for Special Fire Protection Purpose Developments

Access – Internal Roads

“Background – The public road system in a bush fire prone area should provide alternative access or egress for firefighters and residents during a bush fire emergency if part of the road system is cut by fire. This is of critical importance for areas with the higher densities associated with SFPP developments.

Where those developments are being established, the requirements for public roads and car parking apply in the same way as new residential subdivisions. (See Section 4.1.3, Access - Public Roads)

The impact of increased traffic and traffic management in the neighbouring areas also needs to be considered and an assessment of impact on fire fighting capacity undertaken.”

4.1.3 Standards for Bush Fire Protection Measures for Residential and Rural Residential Subdivisions

From Table:

Performance Criteria: Public road widths and design that allow safe access for firefighters while residents are evacuating an area.

Acceptable Solution: Non perimeter roads comply with Table 4.1 – Road widths for Category 1 Tanker (Medium Rigid Vehicle). i.e. 6.5m wide

**reduction to 5.5m wide as required by the new Planning for Bushfire Protection (2019) would be reasonable (PFBP 2019 Table 5.5b)*

The above approach is consistent with the approach taken by NSW RFS who required the internal road to be constructed to a 5.5m wide standard allowing for 2 way traffic. Council’s Road network should be upgraded to the same standard expected by NSW RFS for the internal road network.

Note: *RFS comments for the 8.2 review have been received 27/11/2020, with no changes, confirming that the internal road network must be constructed to a 5.5m wide standard to cater for 2 way traffic.*

Review of conditions:

Condition 29 of Development Consent DA122/2019 currently reads as follows:

29. The developer shall arrange for detailed engineering design plans to be submitted to Council for approval for: -

- *Upgrade the existing sealed formation of Black Rock Road from the intersection with Martins Creek Road to approximate Chainage 2,300m. The road shall be constructed to a 6m wide Rural Local 2 (RL2) standard in accordance with Council’s Roads Management Strategy.*
- *Upgrade the existing unsealed formation of Black Rock Road, from approximate Chainage 2,300m to the proposed development site (approximate Chainage 4,830m). The road shall be constructed to a 6m wide Rural Local Unsealed 1 (RLU1) standard in accordance with Council’s Roads Management Strategy*
- *Provide curve widening where required in accordance with NSW RFS Planning for Bushfire Protection.*

Detailed plans shall be submitted to and approved by Council prior to issue of a s138 Roads Act Approval.

All works shall be designed and constructed in accordance with the latest Auspec standards, Council’s Roads Management Strategy, Austroads standards and NSW RFS Planning for Bushfire Protection standards

All works shall be constructed prior to the release of any Occupation Certificate.

Reason: To provide an appropriate standard of vehicle access to the land to accommodate the traffic likely to be generated.

Comments:

On review, Council's assessment of the original development application did not consider Council's works program and the pending upgrade of the sealed section of Black Rock Road, being the works referred to in dot point 1 of Condition 29. Noting that these works are to be completed by Council, it would be reasonable to remove these works from DA122/2019.

With regard to the upgrading works to the unsealed portion of Black Rock Road (dot point 2, from approximate Chainage 2,300m to the proposed development site) it is considered that the unsealed portion of Black Rock Road must be upgraded to cater for 2 way traffic as required by NSW Rural Fire Service Planning for Bushfire Protection Section 4.2 Planning controls for Special Fire Protection Purposes. Considering the NSW RFS requirement for the internal road network to cater for 2 way traffic, it is not considered acceptable that Council's Road network become the choke point. Council's Road network should be upgraded to the same standard expected for the internal road network.

In this regard, it is recommended that Condition 29 be amended as follows:

29. The developer shall arrange for detailed engineering design plans to be submitted to Council for approval for: -

- ~~Upgrade the existing sealed formation of Black Rock Road from the intersection with Martins Creek Road to approximate Chainage 2,300m. The road shall be constructed to a 6m wide Rural Local 2 (RL2) standard in accordance with Council's Roads Management Strategy.~~
- Upgrade the existing unsealed formation of Black Rock Road, from approximate Chainage 2,300m to the proposed development site (approximate Chainage 4,830m). The road shall be constructed to a ~~6m~~ **5.5m** wide Rural Local Unsealed ~~4 2 (RLU4 RLU2)~~ standard in accordance with **NSW Rural Fire Service Planning for Bushfire Protection Section 4.2 Planning controls for Special Fire Protection Purposes which supersedes the requirements of Council's Roads Management Strategy**
- Provide curve widening where required in accordance with NSW RFS Planning for Bushfire Protection.

Detailed plans shall be submitted to and approved by Council prior to issue of a s138 Roads Act Approval.

All works shall be designed and constructed in accordance with the latest Auspec standards, Council's Roads Management Strategy, Austroads standards and NSW RFS Planning for Bushfire Protection standards

All works shall be constructed prior to the release of any Occupation Certificate.

Reason: To provide an appropriate standard of vehicle access to the land to accommodate the traffic likely to be generated.

The suitability of the site for the development

The development can be integrated into the locality without any significant adverse impacts. The site is therefore considered suitable for the proposed development.

Any submissions made in accordance with this Act or the Regulations

The Section 8.2 review was placed on public exhibition from 14 October to 29 October 2020. During this time, Council did not receive any submissions.

The Public Interest

The proposed development is in the public interest as it will provide additional tourist accommodation options and increase the economic viability of the property. With the amendment to Condition 29 being supported, the development is now more cost efficient.

CONCLUSION

The application has been reviewed in accordance with the Environmental Planning and Assessment Act 1979. From the review, it was found that Condition 29 of Development Consent DA122/2019 can be amended to remove the requirement to upgrade the sealed section of Black Rock Road due to Councils works programme as well as reduce the construction width of the unsealed section of Black Rock Road from 6m to 5.5m.

Prescribed conditions

1. The work must be carried out in accordance with the requirements of the Building Code of Australia for Class 1b and 9b buildings as applicable.
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:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) 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
 - (iii) stating that unauthorised entry to the work site is prohibited.

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.

3. If the development requires a BASIX certificate, fulfilment of the commitments listed in each relevant BASIX certificate.

General / Conditions to be complied with at all times

4. The proposed development being carried out in accordance with the following plans/and or documents referenced and stamped, except as modified by the conditions of this consent and any amendments in red:

(a) Plans Reference:

Name of Plan	Drawn by	Issue	Date
Sheet 1 Location, locality & site plan	Design & Drafting	A	April 2019
Sheet 2 Part Site Plan	April 2019	April 2019	July 2019
Sheet 3 Main Cabin – Ground floor	April 2019	April 2019	April 2019
Sheet 4 Main Cabin – Upper Floor Plan	April 2019	April 2019	April 2019
Sheet 5 Cabin 1 & 2 – Floor plan	April 2019	April 2019	April 2019
Sheet 6 Main cabin – Elevations	April 2019	April 2019	April 2019
Sheet 7 Cabin 1 & 2 – elevations	April 2019	April 2019	April 2019
Sheet 8 Sections	April 2019	April 2019	April 2019
Sheet 9 Function Centre – Floor plan	April 2019	April 2019	May 2019
Sheet 10 Function Centre – Elevations	April 2019	April 2019	May 2019
Sheet 11 Function Centre - Section	April 2019	April 2019	May 2019

(b) Document Reference:

Document	Reference	Author	Date
Statement of Environmental Effects		HDB	15 August 2019
Ecological Assessment		Wildthing Environmental Consultants	July 2019
Bushfire Engineering Brief		Newcastle Bushfire Consulting	16 July 2019
On-site Waste Water Management Plan		Whitehead and Associates	15 July 2019
BASIX Certificate	1030141S	MM Drafting	2 August 2019
Traffic and Parking Assessment		Intersect Traffic	February 2020
Noise Impact Assessment		Rapt Consulting	February 2020
Plan of Management		HDB	19 May 2020

5. Hours of operation for the centre is to be as follows:
 - Weekdays (Mon – Fri) 12midday to 10pm
 - Weekends (Sat and Sun) 12midday to 11pm
 - Public holidays 12 midday to 11pm
6. All Guests must vacate the centre in an orderly manner by the following times:
 - Weekdays (Mon – Fri) 10.30pm
 - Weekends (Sat and Sun) 11.30pm
 - Public holidays 11.30pm
7. All external lighting must be mounted, screened and directed in a way so that it does not create a nuisance or light spill on to adjoining lots or public places.
8. All Caterers/mobile food vending vehicles operating onsite must submit to Council's Environmental Services Department a Temporary food premises application, which is to be supplied a minimum of seven (7) days prior to the event for approval.
9. All caterers/mobile food vending vehicles must comply with the NSW Food Act 2003, NSW Food Regulation 2015, Food Standards Code and Council's Temporary Food Premises Guidelines.
10. Caterers/mobile food vending vehicles must ensure there is adequate hot/cold storage and display unit capacity to store food at the correct temperature (not over 5°C for cold food, and above 60°C for hot food).
11. Caterers/mobile food vending vehicles that are delivering food to a party or group function, must maintain all food at the correct storage temperature. Transport vehicles should be designed and constructed in accordance with NSW legislation.
12. A hand wash basin must be provided in the food preparation area. Hand wash basins must be provided with hot and cold water via a common mixing spout. Liquid soap and single use towels must be provided at each hand wash basin.
13. A drinking water supply with a minimum capacity of no less than 20,000 litre shall be provided for use in a association with the function centre and accommodation.

14. The colour and texture of any new external materials for the function centre, cabin or rainwater tank/s are to be chosen to ensure they blend into the natural surroundings. In this regard, non-reflective materials shall be used in all external finishes.
15. Access for the Disabled to be provided in accordance with clause D3.2 of the Building Code of Australia and AS1428.1.
16. Any relocation or alterations of public utilities made necessary as a result of the development are to be carried out at no cost to Council.
17. During each event, a car parking area shall be provided for a minimum of 37 vehicles. All driveways, access corridors and car parking areas are to be designed in accordance with AS2890.1 & 2 - Parking Facilities.
18. Music from the function centre must not be louder than sound power level 94SWL dB(A) as recommended in the Noise Impact Assessment prepared by Rapt Consulting dated February 2020.
19. Where possible, within the scope of the proposal, the applicant shall ensure hollow bearing trees be retained. If removal of individuals is unavoidable, works should minimise impacts as follows:
 - The removal of hollow bearing trees should be supervised by a suitably qualified ecologist to reduce the impact on the any fauna which may be present.
 - It is also recommended that two nest boxes per habitat tree removed be installed prior to tree clearance within retained trees to help mitigate lost hollows.
20. The Applicant is to ensure that all Priority Weeds within the study area be controlled as part of the on going property management. Particular attention should be given to the weeds listed in Table 5.5 of the Ecological Assessment prepared by Wildthing dated 18 July 2019.
21. The tourist and Visitor accommodation component must not to be occupied as a permanent dwelling at any time.
22. The operations of the Function Centre and Accommodation are to be undertaken in accordance with the Plan of Management prepared by HDB dated 19 May 2020 at all times.
- 22A The Function Centre is limited to one (1) event per week.
- 22B The maximum number of patrons is not to exceed 100 persons per event.

Conditions to be complied with prior to the issue of any Construction Certificate

23. Pursuant to section 7.12 of the EP&A Act and in accordance with the Dungog Local infrastructure Contributions Plan 2019 (adopted April 2019), a contribution of \$3500 shall be paid to Council. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of section 6.3 of the Dungog Local Infrastructure Contributions Plan 2019. The contribution is to be paid prior to the issue of a Construction Certificate.
24. Separate approval from Council as the Roads Authority must be obtained under Section 138 of the Roads Act 1993 prior to the issue of any Construction Certificate

which includes any works within a Council road reserve. For any such works, detailed engineering design plans must be submitted to Council for approval prior to issue of the Construction Certificate.

Reason: Required under the Roads Act 1993.

25. Sanitary facilities for people with disabilities are to be provided in the assembly building function centre. The construction and layout of facilities is to comply with Clause AS1428.1-2001, 'Design for Access and Mobility'.

Details and/or amended plans are to be submitted to Council prior to the issue of any Construction Certificate to demonstrate compliance, if necessary, with AS1428.1-2001, 'Design for Access and Mobility'.

26. Prior to the issue of the construction certificate an application for the installation of an onsite sewage management system is to be lodged with council's Environmental services department for approval. The system shall be designed in accordance with Whitehead and Associates Waste Water Management Plan (ref OSSM Report 2285_004, 15/7/19), AS/NZS 1547:2012 and the Environmental & Health Protection Guidelines.
27. The effluent disposal area is to be located as indicated on the site plan in figure 3 from Whitehead and Associates Waste Water Management Plan (ref OSSM Report 2285_004, 17/7/19).
28. Prior to preparation of any engineering design plans, the consultant preparing the design plans will need to contact Council's Infrastructure & Assets department to discuss the extent and scope of all works and details required on the design plans. Some of the issues to be discussed and incorporated in the design plans include the following:
 - Location of passing bays.
 - Erosion & sediment controls.
 - Stormwater drainage.
 - Pavement standards including carriageway widths etc.
 - Vehicle access locations.
 - Provision of Water & Sewer.
 - Road widening.
 - Standard of river/creek crossing detail.
 - Earthworks details including quantities.
 - Traffic control details.
 - Restoration details.

Reason: To ensure appropriate levels of works and engineering design details are satisfactorily addressed.

Condition 29 has been reviewed and now reads as follows:

29. The developer shall arrange for detailed engineering design plans to be submitted to Council for approval for: -
 - ~~Upgrade the existing sealed formation of Black Rock Road from the intersection with Martins Creek Road to approximate Chainage 2,300m. The road shall be~~

constructed to a ~~6m~~ wide Rural Local 2 (RL2) standard in accordance with Council's Roads Management Strategy.

- Upgrade the existing unsealed formation of Black Rock Road, from approximate Chainage 2,300m to the proposed development site (approximate Chainage 4,830m). The road shall be constructed to a ~~6m~~ **5.5m** wide Rural Local Unsealed ~~2 (RLU1 RLU2)~~ standard in accordance with **NSW Rural Fire Service Planning for Bushfire Protection Section 4.2 Planning controls for Special Fire Protection Purposes which supersedes the requirements of** Council's Roads Management Strategy.
- Provide curve widening where required in accordance with NSW RFS Planning for Bushfire Protection.

Detailed plans shall be submitted to and approved by Council prior to issue of a s138 Roads Act Approval.

All works shall be designed and constructed in accordance with the latest Auspec standards, Council's Roads Management Strategy, Austroads standards and NSW RFS Planning for Bushfire Protection standards

All works shall be constructed prior to the release of any Occupation Certificate.

Reason: To provide an appropriate standard of vehicle access to the land to accommodate the traffic likely to be generated.

30. The developer shall arrange for detailed engineering design plans to be submitted to Council for approval for: -

Erosion and Sediment Control facilities to deal with all aspects of earthworks associated with the development. The detailed plans shall be in accordance with Dungog Council's Erosion and Sediment Control Plan Guidelines. Sediment control measures shall be provided for the duration of the works and until the site is stabilised.

Detailed plans shall be submitted to and approved by Council prior to issue of a s138 Roads Act Approval or Construction Certificate.

Reason: To ensure all sediment is contained on the development site and appropriate environmental controls are in place.

31. The developer shall arrange for amended plans to be submitted to Council for approval for: -
An off street car parking facility for 37 vehicles, located wholly within the proposed development site. Car parking for the proposed development shall not be located within Council's road reserve.

32. Parking facilities are to be designed in accordance with AS-NZS 2890.1:2004 – Off-Street Parking Facilities and AS-NZS 2890.6:2009 – Off-Street Parking for People with Disabilities. The car parking facility shall be constructed with a gravel pavement.

Detailed plans shall be submitted to and approved by Council prior to issue of a Construction Certificate.

All works shall be constructed prior to the release of any Occupation Certificate.

Reason: To ensure that satisfactory parking arrangements are provided in accordance with Council policy and in accordance with Australian Standards.

Conditions to be complied with prior to works commencing

33. Prior to the commencement of construction works for the repair works/alterations of the assembly building/function centre, it will be necessary to obtain a Construction Certificate. Where Council is not the Principal Certifying Authority (PCA), the proponent or private certifier shall submit a Construction Certificate to Council prior to building works commencing on the subject allotment.
34. All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.
35. Where unavoidable, works should minimise impacts to mature trees as follows:
 - Clearing limits will be clearly marked to prevent unnecessary clearing beyond the extent of the proposed development and bushfire asset protection zones.
 - Where a tree must be disturbed the priority should be given to pruning rather than clearing
 - The clearing of any trees should be undertaken in a manner that avoid damaging adjacent vegetation ie all trees should be felled into disturbed areas when feasible.

Conditions to be complied with during work

36. There is to be no construction and / or demolition works, including deliveries on or to the site prior to 7.00 am or after 6.00 pm Monday to Friday, prior to 8.00 am and after 1.00 pm Saturday. No works on Sundays or public holidays.
37. Erosion and Sediment Control facilities shall be installed to deal with all aspects of earthworks associated with the development. All works shall be in accordance with Dungog Council's Erosion and Sediment Control Plan Guidelines. Sediment control measures shall be provided for the duration of the works and until the site is stabilised.

Reason: To ensure all sediment is contained on the development site and appropriate environmental controls are in place.

38. The applicant shall ensure that arrangements are made for the Principal Certifying Authority, Council or Private Certifier, to carry out STAGE INSPECTIONS indicated as follows in bold.

Request for inspections may be made either by telephone or in person.

Forty eight (48) hours notice must be given for inspections.

Applicants are required to nominate the relevant Construction Certificate Number and location prior to the inspection request being granted.

Note: STAGE INSPECTIONS are required to be carried out in order to ensure that an Occupation/Subdivision Certificate can be issued. In the event that any stage inspection is not carried out, an Occupation/Subdivision Certificate cannot be issued.

- (a) ***After stripping of topsoil from roads and fill areas, all Erosion & Sediment Control devices and Traffic Control signs shall be installed at this stage.***
- (b) ***After completion of road sub grade.***
- (c) ***After placement and compaction of each layer of gravel pavement material.***
- (d) ***After restoration and completion of all works.***
- (e) ***As otherwise required to confirm that the works are satisfactorily executed and in conformity with environmental controls and conditions of Development Consent.***

It should be noted that Council charge fees for inspections and Compliance Certificates. These inspection fees must be paid prior to release of the Construction/Occupation/Subdivision Certificate associated with the Development Consent. At the time of issuing this Development Consent Council's Inspection Fee was \$120.00 per inspection. Compliance (Inspection) Fees will be adjusted in accordance with Council's Fees & Charges operating at the time of inspection. In the event further additional inspections are required those inspections will attract inspection fees.

Reason: To demonstrate that development works are carried out in conformity with the Construction Certificate issued, development conditions and to appropriate technical engineering standards.

39. The applicant must give priority during construction to avoid any inadvertent impact to significant biodiversity values within the site. Avoidance measures should include the following:
- All material stockpiles, vehicles parking and machinery storage will be located within cleared areas proposed for clearing, and not in areas of native vegetation that are to be retained.
 - Temporary erosion and sediment controls (eg silt fences, sediment traps) should be installed prior to construction to avoid disturbance and degradation of soils and nearby features (eg water ways, adjacent habitat and vegetation). These should conform to the specifications in Soils and Construction "Blue Book" (Landcom2004) and should be maintained throughout the construction process until soil is successfully stabilised.

Conditions to be complied with prior to the issue of any Occupation Certificate

40. The building shall not be used or occupied until completed and conditions of consent have been complied with and an Occupation Certificate has been issued.
41. Where Council is not the Principal Certifying Authority (PCA), an Occupation Certificate shall be submitted to Council when the building works has been completed and prior to the Occupation of the building.

Note: If the Certificate is being issued by a Private Certifier the certificate is to be lodged with Council not less than forty eight (48) hours prior to the occupation of the building/structure.

42. A drinking water supply (rainwater tanks) for the function centre and accommodation building shall be designed and operated in accordance with the NSW Health Guidelines for Private Water Supplies. The Guidelines may be found at

<http://www.health.nsw.gov.au/environment/water/Publications/private-water-supply-guidelines.pdf>

In accordance with the Guidelines the applicant shall complete the following prior to the use of the Function Centre—

- Prepare a Drinking Water Quality Assurance program and submit a copy to the Hunter New England Health Public Health Unit.
 - Provide Council with details of the monitoring regime that is to be followed to determine drinking water quality in accordance with the Guidelines. This shall include the criteria tested ie what is being tested (microbiological, chemical, physical), proposed frequency of testing, method of testing and the name of the person/company conducting the testing and laboratory analysis.
43. The onsite sewage management system is to be installed in accordance with its approval, with a satisfactory final inspection to be undertaken by Council.
44. Prior to issue of an Occupation Certificate, roof water from the building/s and any rainwater tank overflow shall be piped clear of all buildings - without creating any nuisance on the property, to the onsite sewage management system, or to adjoining properties.
45. Prior to the release of any Occupation Certificate, all bushfire mitigation works relating to the development as detailed in the bushfire engineering brief prepared by Newcastle BushFire Consulting dated 16 July 2019 (except as modified by the conditions of this development consent, including the conditions in Schedule 3) shall be completed.

Completed works shall be certified by the principle contractor verifying compliance with all listed requirements.

46. Prior to issue of any Occupation Certificate all road works and off street car parking works required by this development consent and any associated Construction Certificate and/or s138 Roads Act Approval shall be complete to the satisfaction of Council.

Reason: To provide an appropriate standard of vehicle access to the land to accommodate the traffic likely to be generated.

47. Prior to release of the Occupation Certificate Work as Executed information shall be submitted to Council for roadworks required by this development consent and associated s138 Roads Act Approval. The information is to be submitted in hard copy and in electronic format compatible with AutoCAD. This information is to be approved by Council prior to issue of the Occupation Certificate.

Reason: To ensure Council has documentary proof of all their assets to complete appropriate records.

48. Prior to the issue of an occupation certificate, the applicant shall provide details to Council of the waste management arrangements to be implemented. These details shall be in the form of a Waste Management Plan and include but not be limited to-
- The method of waste collection on site including siting of waste receptacles in accommodation and the function centre.
 - Method of waste separation and recycling if any.
 - Method of storage of waste on site and removal of bulk waste.
 - The details of any contractor engaged to remove waste from the property.
 - The details of where generated waste will be disposed of.

SCHEDULE 3

APPROVAL UNDER SECTION 4.46

NSW RURAL FIRE SERVICE

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. To allow for emergency service personnel and residents to undertake property protection activities, a defensible space that permits unobstructed pedestrian access is to be provided around the buildings.
2. At the commencement of building works and in perpetuity, the property around the buildings shall be managed as follows as outlined within Section 4.1.3 and Appendix 5 of Planning for Bush Fire Protection 21006 and the NSW Rural Fire Service's document Standards for Asset Protection Zones.
 - North for a distance of 50 metres as an inner protection area;
 - East and South for a distance of 80 metres as an inner protection area; and
 - West for a distance of 32 metres as an inner protection area.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply.

3. In recognition that no reticulated water supply is available to the development, a total of 20,000 litres fire fighting water supply shall be provided for fire fighting purposes. The fire fighting water supply shall be installed and maintained in the following manner:
 - a. Fire fighting water supply tank/s shall be located not less than 5 metres and not more than 20 metres from the function centre;
 - b. New above ground fire fighting water supply storage's are to be manufactured using non combustible materials (concrete, metal, etc). Where existing fire fighting water supply storage's are constructed in combustible (polycarbonate, plastic, fibreglass, etc) materials, they shall be shielded from the impact of radiant heat and direct flame contact.
 - c. No combustible materials (concrete, metal, etc) will only be used to elevate or raise fire fighting water supply tank/s above the natural ground level.
 - d. A 65mm metal Storz outlet with a gate or ball valve shall be fitted to any fire fighting water supply tank/s and accessible for a fire fighting truck

- e. The gate or ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material.
- f. All associated fittings to the fire fighting water supply tank/s shall be non-combustible.
- g. Any below ground fire fighting water supply tank/s constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials shall be shielded from the impact of radiant heat and direct flame contact.
- h. A hardened ground surface for fire fighting truck access is to be constructed up to and within 4metres of a fire fighting water supply (tank or Storz fitting).
- i. Any fire fighting water supply tank/s located below ground shall be clearly delineated to prevent vehicles being driven over the tank.
- j. All water supplies for fire fighting purposes shall be clearly signposted as a fire fighting water supply.
- k. Below ground fire fighting water supply tank/s shall have an access hole measuring a minimum 200mm x 200mm to allow fire fighting trucks to access water direct form the tank.
- l. Fire fighting water supply tank/s and associated fittings, located within 60metres of a bushfire hazard and on the hazard side of an approved building, shall be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire fighters.
- m. A minimum of 5hp or 3kW petrol or diesel powered pump/s shall be made available to the water supply. A 19mm (internal diameter) fire hose/s and / or reel/s shall be connected to the pump. Fire hose/s and / or reel/s must be installed so that each elevation of the buildings can be reached by a fire hose/s. The fire hose/s and/or reel/s must be constructed in accordance with *AS1221:1997 Fire Hose Reels* and shall be installed in accordance with *AS2441:2005 Installation of fire hose reels*.
- n. Pumps are to be shielded from the direct impacts of bushfire.
- o. A Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
 - i. Markers must be fixed in a suitable location so as to be highly visible; and
 - ii. Markers should be positioned adjacent to the most appropriate access for the water supply.

Note: The definition of below ground dedicated fire fighting water supply tank/s is when the outlet valve is located below natural ground level.

- 4. In recognition that the buildings may be connected to gas supply, the following requirements are to be complied with:
 - a. Reticulated or bottled gas is to be installed and maintained in accordance with the current Australian Standard *AS 1596 – The Storage and handling of LP Gas* and the requirements of relevant authorities. Metal piping is to be used;
 - b. All fixed gas cylinders are kept clear of all flammable materials to a distance of 10metres and be shielded on the hazard side of the installation;
 - c. Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal.

Access

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bushfire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

5. Internal roads shall comply with following requirements of Section 4.2.7 of Planning for Bushfire Protection 2006.
 - Internal roads are a minimum 5.5metres trafficable width, two wheel drive and all weather surface
 - Dead end roads are to incorporate a minimum 12metres outer radius turning circle and area clearly signposted as a dead end.
 - Traffic management devices are constructed to facilitate access by emergency services vehicles
 - A minimum vertical clearance of 4metres to any overhanging obstructions, including tree branches
 - Curves have a minimum inner radius of 6 metres. The minimum distance between inner and outer curves is six metres
 - Maximum grades do not exceed 15 degrees and average grades are not more than 10 degrees
 - Crossfall of the pavement is not more than 10 degrees
 - Roads do not traverse through a wetland or other land potentially subject to periodic inundation (other than flood or storm surge)
 - Roads are clearly signposted and bridges clearly indicate load ratings
 - The internal road surfaces and bridges have a capacity to carry fully loaded fire fighting vehicles (15 tonnes).

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

6. An Emergency / Evacuation Plan is to be prepared consistent with the NSW Rural Fire Service document "Guidelines for the Preparation of Emergency / Evacuation Plans" and Australian Standard *AS3745:2010 Planning for Emergencies in Facilities* including:
 - a. No occupation may occur on the site on days of forecasted extreme and / or catastrophic fire weather
 - b. On days of very high or severe fire weather, the NSW Rural Fire Services District Office be advised of total persons on site and the duration of the event.
 - c. Trigger points for implementation of the emergency evacuation plan are to be developed and clearly stated.

The emergency evacuation plan will include a procedure to contact the NSW Rural Fire Service District Office / NSW Fire Brigade and inform them of the evacuation and the location they will be evacuated to.

A copy of the emergency evacuation plan shall be provided to the consent authority and the Local Emergency Management Committee prior to the commencement of the development.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

7. New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard *AS3959-2009 Construction of buildings in bushfire prone areas* and Section A3.7 Addendum Appendix 3 of Planning for Bushfire Protection.

Landscaping

8. Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bushfire Protection 2006.



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File Ref: 18/040

8 September 2020

General Manager
Dungog Shire Council
PO Box 95
DUNGOG NSW 2420

Attention: Jacqui Tupper

Subject: DA/122/2019 – 483 Black Rock Road, Martins Creek
Section 8.2(1)(a) – Review of a Development Consent Application

Dear Jacqui,

Following our meeting on 3 September 2020, and discussions with our Client, we wish to lodge a S8.2(1)(a) Application for a Review of the Development Consent to review the requirements of Consent Condition No. 29 – the upgrade of the sealed and unsealed sections of Black Rock Road.

The reasoning behind the imposition of the condition as explained/justified by Council based on the following points. In reviewing the information submitted to Council as part of the application we are of the opinion that there is no justification.

Further to this we believe that the imposition of this condition is not in accordance with s80A of the Environmental Planning and Assessment Act 1979 (Act) as it fails the "Newbury tests" set out in *Newbury District Council v Secretary of State for the Environment* [1981] AC 578 at 607.

In support of the above the following is provided.

Bushfire Hazard

When reviewing the General Terms of Approval issued by NSW Rural Fire Service, Council were mindful of the need to protect attendees of Functions and the occupants of the tourist and visitor accommodation.

Response

A bushfire threat assessment, along with an engineering brief, was prepared by Newcastle Bushfire Consulting to support the proposed development. The report noted that, "The site is an isolated rural property which will have multiple building users assembling in a single location who may be unfamiliar with the local area. The primary noncompliance is the lack of an alternate egress. With additional

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construction measures, improved firefighting measures through hose reels, improved communication through a satellite phone, adequate emergency management measures are proposed to provide a safe refuge on site in the event of bushfire."

This report confirms the proposed development, as a special protection purpose, can achieve BAL 12.5 in accordance with the relevant provision of AS 3959-2009, subject to the following requirements being met:

- The area up to 50m to the north, 80m to the east & south, and 32m to the west of the buildings to be maintained and managed as an inner protection area;
- Provision of 20,000 L static water supply dedicated for firefighting purposes attached to the tourist accommodation, along with an existing 28,500 L water tank attached to the function centre; and
- Preparation of an emergency / evacuation plan with specific consideration of potential bushfire threat.

Provision for the above was made as part of the application and has also been conditioned by Council. In addition to this the Function Centre is proposed to be a BAL-12.5 construction to act as a bushfire refuge in the unlikely occurrence that evacuation is unviable.

The approved Management Plan submitted to Council requires Vogeles Retreat to further reduce the perceived risk by:

- On days for which the Bureau of Meteorology has forecasted extreme and/or catastrophic fire weather all events/stays will be cancelled/postponed.
- On days of forecasted very high or severe fire weather the RFS District Office will be notified of total persons on site and the duration of any event.
- All Vogeles Retreat Management will be trained in bushfire fighting and the use of pumps/appliances located on-site. They will also be trained on the implementation of the Emergency/Evacuation Plan and the trigger points contained within.

When considered in their totality Vogeles Retreat has/will implement a broad range of actions to manage, minimise and mitigate the potential risk of bushfire impacted on the property.

The requirement to upgrade 5km of road, including 2.3km of seal road is therefore considered unreasonable.

Black Rock Road upgrade

Consent Condition No. 29 of the current approval relates to the upgrade of Black Rock Road, stating that the reasoning behind this is *"to provide an appropriate standard of vehicle access to land to accommodate the traffic likely to be generated."*

There have been numerous discussions over the duration of the assessment of the application regarding the upgrade requirements. Planning for Bushfire Protection 2019 refers to internal road requirements, external roads are the responsibility of Council. Council's Agenda and Draft Conditions from 22 April 2020 refer to:

"Council's Development Engineer has recommended that 800m of unformed road be upgraded in accordance with Council's Roads Management Strategy to improve vehicle safety."





A site inspection found that the road required maintenance to be undertaken and as a result, it has been recommended that the 800m of unformed road be upgraded in accordance with Council's Roads Management Strategy. Should the application be approved, this will be imposed as a condition of consent.

The proposed site is located 4.8km from this intersection. Council's Development Engineer has reviewed the Traffic and Parking assessment provided and supports the application with no upgrading to this intersection.

Council's Development Engineer has supported the application subject to the inclusion of a number of conditions."

Council have also referred to the sub-standard condition of Black Rock Road in terms of Traffic Generation from this proposal. The Function Centre will be holding one event per week at a maximum with a capacity of 100 persons, with the short-term accommodation able to house up to 15 guests. It is anticipated that the guests staying in the short-term accommodation will be those attending the function, not additional guests. For events attracting more than 50 guests, management will encourage the use of locally-based passenger transport (i.e. buses).

The submitted Traffic Report by Intersect Traffic notes:

*"Black Rock Road serves as a local road for a number of properties in the locality. As such, Dungog Council is the roads authority responsible for maintaining this road to its entire length, in accordance with Council's Road Management Strategy. The current road condition in Black Rock Road however does not meet the standards required by Council's Road Management Strategy and as an existing deficiency is the responsibility of the road authority to upgrade albeit a **fair and reasonable contribution** could be sought from the development.*

To meet the requirements of Dungog Shire Council for a rural unsealed road 4 metres in width the last 800 metres of dirt/rock pavement in Black Rock Road and the 200 metre access road from Black Rock Road to the development site will require construction of a gravel pavement in accordance with the requirements of Dungog Shire Council. It is understood the client is negotiating with Council in regard to the road upgrading of the last 800 metres of Black Rock Road to the site, separate to the DA process. Any conditions of consent issued for this project will need to consider the results and outcomes of these negotiations. Further the construction of this section of the road would be considered a fair and reasonable contribution to the upgrading of Black Rock Road and no further monetary contribution would be required. Any additional monetary contribution would be considered unreasonable given the total value of the development and would make the development infeasible from a financial perspective."

Council advised that the sealed portion of Black Rock Road is under design for construction next year as part of the Special Rate Variation. This will decrease the proponent's costs significantly. However, it was stressed that the time of this upgrade is not certain. If this upgrade is considered necessary, the proponents would be required to wait for this work to be undertaken prior to moving forward. To impose the upgrade of the entire length of the road is unnecessary and unreasonable and one that would result in the project not being financially viable.





Newbury Test

In *Newbury District Council v Secretary of State for the Environment* [1981] AC 578 at 607 Lord Fraser held that the power to impose conditions on a development consent were subject to certain limitations, being:

- it must have a planning purpose,
- It must relate to the permitted development to which it is annexed, and
- it is so clearly unreasonable that no reasonable planning authority could have imposed it

When consideration is given to these principals it is evident that the condition, as it stands, does not meet at least 1 potentially 2 of these principals.

It must relate to the permitted development

The proposal is located 4.8km from Martins Creek Road. The Traffic Assessment and Counts concluded that at present, the unsealed section of Black Road Road is used by 210 vehicles per week. The proposed development will increase this by 15%. While committing to upgrade the last 800m, the development itself does not 'generate' the need to upgrade a further 4,030m of road. The fact that the road is not up to Council's current standard is not a relevant justification.

It is so clearly unreasonable

Preliminary costs sourced to understand the impact of the proposed condition indicate that to complete the works would cost in the order of \$3,000,000. To put this into context, the cost of the development as approved is \$300,000. To comply with the condition will 'cost' the proponents 10 times the value of the development. This makes the development cost prohibitive. As such it is tantamount to a refusal as there is no reasonable way for the proponents to comply with this condition.

CONCLUSION

During the meetings at which this development application was discussed, it was noted that all Councillors are in favour of such tourist developments in the LGA and were positive about the actual development on-site and the economic boost it will bring to the area.

Whilst we understand that Dungog Council are particularly mindful of Bushfire and Flooding hazards in the LGA, the imposition of such a requirement by Council will result in the project not being developed. At its meeting of 22 April, Council deferred the consideration of the matter to seek addition information. Point 3 asked *that further investigation to be undertaken in association with the Infrastructure and Assets Section as to appropriate construction requirements on Black Rock Road and to adjust the recommended conditions if required before further consideration by Council.* We would contend that this review erred in then imposing a condition that was not required and unreasonable

We request that the road upgrade requirements be reviewed and amended to the original requirement of construction of the 800m unformed section of road to serve the development site that satisfied Council's Development Engineer in April 2020.





Can you please advise the undersigned of the applicable Application Fees once calculated and we will arrange either by credit card over the phone or by cheque.

We attach the above-mentioned Bushfire Report and Traffic Impact Assessment for your convenience. We appreciate Council's consideration of this matter and look forward to your response.

Yours sincerely

HDB Town Planning & Design

Mathew Egan

Principle Planner

Enc: Intersect Traffic's "Traffic Impact Assessment"




Newcastle Bushfire's "Bushfire Engineering Brief"

HDB Town Planning & Design's "Plan of Management"

Section 8.2(1)(a) Application Form



10.3 DEVELOPMENT APPLICATION NO 184/2020 - CAMPING GROUND (PRIMITIVE CAMP GROUND) AT DUNGOG SHOWGROUND

File Number:	DA184/2020
Author:	Senior Town Planner/ Development Officer
Authoriser:	Manager Planning
Applicant:	Perception Planning
Owner:	Dungog Shire Council acting as the Crown Land Manager (with the site administered by Dungog Showground and Recreation Reserve Management Committee)
Proposal:	Camping Ground (Primitive Campground)
Location:	Lot 1 DP 668270, Lot 7020 DP 1126701 and Lot 41 DP 901443, No 36-76 Abelard Street, Dungog
Zone:	RE1 Public Recreation
Annexures:	<ol style="list-style-type: none">1. Proposed Site Plan ↓ 2. Showground Master Plan (Plan of Management) ↓ 3. Recommended Conditions of Consent ↓ 

Precis

The following report considers Development Application No 184/2020, which seeks development consent for a camping ground (primitive) comprising 16 sites at the Dungog Showground. The site is zoned RE1 Public Recreation and the proposed use as a camping ground is permissible with consent under Dungog Local Environmental Plan (LEP) 2014. The application is reported to Council for determination due to Council acting as the land owner in this instance and the proposal also has the potential to impact on the economy and tourism potential of Dungog Township.

RECOMMENDATION

That Development Application No 184/2020 for a camping ground (primitive) at Lot 1 DP 668270, Lot 7020 DP 1126701 and Lot 41 DP 901443 (Dungog Showground), be approved subject to the conditions listed in **Annexure 3**

REPORT

A development application has been received for a 'camping ground', to be located within the Dungog Showground site at No 36-76 Abelard Street, Dungog. The proposal seeks consent for a maximum of 16 sites, which are to be used as a 'primitive camp ground' as defined under the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. No construction works are proposed as the camping ground would rely on existing amenities buildings within the showground.

The location of the sites have been chosen following the preparation and adoption of a Plan of Management for the Dungog Showground, which enables Council to manage the land through the Dungog Showground and Recreation Reserve Management Committee on behalf of the Crown. The location of the proposed camping sites was determined largely by proximity to fire hose reels and existing amenities and to minimise environmental impact. The application was accompanied by the following documentation:

- Statement of Environmental Effects
- Operational Plan of Management
- Site Plan

The application has been assessed by the relevant Council staff and it is recommended that the application is approved, subject to conditions.

BACKGROUND

At the Ordinary Meeting of Council on 20 March 2019, Council considered a report providing an overview of issues relating to non-compliant camping on Council sites within Dungog Shire. The report addressed the Dungog Showground as well as the Paterson Sportsground and Wharf Reserve at Clarence Town. In relation to Dungog Showground, the following was resolved:

- *That camping at the Dungog Showground be immediately limited to camping carried out in association with an event held at the Showground.*
- *That it be noted that the Section 355 Committee has unanimously resolved that development consent be sought for primitive camping at the Dungog Showground and that a development application is to be forwarded to the General Manager for consent to lodgement as “owner” within two weeks and then be lodged with Council for consideration and Section 68 approval.*

However, in keeping with the Crown Lands Management Act 2016, Council was required to prepare a Plan of Management (PoM) for the site to enable Council to manage the Crown Land (the Showground) as “public land” under the NSW *Local Government Act* 1993. Consequently, Council undertook to prepare a Plan of Management for the Dungog Showground, which was reported to the Ordinary Meeting of Council on 19 February 2020 to enable it to be placed on public exhibition. The PoM was adopted on 26 October 2020.

The PoM specifically lists camping as a permitted use within the site and recognises it as an opportunity to increase income from the site. The Masterplan that forms part of the PoM also identifies areas for camping, which is consistent with the site plan provided with the development application. A copy of the adopted Masterplan is included in Annexure 2

SUBJECT SITE

The Dungog Showground is located at No’s 36-76 Abelard Street, Dungog and comprises three lots, being Lot 41 DP 901443, Lot 7020 DP 1126701 and Lot 1 DP 668270. The site has an area of 8.7ha and is bound by Mary Street to the south, Chapman Street to the north, Abelard Street to the east and Eloiza Street to the west. Residential areas dominated by single detached dwellings surround the site to the north, east and south, with rural residential properties located to the west.



Figure 1: Aerial photograph of site and surrounds

The Showground has been in use since 1887 and is listed as a heritage item of local significance within the Dungog LEP 2014. There are a number of buildings and recreation areas within the site which are used by community groups as part of the showground and reserve activities. No new buildings or alterations to existing buildings are proposed as part of this development application.

The land slopes from Eloiza Street toward Abelard Street, where there is a detention basin to capture stormwater runoff. The site is also partially mapped as being flood prone land and is located within the Williams River Drinking Water Catchment. The site contains some native vegetation with scattered tree cover, although it is not mapped as bushfire prone land.

The Showground is on Crown land which is subject to a Reserve (D.610007) for Public Recreation and Showground, under the Crown Land Management Act 2016 (CLMA). Dungog Shire Council is the appointed Crown Land Manager under the CLMA. Section 3.21 of the CLMA authorises Council to manage the land as if it were public land within the meaning of the Local Government Act 1993 (LGA). Under the LGA, all public lands must be classified as either Community or Operational land and the Dungog Showground has been classified 'Community' land. The Showground Management Committee is an Asset Committee established by Council under Section 355 of the LGA.

PROPOSED DEVELOPMENT

Development Application No. 184/2020 seeks development consent for a primitive camping ground with 16 sites. No construction works are proposed as amenities blocks already exist on the site. A copy of the site plan is shown below.



Figure 2: Proposed site plan - camping areas

The proposed camping sites are separated into four main sections being:

1. Adjacent to former caretakers cottage and goat pavilion (centre of site);
2. Adjacent to Lions Club Kiosk (centre of site)
3. Adjacent to Amenities block and Girl Guides Hall (west of site)
4. Adjacent to horse stables (south of site)



Figure 3 Camping area adjacent to former caretakers cottage and goat pavilion



Figure 4 Camping area adjacent to Lions Club Kiosk (centre of site)



Figure 5 Camping area adjacent to amenities block and Girl Guides Hall



Figure 6 Camping area adjacent to horse stables

STATUTORY CONSIDERATIONS

Provisions of any environmental planning instrument

State Environmental Planning Policy (Koala Habitat Protection) 2019

Clause 9 of the SEPP applies as the site has an area of at least 1 hectare (including adjoining land within the same ownership), and does not have an approved koala plan of management applying to the land.

Before a Council may grant consent to a development application for consent to carry out development on the land, the council must assess, in accordance with the Guideline, whether the development is likely to have any impact on koalas or koala habitat.

If the Council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the Council may grant consent to the development application. If the Council is satisfied that the development is likely to have a higher level of impact on koalas or koala habitat, the Council must, in deciding whether to grant consent to the development application, take into account a koala assessment report for the development.

In accordance with the guideline, the proposed development is considered to meet the Tier 1 criteria, which is as follows:

3.1 Tier 1 - Low or no direct impact development

The Tier 1 process is for development which can be demonstrated to have low or no impact on koalas or koala habitat as follows:

1. onsite or aerial photography is sufficient evidence to demonstrate that the development does not involve and will not result in clearing of regionally relevant trees of the species listed in Schedule 2 of the Koala SEPP, and
2. the development is below the Biodiversity Offsets Scheme threshold under the BC Act, or
3. council agrees the proposed development will have low or no impact on koalas or koala habitat on a case by case basis.

The proposed use of the site for a primitive camping ground does not require the removal of any vegetation and does not trigger the BOS. The proposal is considered to meet points (1) and (2) above and is considered to be development that has low or no impact of koalas or koala habitat.

SEPP (Koala Habitat Protection) 2020

This SEPP came into force on 1 December 2020 and repealed State Environmental Planning Policy (Koala Habitat Protection) 2019, which applied at the time the DA was lodged. The 2020 SEPP incorporates the provisions of the previous SEPP 44 as follows:

Part 2 Development control of koala habitats

7 Land to which this Part applies

This Part applies to land—

- (a) that is land to which this Policy applies, and*
- (b) that is land in relation to which a development application has been made, and*
- (c) that, whether or not the development application applies to the whole, or only part, of the land—*
 - i. has an area of more than 1 hectare, or*
 - ii. has, together with adjoining land in the same ownership, an area of more than 1 hectare.*

8 Step 1—Is the land potential koala habitat?

- (1) Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies, the council must be satisfied as to whether or not the land is a potential koala habitat.*
- (2) The council may be satisfied as to whether or not land is a potential koala habitat only on information obtained by it, or by the applicant, from a person who is qualified and experienced in tree identification.*
- (3) If the council is satisfied—*
 - (a) that the land is not a potential koala habitat, it is not prevented, because of this Policy, from granting consent to the development application, or*
 - (b) that the land is a potential koala habitat, it must comply with clause 9.*

9 Step 2—Is the land core koala habitat?

- (1) Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a potential koala habitat, it must satisfy itself as to whether or not the land is a core koala habitat.*
- (2) The council may be satisfied as to whether or not land is a core koala habitat only on information obtained by it, or by the applicant, from a person with appropriate qualifications and experience in biological science and fauna survey and management.*
- (3) If the council is satisfied—*
 - (a) that the land is not a core koala habitat, it is not prevented, because of this Policy, from granting consent to the development application, or*
 - (b) that the land is a core koala habitat, it must comply with clause 10.*

10 Step 3—Can development consent be granted in relation to core koala habitat?

- (1) Before granting consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a core koala habitat, there must be a plan of management prepared in accordance with Part 3 that applies to the land.*
- (2) The council's determination of the development application must not be inconsistent with the plan of management.*

11 Guidelines—matters for consideration

Without limiting clause 18, a council must take the guidelines into consideration in determining an application for consent to carry out development on land to which this Part applies.

The Guidelines are contained in the Department of Planning Circular No B35 dated 22 March 1995. The Circular states in clause 1.5 “In relation to affected DAs it is the intention of the policy that investigations for ‘potential’ and ‘core’ koala habitats be limited to those areas in which it is proposed to disturb habitat”. As no tree removal is proposed, no disturbance to habitat is proposed and the requirements of the SEPP are satisfied.

State Environmental Planning Policy No.55 - Remediation of Land

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of SEPP No. 55 – Remediation of Land, is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The subject site has historically been used for the Dungog Showground. No evidence of contamination was observed during inspection of the site. As there is no historical evidence of the site being previously used for a purpose which would result in the land being contaminated, further testing of the site in respect of contamination is not warranted in this instance.

Dungog Local Environmental Plan 2014

The site is zoned RE1 Public Recreation under Dungog LEP 2014. A camping ground is listed in the land use table as being permissible with consent and is defined as follows:

camping ground means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

When determining a development application, Council must have regard to the objectives of the relevant zone, as detailed below:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

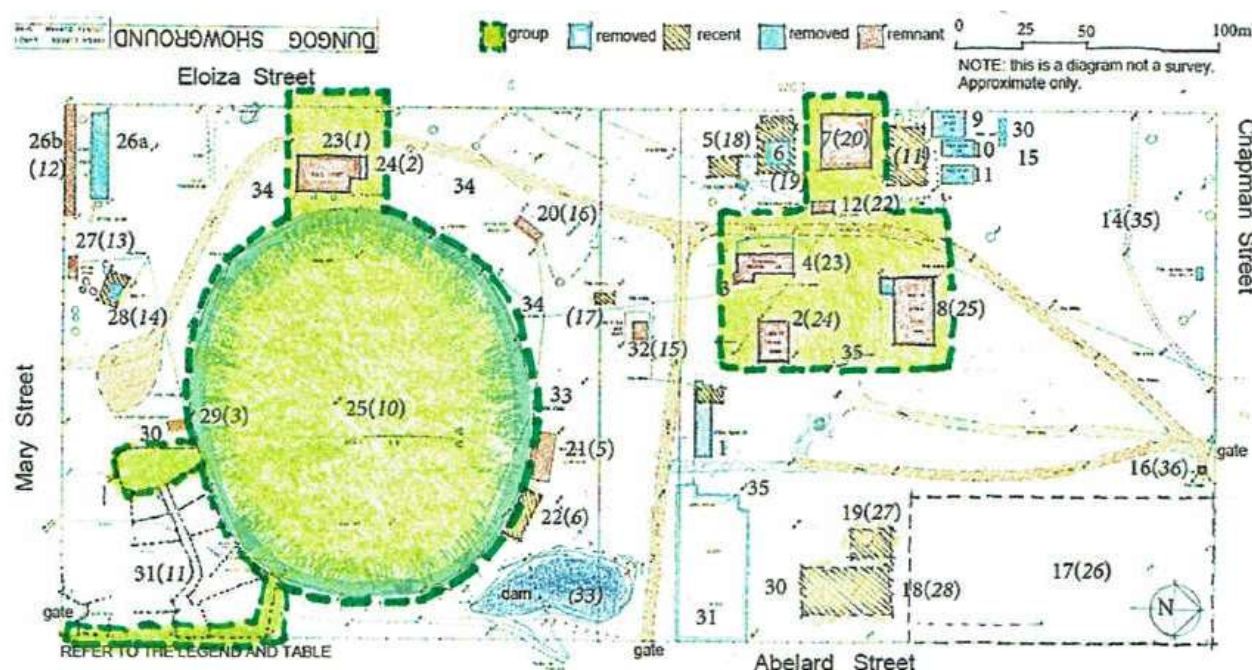
The subject development is considered to be consistent with the objectives of the RE1 Public Recreation zone by:

- i. Locating the camping sites outside the areas of the showground that are used regularly for open space and recreational purposes.
- ii. Providing camping options associated with other recreational and tourism opportunities within the shire.
- iii. Locating the camping sites to ensure no tree removal and to ensure that sites are located outside of flood prone lands.

Other relevant clauses within Dungog LEP 2014 are as follows:

5.10 Heritage conservation

The Dungog Showground is listed within the Dungog LEP 2014 as a Heritage Item of local significance. While the proposal does not involve the construction or demolition of any buildings, consideration is to be given to the effect of the proposed development on the heritage significance of the item. In determining the heritage significance of the showground, a Conservation Management Plan was prepared on behalf of Council in 2019. While the entire showground site (comprising three lots) is listed as a heritage item, the Conservation Management Plan highlights two areas (shown green in Figure below) as being of higher significance and sensitivity than the overall site. They sit within the overall curtilage and make a notable contribution to the setting of the showground. To the south is the Grandstand, Main Arena and perimeter yard fencing. To the north is the Main Pavilion, Arts Pavilion, Dairy Pavilion and Cattle Stalls.



The Conservation Management Plan specifies that these two precincts must be considered with respect to any proposed changes to the showground site or proposed new development. The Conservation Management Plan also notes that the identification of the two areas of higher heritage significance will assist with development approval assessments and determinations for areas outside these precincts. The proposed camping areas are not expected to impact on the heritage significance of the site.

6.3 Flood planning

This clause applies to land identified as “Flood planning area” on the Flood Planning Map, and other land at or below the flood planning level. An extract of the Flood Planning Map for the site is shown below.



Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

- (a) is compatible with the flood hazard of the land, and
- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

From the site plan provided, the proposed primitive camp sites have been located clear of the mapped flood planning area. The proposal for camp sites outside the flood planning area / above the flood planning level is considered to comply with the flooding requirements of the LEP.

6.5 Drinking water catchments

The objective of this clause is to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storages. The site is within the Williams River drinking water catchment and so in deciding whether to grant development consent, Council must consider the following:

- a) whether or not the development is likely to have any adverse impact on the quality and quantity of water entering the drinking water storage, having regard to the following—

- i. the distance between the development and any waterway that feeds into the drinking water storage,
 - ii. the on-site use, storage and disposal of any chemicals on the land,
 - iii. the treatment, storage and disposal of waste water and solid waste generated or used by the development,
- b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Having regard for the above, the site is traversed by a minor 2nd order tributary which joins Myall Creek approximately 1.45km downstream from the site. There are not expected to be any significant use or storage of chemicals associated with the camping ground and the site is connected to the reticulated sewerage system for both toilet facilities and a dump point for portable camping toilets. Solid waste would be collected through Council's contracted weekly waste collection service. Stormwater from the site is directed to an existing stormwater drainage system, including a detention basin adjacent to Abelard Street. No additional mitigation measures are considered necessary in terms protecting the water quality and quantity entering the drinking water storage.

6.10 Williams River Catchment

The objective of this clause is to protect and improve the environmental quality of the Williams River Catchment. Development consent must not be granted to development on land to which this clause applies unless the Council has considered whether the development:

- (a) promotes the sustainable use of land, water, vegetation and other natural resources within the Williams River Catchment, and
- (b) promotes the protection and improvement of the environmental quality of the Williams River Catchment, and
- (c) will have any significant adverse impacts on water quality within the Williams River Catchment, and
- (d) is consistent with the Williams River Catchment Regional Planning Strategy published in September 1997 by the Department of Planning and Environment.

The proposed development is expected to have negligible impact on the use of land, water, vegetation and other natural resources within the Williams River Catchment. The provision of authorised camping sites with access to the reticulated sewerage system and stormwater controls is likely to have a positive impact on the protection and improvement of the environmental quality of the Williams River with no significant adverse impacts on water quality. The use of the established showground site for camping is considered a suitable use of the site having regard for the Williams River Catchment Regional Planning Strategy.

Any Development Control Plan

The following Chapters of Dungog Development Control Plan No 1 are relevant to the proposed development application for a camping ground.

C.1 Residential Development

This Chapter of the DCP applies to residential accommodation whether for long or short-term occupation and includes camping grounds. The aims of the DCP are as follows:

- To promote residential development, including tourist accommodation, which is of a high design standard and which is sensitive to and enhances the physical environment and the social fabric particular to Dungog Shire.
- To accommodate a variety of residential forms to reflect the growing diversity of household types and incomes, lifestyles and tourist needs.
- To encourage infill residential development which is compatible with the existing character and which enhances its surroundings.
- To optimise the provision of infrastructure services in the most efficient and effective manner.

- To ensure adequate access for the disabled, particularly to medium density and non-private residential accommodation.
- To provide clear guidelines for residential development in the Dungog Local Government Area
- To ensure that residential development does not adversely effect the amenity of the locality
- To ensure that residential development meets the expectations of the community and provides health and safety in housing.
- To ensure that development is in keeping with adjacent and surrounding properties and does not detract from development in the locality
- To encourage energy efficient design in residential development

The proposal is consistent with the above aims in terms of location and scale and also complies with the water supply, sewerage, property access and property identification requirements of the DCP. The provisions relating to building height, energy efficiency, BCA compliance, bushfire prone land, studios and garages are not relevant to the proposal.

C.3 Building Line Setbacks

The DCP does not specify building line setbacks for the RE1 Public Recreation Zone. The proposed camping sites are located a minimum of 71m from Abelard Street, 15m from Mary Street and between 4 and 11m from Eloiza Street. The proposed setbacks are considered reasonable having regard to adjoining land uses and separation distances.

C.8 Managing Our Floodplains

The site is subject to flooding, with the extent of the flood planning area shown on the LEP flood planning map. From the site plan provided, the proposed primitive camp sites have been located clear of the flood planning area and no further requirements of the DCP are applicable.

C.11 Tourist Development

The Tourist Development DCP only includes requirements for Holiday Cabins, Eco-tourism facilities and Bed & Breakfast developments. It does not contain any specific requirements applicable to a camping ground.

C.17 Heritage

When determining an application for development of a heritage item, the consent authority must take into account the extent to which carrying out the proposed development will be consistent with the heritage conservation principles set out in:

- a) the Burra Charter (Australia ICOMOS, Canberra 1999), reproduced in Schedule One of the DCP, and
- b) the Australian Natural Heritage Charter (Australian Committee for IUCN, Canberra 1997), reproduced in Schedule Two of the DCP.

As previously discussed within the report, the Dungog Showground is listed as a local heritage item under Dungog LEP 2014. In 2019, a Conservation Management Plan for the showground was prepared on behalf of Council, which refers to and adopts the philosophical approach provided by the Burra Charter. In terms of the Natural Heritage Charter, the use of the land as a showground has historical significance, although the use of the site will remain predominately as a showground and is unlikely to detrimentally impact the heritage significance.

The DCP also requires consideration of the Dungog Shire Heritage Study and the Dungog Main Street Architectural Heritage Study although these are not specifically relevant to the proposed camping ground as no buildings are proposed to be constructed and the site is not located within the Dungog Main Street study area.

C.20 Off Street Parking

The DCP for Off Street Parking includes parking requirements for Camp or caravan sites (caravan parks). These types of land use require 1 parking space per site plus visitor parking of 1 per 10 sites plus 1 per employee. A holding bay 25 m long in front of reception is also specified. The proposal is for a primitive camping ground rather than a caravan park, although Council must still be satisfied that adequate parking is available on the site. Considering the small number of sites proposed for primitive camping, the size of each camp site, and the overall size of the showground, it is considered that there is adequate area available on site for car parking along the grassed verges of the internal road network.

The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts of the locality

Access and Traffic

Abelard Street at the development site is bitumen sealed with a pavement width of approximately 10m. Access from Abelard Street is via a 4m wide concrete access crossing. Chapman Street at the development site is bitumen sealed with a pavement width of approximately 13m. Access from Chapman Street is via a 6m wide bitumen access crossing.

The internal road network consists of bitumen sealed roads approximately 3m wide. The nature of the internal road network means that internal roads need to cater for 2 way traffic, however passing requires one vehicle to pull onto the grassed verge in most instances.

The Statement of Environmental Effects submitted with the application has considered the requirements relating to 'roads' as set out in Division 3, Subdivision 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 and indicates that the proposal is compliant with those requirements. Upon review of the application, the existing roads infrastructure within the showground does not reflect the description provided within the application, although a primitive camp ground is not required to comply with those provisions of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. The existing road infrastructure is considered suitable for the proposed use of the site and it is expected that the internal road network and surrounding streets have sufficient capacity to accept the traffic generated by the development.

Stormwater

Stormwater runoff from the showground is directed to an existing stormwater drainage system, including a detention basin adjacent to Abelard Street. The existing system is considered acceptable for the proposed development.

Noise

A noise curfew is proposed between 10 pm and 8 am, which is considered sufficient to manage noise from the site.

Safety, Security and Crime Prevention

The operational plan submitted with the DA proposes the following actions for managing Safety, Security and Crime Prevention:

- Undertake ongoing comprehensive risk assessment of the Camping Ground on the basis of a structured WH&S Management Plan
- Minimise public risk through the ongoing implementation of risk management strategy and undertake a regular review of strategies and policies in light of risk assessments
- Ensure all staff and management are appropriately trained.
- Maintain and use of any equipment in accordance with regulations and manufacturer's specifications.
- Prepare and maintain an adequate emergency evacuation and response plan.

- Ensure that fences and signage clearly delineate the boundaries between the camping ground and other parts of the showground.
- Ensure that fencing is continually checked and repaired.
- Emergency Assembly Point is the front property entrance to the Dungog Showground, being on Abelard Street.

In addition, consideration has been given to Crime Prevention Through Environmental Design (CPTED) , which employs four key strategies, being territorial re-enforcement, surveillance, access control and space/activity management. The use of the showground for camping activities is expected to increase passive surveillance and active management of the showground site. Routine daily inspections of the site are also proposed.

Economic Impact

The proposed camping ground at the Dungog Showground is expected to have a positive economic impact both in terms of additional income for the management and maintenance of the Showground and the economic benefit to local businesses in terms of tourism.

Heritage

The site is listed as a locally significant heritage item and a Conservation management plan has been prepared for the site as previously discussed within the report.

In terms of Aboriginal Heritage, the SEE submitted with the application states that 4 Aboriginal site or places of significance are located on or within 50 metres of the site. A further search of the Aboriginal heritage Information Services (AHIMS) database revealed that no occurrences have been identified within the three lots that make up the showground site. The proposal is not expected to have a detrimental impact on Aboriginal or European heritage.

The suitability of the site for the development

The development can be integrated into the locality without any significant adverse impacts. The site is considered suitable for the proposed development.

Any submissions made in accordance with this Act or the Regulations

The development application and accompanying information were placed on public exhibition for a period of 14 days from 20/11/2020 to 7/12/2020. As a result of the notification process one submission was received. The submission was neither an objection nor a letter of support and asked whether the proposed camp sites have to have potable water, fire hydrants and toilet facilities the same as Clarence Town Caravan Park had to have before reopening.

The proposed camping sites would have access to potable water, fire hydrants and toilet facilities, although it should be noted that the proposed camping ground is being considered as a primitive camping ground which does have different requirements when compared to a non-primitive camping ground, as the was the case with the Clarence Town Caravan Park.

The Public Interest

Plan of Management

The PoM for the Showground identifies camping as an emerging opportunity to increase income and suggests that opening up the Showground to fee-based camping for caravans and motor homes is one of the most significant ways to improve income and achieve essential maintenance and improvements. The proposed camping ground is consistent with the adopted PoM and approval of the development application would contribute to implementing the directions outlined in the PoM.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Should development consent be granted for the use of the Showground as a camping ground, an approval to operate the camping ground is still required under Section 68 of the Local Government Act 1993. Further, the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 sets out the requirements for consideration before approval is granted under the Local Government Act 1993.

For primitive camping grounds, the requirements of the Local Government Regulation are summarised as follows:

- the maximum number of designated camp sites is not to exceed a mean average of 2 for each hectare of the camping ground (where that figure is the average calculated over the total area of the primitive camping ground).

Comment: The site has an area of approximately 8.7 hectares and therefore 16 sites are proposed.

- if the approval to operate the primitive camping ground designates one or more camp sites within that ground—camping is not permitted within the primitive camping ground other than on those designated camp sites. If the approval to operate the primitive camping ground does not designate one or more camp sites within that ground—the maximum number of caravans, campervans and tents permitted to use the camping ground at any one time is not to exceed a mean average of 2 for each hectare of the camping ground (where that figure is the average calculated over the total area of the primitive camping ground)

Comment: The Regulation enables Council to identify the location of the campsites. This is important as the positioning of the campsites should have regard to servicing by hose reels and proximity to toilet facilities. The campsite locations are shown on the site plan (community map) and it would not be unreasonable for these locations to be identified and confirmed in a consent condition.

- a caravan, annexe or campervan must not be allowed to be installed closer than 6 metres to any other caravan, annexe, campervan or tent; and a tent must not be allowed to be installed closer than 6 metres to any caravan, annexe or campervan or closer than 3 metres to any other tent,

Comment: Capable of complying and would form condition of Approval to Operate.

- the camping ground must be provided with a water supply, toilet and refuse disposal facilities as specified in the approval for the camping ground,

Comment: The Showground is connected to Hunter Water's sewerage and water systems. The following amenities are existing on site and are proposed to be available to the users of the camping ground:

Male Toilet: Five Urinal: Two Male Shower: Two Male Hand Basin: Two	Female Toilet: Eight Female Shower: Two Female Hand Basin: Two	Unisex Shower: One Disabled Toilet: One
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Whilst the general provisions of Subdivision 2 1-8 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation do not apply to the primitive camping ground, Council may still stipulate water supply, toilet and refuse disposal facilities in the approval to operate. There are adequate toilet (and shower) facilities throughout the showground that are to be made available for users of the campsites, however an inspection has revealed that whilst a disabled facility exists, the access to this facility does not appear to comply with AS1428.1 Design for access and mobility Part 1: General requirements for access.

As the disabled facility is an existing facility and the Regulations do not stipulate the mandatory provision of disabled facilities for a Primitive campground (however other legislation would impose the requirement) it is considered reasonable to require the upgrade of disabled access to be completed under a program of works to upgrade the facility, which would be outlined in the approval to operate issued under the Local Government Act (as opposed to the development

consent condition). This would ensure compliance at a point in time in the future whilst enabling the proposed use to proceed whilst acknowledging the existing facilities.

Refuse disposal facilities would be via solid waste bins as part of Council's weekly waste collection service.

- unoccupied caravans, campervans and tents are not to be allowed to remain in the camping ground for more than 24 hours,

Comment: Capable of complying through inspections undertaken by site manager.

- if a fee is charged for camping, a register must be kept that contains entries concerning the same matters as are specified in clause 122 and, in addition, that specifies the size of the group (if any) with whom the person listed in the register camped,

Comment: Capable of complying through provision of a register.

- such fire fighting facilities as may be specified in the approval are to be provided at the primitive camping ground.

Comment: The provision of fire hose reels are generally considered to be an essential basic facility for a camping ground and should be provided unless it is not feasible from an engineering perspective, from a water supply perspective or because it is so economically unviable that alternatives should be looked at. The Dungog Showground is situated within Hunter Water's reticulated town water area and the property has been provided with Fire Hose reels in other locations within the site. It is therefore feasible for fire hose reels to be installed to service the proposed campsites. The Primitive campground would be required to be provided with firefighting facilities as part of any approval to operate.

The application has forecast that Firehose reels are/have being installed by Council (not as part of this application) and that these would service the campsites. At the time of assessment of the development application, the Firehose reels were being installed but have not been certified. This certification could form a condition of development consent.

Overall, the proposed primitive camping round is consistent with the adopted Plan of Management for the Showground and can comply with the requirements of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 in terms of the requirements for a primitive camping ground. There were no community objections to the proposal and approval is considered to be in the public interest.

CONCLUSION

An assessment of the application has been carried out in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposed development is considered satisfactory in terms of the matters for consideration under the Act. Accordingly the development application is recommended for approval subject to conditions of consent.





Plan of Management
Dungog Showground

This Plan of Management expressly authorises²⁷ the following tenures:

- (a) A lease to Dungog Girl Guides of the Girl Guides Hall.
 - (b) A licence or hire agreement to the Dungog Agricultural and Horticultural Association for use of the Showground and associated facilities for the period of the Dungog Show, together with a period of preparation and remediation.
 - (c) A licence or hire agreement to the Dungog and District Campdraft & Rodeo Committee for use of the Showground and associated facilities for the period of the Dungog Rodeo, together with a period of preparation and remediation.
 - (d) A licence or hire agreement to the Valley Team Penning Association for use of the Showground and associated facilities for Team Penning events together with a period of preparation and remediation.
 - (e) A licence or hire agreement to the Dungog and District Sheep/Cattle Dog Workers Association for use of the Showground and associated facilities for Dog trailing events together with a period of preparation and remediation.
 - (f) A licence or hire agreement to the Dungog Pony Club Inc. for the ongoing use of the Showground and associated facilities for Dungog Pony Club Inc. events with a period of preparation and remediation.
 - (g) A licence or hire agreement to the Dungog Motorcycle Club for use of the arena area and associated facilities motor cycle events together with a period of preparation and remediation.
 - (h) The booking and hiring of camp facilities on the areas designated on this plan of management consistent with an operating approval under Section 68 of the LGA.
 - (i) The hiring of facilities in accordance with the requirements of the Dungog Shire Section 355 Committee Manual.
- A tenure or hire agreement on Crown land may impact native title rights and interests. Apart from the tenures/hire agreements specifically authorised above, which are valid acts under Section 241A of the *Native Title Act 1993*, any use agreement issued on Crown land must be issued in accordance with the future act provisions of the *Native Title Act 1993* and in accordance with Part 8 of the *Crown Land Management Act 2016* unless native title is extinguished. For Crown land which is not excluded land this will require written advice from one of Council's native title managers that it complies with any applicable

²⁷ Express Authorisation in Section 46 (1)(b) of the LGA permits tenures to be granted in accordance with and subject to such provisions of a plan of management

General

1. The development being carried out generally in accordance with the following plans and/or documents submitted with the development application, except as modified by the conditions of this consent or amendments shown in red on the plans.

(a) Plans Reference:

Name of Plan	Drawing No.	Prepared By	Date
Site Plan	J000490	Perception Planning	19/11/2020

(b) Document Reference:

Document	Reference	Author	Date
Statement of Environmental Effects	J000490 Version 6	Perception Planning	18/11/2020
Operational Plan for Primitive Camping Ground at Dungog Showground	-	Perception Planning	-

2. The Primitive Camping Ground shall be designed, constructed and operated in accordance with the provisions of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
3. The campsites to be contained within the areas shown on the Site Plan prepared by Perception Planning (19/11/2020). This Site Plan shall be referred to as the Community Map in the Approval to Operate the Primitive Camping Ground.
4. The Primitive Camping Ground is approved with a maximum of 16 sites to be used for short term stays.
5. The camping ground must be provided with shower, toilet and associated facilities as indicated within the Statement of Environmental Effects and plan submitted with the development application.



Note: The camping ground is to be provided with shower, toilet and associated facilities, designed in accordance with AS 1428.1--2001, Design for access and mobility Part 1: General requirements for access. It is noted that these facilities are existing however access to them does not currently comply with the standard. It is expected that the access to these facilities would be upgraded within 12 months of the issuing of an approval to operate under Section 68 of the Local Government Act. Any Approval to Operate would be conditioned accordingly.

6. No advertising structure and/or signage outside the exempt provisions shall be erected as part of the development unless consent is granted.
7. No campfires are permitted on site at any time.
8. Fire hose reels are to be installed so that each camp site can be reached by a fire hose. The Fire hose reels must be constructed in accordance with AS 1221:1997 and installed in accordance with AS2441-1988.
9. A noise and light curfew is to be imposed for the camping ground between 10pm and 8am, 7 days a week.

Prior to use of the Camping Ground (Primitive)

10. Prior to commencement of use of the land as a Primitive Camping Ground, the operator shall apply for and receive an approval to Operate a Primitive Camping ground under section 68 of the Local Government Act 1993.
11. The camping ground shall not be used until all conditions of consent have been complied with and an Approval to Operate the camping ground has been issued under Section 68 of the Local Government Act.
12. Prior to the use of the Primitive Camping ground, the applicant is to provide a Fire Hose Reel certificate to Council which states that the Fire Hose Reels have been inspected and tested by an appropriately qualified person and that they were found to be have been capable of performing to a standard not less than that required under the Local Government (Manufactured Home Estates, caravan parks camping grounds and moveable dwellings) Regulation.
13. The developer being responsible for any costs relating to minor alterations and extensions of existing roads, drainage and Council services/facilities for the purposes of the development.
14. Prior to use of the primitive camping ground, an Evacuation Plan shall be prepared which establishes the protocols for the timely relocation/evacuation of visitors. A copy of the evacuation plan must be displayed at the site and maintained into perpetuity by the owner/managers of the camping ground.

10.4 DEVELOPMENT APPLICATIONS - DELEGATED AUTHORITY & TRACKING

File Number: EF08/228
Author: Customer Service Officer
Authoriser: Manager Planning
Annexures: 1. Over 60 Day Report  

Precis

Development Consent has been granted to the following development applications under delegated authority for the month of November 2020.

RECOMMENDATION

That the report be received and the information noted.

REPORT

DA 128/2010 (TPA 2433/19242)	Lot 30 DP 1143757 No 24 Sanctuary Way, Vacy. Modification to Dwelling to allow for additions of alfresco and pergola to the dwelling. Approved subject to conditions 23 November 2020.
DA 154/2016 (TPA 2996/32)	Lot 10 DP 1162752 Fotheringay Road, Clarence Town. Modification to Four (4) Lot Subdivision to allow for amendment to conditions 15 & 33. Approved subject to conditions 30 November 2020.
DA 65/2020 (TPA 2177/07)	Lot 9 DP 248699 No 1836 Gresford Road, East Gresford. Modification to dwelling to allow for amendment to conditions 7 & 12. Approved subject to conditions 16 November 2020.
DA 67/2020 (TPA 3164/012111, 3251/54)	Lot 12 DP 832457, Lot 14 DP 1157382 No 360 Wallarobba-Brookfield Road, Brookfield & 4 Welshmans Creek Road, Wallarobba. Boundary Adjustment. Approved subject to conditions 2 November 2020.
DA 108/2020 (TPA 2455/241475)	Lot 15 DP 13089 No 256 Webbers Creek Road, Paterson. Dwelling. Approved subject to conditions 16 November 2020.
DA 108/2020 (TPA 2455/241475)	Lot 15 DP 13089 No 256 Webbers Creek Road, Paterson. Modification to Dwelling to allow for amendment to condition 14. Approved subject to conditions 20 November 2020.
DA 121/2020 (TPA 1631/6031)	Lot 2 DP 1246230 No 20 Keppies Road, Paterson. Amendment to Shed to allow for the addition of sanitary fixtures and compartment. Approved subject to conditions 4 November 2020.
DA 124/2020 (TPA 49)	Lot 1 DP 10216 No 215-217 Dowling Street, Dungog. Change of Use to Beauty Salon. Approved subject to conditions 16 November 2020.
DA 130/2020 (TPA 2192/101)	Lot 12 DP 997673 No 450 Fishers Hill Road, Fishers Hill. Two (2) Farm Sheds. Approved subject to conditions 3 November 2020.
DA 132/2020 (TPA 1657/304)	Lot 4 DP 865681, Vogeles Road, Martins Creek. Farm Shed. Approved subject to conditions 16 November 2020.
DA 144/2020 (TPA 1000/3454)	Lot 4 DP 1232083 No 8 Rens Street, Dungog. Double Storey Dwelling with Attached Garage. Approved subject to conditions 2 November 2020.
DA 150/2020 (TPA 2927/3)	Lot 6 DP 774084 No 23 Willows Road, Gresford. Alterations and Additions to Existing Dwelling and Shed. Approved subject to conditions 3 November 2020.

DA 152/2020 (TPA 2426/22)	Por 21 DP 752467 No 770 Lennoxton Road, Vacy. Alterations and Additions to Existing Dwelling and Garage. Approved subject to conditions 9 November 2020.
DA 157/2020 (TPA 2689/02)	Pt Lot 1 DP 378904 No 316 Flat Tops Road, Flat Tops. Inground Swimming Pool, Landing and Screening and Shed. Approved subject to conditions 27 November 2020.
DA 161/2020 (TPA 33)	Lot 43 DP 1066073 No 41-43 Grey Street, Clarence Town. Swimming Pool. Approved subject to conditions 6 November 2020.
DA 162/2020 (TPA 2061)	Lot 22 DP 619777 No 182 Alison Road, Alison. Shed (Ancillary Development). Approved subject to conditions 25 November 2020.
DA 165/2020 (TPA 1301)	Lots 42 & 43 DP 11562, Nos 20-22 Park Street, East Gresford. Alterations & Additions to Existing Dwelling and Verandah. Approved subject to conditions 18 November 2020.
DA 166/2020 (TPA 3234)	Lot 3 DP 710384 No 1869 Dungog Road, Wallarobba. Machinery Shed. Approved subject to conditions 2 November 2020.
DA 167/2020 (TPA 1971/11)	Lot 3 DP 1007623, Hilldale Road, Hilldale. Alterations & Additions to Existing Dwelling and Relocation of Existing Swimming Pool. Approved subject to conditions 9 November 2020.
DA 168/2020 (TPA 264/1)	Lot 132 DP 1188475 No 11 Hancock Avenue, Dungog. Single Storey Dwelling with Carport & Detached Garage. Approved subject to conditions 11 November 2020.
DA 175/2020 (TPA 2141/0901)	Lot 109 DP 1256071 No 7 Ned Place, Gresford. Single Storey Dwelling with Attached Double Garage. Approved subject to conditions 27 November 2020.
DA 176/2020 (TPA 979)	Lot A DP 366011, No 30 Myles Street, Dungog. Free-Standing Carport. Approved subject to conditions 27 November 2020.
DA 180/2020 (TPA 3290/026)	Lot 6 DP 1258535 No 28 Wetzler Way, Clarence Town. Single Storey Dwelling. Approved subject to conditions 20 November 2020.
DA 181/2020 (TPA 1451/010312)	Lot 3 DP 1033689 No 1680 Chichester Dam Road, Bandon Grove. Inground Swimming Pool & Associated Barriers. Approved subject to conditions 23 November 2020.

Annexure '1' contains a list of current Development Applications that have been with Council for more than 60 days and is provided for Councillors information.

COMMUNITY STRATEGIC PLAN

Rural and Urban Development

DELIVERY PROGRAM

Strategy 4: Ensure that our land use planning for the Shire acknowledges the importance of our rural character and agricultural activities.

IMPLICATIONS

Finance and Resourcing

There are no financial implications to this report.



Previous Council Resolutions

This report is provided monthly for Councillor information.

DA Number		Proposal	Address		Status
Awaiting Response from the Applicant					
2016	132	Dwelling and New Carport (S4.55 Modifications) Dwelling New Carport	54 Hildale Road HILLDALE	Waiting on owner to permit site inspection	
2019	36	Staged Rural Subdivision	734 Gresford Road VACY	Further Information Response received 30/11/2020.	
2020	94	Boundary Adjustment	Chichester Dam Road BANDON GROVE	Waiting lodgement of amended application.	
2020	115	Boundary Adjustment	591 Fosterton Road FOSTERTON	Meeting requested with Council Officer.	
2020	122	One (1) into Two (2) Lot Subdivision	59 Lennoxton Road VACY	Further Information Request sent to applicant.	
2020	126	Dwelling, Shed, Carport, Studio and Earthworks in a Heritage Conservation Area	29 Park Street EAST GRESFORD	Further Information Request sent to applicant.	
Awaiting Government Agency Response					
2017	187	Three (3) Lot Subdivision	74 Goldmine Road GLEN MARTIN	Waiting on comments from RFS.	
2020	6	Replacement of Existing Deck with New Deck	225 Moylans Road FOSTERTON	Information received from applicant and referred to Essential Energy. Waiting on comments.	
2020	16	Temporary Event - Monthly Markets	115 Prince Street CLARENCE TOWN	Waiting on referral comments from Heritage Branch	
2020	90	Subdivision Three (3) into Four (4) Lots	16-18 Sheriff Street CLARENCE TOWN	Waiting on NSW RFS - integrated development.	
2020	139	Four (4) into Six (6) Subdivision	2161 Stroud Hill Road ALISON	Waiting on comments from RFS.	
On Exhibition					
2017	24	Intensive Livestock Agriculture - Staged Poultry Operation - Comprising of 4 egg layer sheds, with a bird capacity of 72,000 birds, a storage shed and associated infrastructure.	1524 Gresford Road TORRYBURN	On Exhibition - Additional Information submitted 26/11/2020	
2019	171	One (1) into Four (4) Lot Subdivision	100 Abelard Street DUNGOG	Amended application on exhibition until 22/12/2020.	
2020	140	Change of Use - Primitive Campground	338 Main Creek Road MAIN CREEK	On Exhibition - Additional Information submitted 27/11/2020	
Under Assessment					
2018	174	Two (2) Lot Subdivision & Demolition of Existing Shed S4.55 Modification	19 Lowe Street CLARENCE TOWN	Under Assessment	
2019	122	Section 8.2(1)(a) Review to Condition No. 29	483 Black Rock Road MARTINS CREEK	Under assessment. Report to the February 2021 Council meeting.	
2020	59	Farm Dam	336 Black Camp Creek Road GLEN MARTIN	Under Assessment. Information received 25/11/2020.	
2020	73	One (1) into Two (2) Lot Subdivision	446 Martins Creek Road PATERSON	Under Assessment	
2020	109	Shed	245 Meadows Drive CLARENCE TOWN	Information received from applicant for DCP variation - to be assessed.	
2020	114	Dwelling House (Alterations and Additions to Existing Heritage Building) and Ancillary Farm Building	221 Fotheringay Road CLARENCE TOWN	Under Assessment	
2020	128	Use of site as a Recreation Facility	2684 Glendonbrook Road GRESFORD	Under Assessment	
2020	145	Change of Use - Conversion of Stable to Single Storey Dwelling	90 Durham Road GRESFORD	Under Assessment	

11 ENVIRONMENTAL SERVICES

11.1 CLOSURE OF ROAD RESERVE – PORTION OF WALLARINGA ROAD HANLEYS CREEK BETWEEN PILCHERS RESERVE AND HANLEYS CREEK ROAD (ROAD R6531-1603)

File Number: EF09/90
Author: Manager Environmental Services
Authoriser: Manager Environmental Services
Annexures: 1. Submissions  

Precis

The purpose of this report is to seek Council resolution in regard to the proposal to close a portion of Wallaringa Road Hanleys Creek, which has been the subject of road closure applications from two adjoining property owners. The report also seeks to classify the land, if closed, to operational land and to commence the process of subdividing this land and negotiating its sale to the adjoining land holders.

RECOMMENDATION

THAT

1. Council resolve to close the portion of Wallaringa road (Road Reserve R6531-1603) between Lot 1 DP 522156 and Lot 43 DP 7572457 in accordance with Part 4 Division 3 of the Roads Act 1993.
2. That the closed road portion be classified as operational land.
3. That once closed, a process of subdividing the former road reserve be commenced so that the sale of the resulting allotments may be negotiated with the adjoining property owners.

REPORT

Background

At its meeting in May 2020, Council considered a report regarding a request from two property owners to close an unformed portion of Wallaringa Road. It was resolved to commence the road closure process under Part 4 Division 3 of the Roads Act 1993.

Since that time legal representation has been engaged to guide the process along with a Registered Surveyor to prepare a compiled survey plan to define the road reserve in question. A public exhibition process as defined by the Act and Crown Lands guidelines has also been followed. The exhibition process involved the notification of 18 separate Government Authorities, the adjoining property owners and a general public exhibition of the proposal.

The proposal was exhibited for the required 28 days and the following responses were received –

1. **Responses from Prescribed Authorities** – 6 responses received out of 18 sent – no objections raised to the proposal
2. **Representations in support of the proposal** – 7 representations were received that support the proposal (not including the immediate two property owners who made the road closure application). These representations are provided in Annexure 1.

3. **Representations that raise objections to the proposal** – 39 representations were received that objected to the proposal. These representations are provided in Annexure 1.

Councillors would recall that the section of road subject to this proposal is approximately 3km of unformed Council owned road reserve. The road reserve is part of Wallaringa Road which extends from near the north western boundary of Pilchers Reserve through to Hanleys Creek Road. It is unformed, unmarked and impassable in some locations.

The location of the proposed road reserve closure and acquisition is shown in Figure 1 whilst a draft survey proposal for its subdivision into potential allotments for sale to the interested parties is provided in Figure 2.

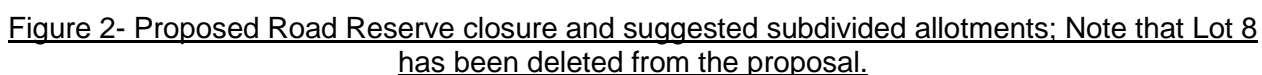
Councillors would be aware that the status of this section of road came under close scrutiny in 2019 when a development application was lodged to use it as part of the Run Dungog event. At the time, Council resolved to not support the Development application as landowner.

A briefing session was held in early March 2020, after enquiries were made from the adjoining landowners to close the road. Council were advised of the process for the road closure and acquisition, the likely costs of this, the potential value of the land and an indication of the two adjoining property owners willingness to acquire the land and cover all of the costs associated with the road closure, survey and subdivision of the road reserve. Council also discussed its liability and responsibility for the maintenance of unmaintained Council roads which are prevalent in Dungog Shire.

Council's resolution in May 2020 saw the commencement of a process aimed at lawfully closing this portion of road, subdividing the portions to align with the adjoining privately owned allotments and selling the resulting parcels to the adjoining owners.



Figure 1 – Location of proposed Road closure in Orange



Even though this is a Council road – Crown Lands approval is required to close it. Information to support that the road is a Council public road was gathered and has been submitted to Crown Lands, and Crown lands have responded with no objection to the road closure nor the proposed vesture of the land after closure.

Where it is resolved to continue with the road closure, Council should also resolve to classify the closed road reserve as operational land, in order to ensure that it can be further subdivided and sold as proposed.

Consideration of Submissions

All prescribed Authorities have been notified (18) and six (6) responses have been received of which one was from DPIE Crown Lands which supported the proposal.

There have been no objections to the proposal by the Prescribed Authorities. There is therefore no requirement for Council to negotiate with Authorities that may object to the proposal. This would allow Council to proceed after considering public submissions.

When considering the road closure process and the submissions received in relation to the proposal, Council must consider the circumstances under which a road may be closed under Section 38A of the Roads Act –

38A When Council may close council public road

A council may propose the closure of a council public road for which it is the roads authority if –

- (a) the road is not reasonably required as a road for public use (whether for present or future needs), and*
- (b) the road is not required to provide continuity for an existing road network, and*
- (c) if the road provides a means of vehicular access to particular land, another public road provides lawful and reasonably practicable vehicular access to that land.*

Summary of matters contained in Public submissions

Objections to proposal – 39 Received

Issue	Comment
We need to support the initiatives in our town that look to foster outdoor recreation and adventure which bring new business and exposure to the community and local business.	This comment is supported, Council needs to determine if the road reserve is reasonably required for public use.
Closing this road stands to benefit a handful...keeping it open benefits us all who stand to benefit from a thriving community.	The closure will benefit the adjoining property owners for the reasons they have stated relating to the operation of their primary production business. The benefits to the overall community of keeping this road open have not been quantified but Council needs to determine if the benefits to the public are reasonable.

The combination of Hanley's Creek Rd and Wallaringa Rd was originally the main access route to and from Dungog and the area further south and as such should remain a public road in public hands due to its historical significance as such.	This is possibly correct. Although Dungog Road has also been in existence as a route to Dungog for as long. The road is not listed as an item of heritage significance. The road is not required by Council, as the roads authority to provide continuity for an existing road network. (Section 38A (b))
In a time of increasing use of our green spaces by people in general it is complete madness to close and sell off a road reserve such as this that could be used to expand the ongoing use of the Dungog Common and enable an additional route for bushwalking, horse riding and bike riding in the shire close to and accessible to existing facilities.	This route could potentially be incorporated in a recreational strategy in the future as described. Council needs to determine if it is reasonably required under any current of future strategy and weigh this against the reasons for the closure application by adjoining landholders.
The scenic value to the area and enabling visitors to appreciate the area of Pilchers Reserve is immeasurable.	The area at the southernmost extremity of the road portion is elevated and has scenic quality. However access to Pilchers Reserve is being maintained via the southern Wallaringa road approach.
Council should upgrade the existing track to at least a dirt road and enable the easier use of the area instead of pandering to a few landholders who wish to keep the public out by the use of illegal signage and gates on what is a public road.	Upgrading the roadway to a passable gravel road would take substantial resources and is not currently listed on councils forward works program.
If the proposed Hanley's Creek subdivision is to go ahead isn't it a requirement that such housing estates have at least two access/exit points in times of natural disaster preferably in different directions as is presently the case rather than council closing one of them down.	This proposition is not supported as the road reserve in question is not passable by vehicles and its use is not required for the Hanleys Creek subdivision.
The road is used, and has been used for decades, by motorists, cyclists and walkers to access some of the finest scenery in the district.	The road has not been used by motorists since at least before the 1950s (living memory of nearby residents). Current landholders advise that use by walkers and cyclists is very rare but is not encouraged as the road is not marked and people trespass onto private property.
As a visitor, the closure of this road will give me one less reason to visit.	
The value of this road to the public for cyclists, runners and walkers cannot be overstated. As an offroad trail between Dungog and Wallarobba station via Pilchers mountain it's potential value to the shire and broader public is enormous	This comment is supported however the value stated has not been quantified.

People go through there all the time and abuse the land, leave gates open, leave rubbish etc ,but if the road was properly fenced off and accessible only to cyclists and pedestrians it would largely address the problem. If the public is allowed access to the incredible natural beauty up there, they will respect it.	People do not “go through there all the time” as stated. This is not a regularly used route but it is agreed that fencing and maintenance of the roadway would assist in addressing negative impacts to surrounding farmlands.
It is important we continue to advocate and provide access to recreational facilities and green spaces, which is aligned with the NSW Government's Premier Priorities of well connected communities with quality local environments and greener public spaces.	This is supported.
This could be established as a walking and biking trail, which would provide much needed green space for our residents, including the 100 lot residential development, which has been approved on Hanley's Creek Road.	The establishment of this road as a green space is not flagged in the Hanleys Creek proposal nor in any current strategic plan, but could be considered in the future with the requisite resource allocation.
This road is critical not only for the safe access/egress of residents living either end of Wallaringa/Hanleys Creek Roads but for quick and efficient access by emergency services, probably primarily the RFS. This road should not only not be closed but should be maintained to at least fire trail level.	This statement is incorrect and does not reflect an understanding of the current condition and use of the road reserve. The road has not been relied upon as safe, quick and efficient access in living memory.
Given the seemingly only 'growth industry' in Dungog shire is tourism, why close an asset that would enhance the opportunities for such activities? Twenty years ago I could drive a 2WD car from Wallaringa to Hanleys Creek Road and the drive is magical, the views spectacular. This is a fantastic, low level, limited tourist drive so close to the town.	Primary production is also a traditional and sustainable industry in Dungog that should be respected and the road closure application from adjoining property owners is founded on the protection of primary industry. The road reserve in question has not been traversed by vehicles in the manner described since the 1950s and cannot be considered to be a “low level, limited tourist drive” in its present condition.

Support for proposal – 7 Received

Issue	Comment
<ul style="list-style-type: none"> This section of road has not been used as a thoroughfare for close to 70 years, and hasn't been maintained by council since the early '50's. Since then, the road has suffered landslides and floods, and is almost impassable. 	This comment is supported by anecdotal evidence from residents and a walk over by Council staff who determined the road reserve is in poor condition, is difficult to identify and is impassable in locations.
Bio security and public liability has been a major issue with landowners. Any public access brings the problems of bio security management	The Biosecurity Act imposes a general Biosecurity duty on all land holders including Council. Primary producers have valid concerns about recreationists introducing biosecurity risks to an otherwise secure area. Council shares a responsibility of ensuring that Biosecurity risks from its managed lands are addressed. It could be possible to mitigate Biosecurity risk by fencing the subject road reserve.
If public access is allowed, the potential increase in people going up to Pilchers Gorge would have great impact on flora and fauna, bio security breaches, illegal camping, vandalism and theft, cattle being spooked and forced through fences, trespassing,	Access to Pilchers Reserve will still be possible from the southern approach of Wallaringa Road and access to Pilchers has not been traditionally gained from proposed road reserve closure area. So this concern does not seem valid
<ul style="list-style-type: none"> Allowing public access through unmaintained roads is a liability that council would be responsible for. 	There is potential for Council to be liable for matters that occur on the road reserve where its use is promoted and encouraged but it is not of a standard commensurate with that use. Closure of the road would remove that liability.
<ul style="list-style-type: none"> Legal liability of property owners where recreationists deviate off designated road and have accidents 	This is unknown- but there is potential for people to venture off the unmarked road reserve onto private property.
<ul style="list-style-type: none"> Primary Production is the biggest wage earner in Dungog and Should be supported 	Primary Production and Tourism/Recreation are important industries to Dungog and should be supported.

Discussion

The submissions received in support of the proposal are predominantly from nearby landholders who see it as support for primary production in the area. Conversely, all objections were from persons, none of whom are nearby residents, concerned predominantly that the tourism potential of this section of Council road would be lost if the road were to be sold. A summary of the issues raised is contained in the tables above.

Council staff have recently walked the unformed, unmarked road and have found it difficult to determine the exact road reserve location as it is unmarked and fence lines cannot be relied upon. It is overgrown and eroded in places, seamlessly absorbed into the adjoining farmland in other locations and impassable due to steep terrain in other locations. It is difficult to imagine that in its present condition, this road reserve could be used by recreationists (walkers, cyclists), without impacting on the adjoining farmlands and that were this use to be supported by Council, then a resource allocation to re-establish and maintain the Road Reserve would be responsibly required by Council. (e.g. to fence each side of the 6m road reserve, to make the surface smooth to

minimise harm to users and to maintain the area in perpetuity). This has not occurred in the past due to scarcity of resources and realistically because there are other options for traversing the area in question e.g. from the south to access Pilchers Reserve and via Dungog Road to travel to Dungog from Wallarobba station.

Notwithstanding, both supporters and objectors to the road closure proposal have valid reasons that Council needs to consider before determining whether to proceed with the road closure proposal.

COMMUNITY STRATEGIC PLAN

Ensure that community assets, facilities and public infrastructure are planned for, maintained and improved to a reasonable standard

DELIVERY PROGRAM

There is no delivery plan action that relates to this report

IMPLICATIONS

Finance and Resourcing

Council has received an undertaking from the interested parties to pay all costs associated with the closure and subdivision of the land for sale.

The interested parties have agreed to cover all costs so that Council will not be out of pocket and Council stands to receive market value from the sale of the land which would be incorporated into the adjoining primary production land.

Previous Council Resolutions

Ordinary Council meeting 20th May 2020

RESOLUTION 2020/104

Moved: Cr Steve Low AM

Seconded: Cr Glenn Wall

1. Council commence the process of closing the road reserve of Wallaringa Road as shown on the plan in Figures 1 and 2 upon receipt of applications from the interested parties.
2. That the matter be referred back to Council for resolution at the crucial process points described in this report.

CARRIED

Cr Riley requested his negative vote be recorded.

Implementation

Where Council resolves to close the road portion and classify the land as operational, the Land may then be dealt with by Council as it deems appropriate.

It is proposed that a subdivision certificate be applied for and referred back to Council for execution.

If the subdivision is approved, then the subdivision plan would be registered with the NSW Land Register Office (NSWLRS) and the matter published in the government gazette. A 60 day appeal period would apply before certificates of title could be issued by NSW LRS.

Once title is issued, Council may enter into contracts for the sale of the resulting allotments.

Notwithstanding the above, should Council determine not to proceed with the road closure, the process would cease.

Statutory/Legislative

Closure of the unformed road reserve is being carried out in accordance with the Roads Act and subsequent subdivision in accordance with the EP&A Act.

A notification and public exhibition period has been completed as required by the Act and Council is required to consider submissions before determining whether to continue with the road closure.

Community Consultation

The process of road closure required consultation with 18 prescribed Authorities. Six (6) of these have responded with no objections. It can be presumed that the other prescribed authorities have no objection to the proposal as the period for representations has lapsed.

Adjoining property owners have also been advised of the proposal in accordance with the Roads Act although these owners are the same parties who have applied for the road to be closed.

The proposal was advertised publicly on social media and also in the Newcastle Herald for the prescribed period of 28 days. Forty-six (46) submissions were received (39 against the proposal and 7 supporting the proposal) Council is required to consider these submissions prior to resolving whether to proceed with the proposal to close the road reserve portion.

There will also be opportunity for public submissions regarding the proposed subdivision with a 60 day appeal period provided before certificates of title are issued by NSWLRS.

**ANNEXURE 1
SUBMISSIONS RECEIVED REGARDING PROPOSED ROAD CLOSURE
(Road R6531-1603)**

Submissions that Object to the Proposal to Close the Road

1.

We amongst others object most strongly to Councils proposed closure and subsequent sale of Wallaringa Rd on a number of grounds.

Talking to older folk in the district I'm led to believe that the combination of Hanley's Creek rd and Wallaringa rd was originally the main access route to and from Dungog and the area further south and as such should remain a public road in public hands due to its historical significance as such.

In a time of increasing use of our green spaces by people in general it is complete madness to close and sell off a road reserve such as this that could be used to expand the ongoing use of the Dungog Common and enable an additional route for bushwalking, horse riding and bike riding in the shire close to and accessible to existing facilities. The scenic value to the area and enabling visitors to appreciate the area of Pilchers Reserve is immeasurable.

Council would be better to actually upgrade the existing track to at least a dirt road and enable the easier use of the area instead of pandering to a few landholders who wish to keep the public out by the use of illegal signage and gates on what is a public road.

If the proposed Hanley's Creek subdivision is to go ahead isn't it a requirement that such housing estates have at least two access/exit points in times of natural disaster preferably in different directions as is presently the case rather than council closing one of them down. The presence of the water pipeline currently only allows one access from the east where upgrading and repairing the existing road would greatly facilitate access to the west and south.

[REDACTED]

[REDACTED]

2.

Dear Council,

I am writing to oppose the closure of Wallaringa Road - this road is of great use to our future community.

We need to support the initiatives in our town that look to foster outdoor recreation and adventure which bring new business and exposure to the community and local business.

Closing this road stands to benefit a handful...keeping it open benefits us all who stand to benefit from a thriving community.

Please reconsider and do not close this road, we need our council to stand with us and be progressive, imagining a thriving community full of passion and drive.

--

[REDACTED]

3.

Hi There,

I would just like to throw in my opposed view on the closure of Wallaringer Road. Since moving to Dungog 4 years ago, i have seen such a positive shift in the community brought on by the bike tracks popularity and I really think we should all be getting on board to help make it grow. From what I hear it is largely unused land, let's sell to the adjoining land holders and get some money in the kitty to build tourism.

[REDACTED]

[REDACTED]

4.

I write this email to protest at the proposed closure of Wallaringa Road.

Though individual land holders may not require this road to remain open there are other matters to be considered:

- 1) This was the original access to Dungog from Maitland. As such it holds some historical significance.
- 2) The road is used, and has been used for decades, by motorists, cyclists and walkers to access some of for finest scenery in the district.

Therefore I see the intended road closure as being a permanent loss of a local amenity.

I visit Dungog [REDACTED] about once a fortnight to do mountain bike cycling. I always buy something in town after each ride. The closure of this road will give me one less reason to visit.

Yours sincerely,

[REDACTED]

5.

I'd like to make known my strong opposition to the proposal to close Wallaringa Road and sell to adjoining land owners.

A few salient points I've heard raised around the issue:

- 1) **No one goes up there anyway**
 - a. The land owners surrounding the road have largely blocked access (surely illegal?) and aggressively warned off trespassers with signs. It's hardly a wonder that it has not been used as much as it could be.
- 2) **Over time it has effectively become their land now since the public doesn't use it**
 - a. Clearly this is wrong. It's a council road, owned by the public as much as Dowling St or Fosterton Road. The public should be allowed access.
 - b. The very fact that the farmers have expressed interest to council in buying the land points to the fact that they know it belongs to the public.
- 3) **There are biosecurity concerns for the farmers so there cannot be anyone allowed use the road.**

- a. There are numerous other roads in the shire running through or alongside farms. No one else is proposing closing these roads to the public and acquiring them for their own exclusive use. Why is Wallaringa Road any different?
 - b. All businesses in the shire have challenges they need to deal with. Restaurants are dealing with covid restrictions, pubs dealing with licensing, accountants have various regulations to deal with. Why does the entire community have to lose an incredibly valuable public resource to accommodate a small number of farmers?
- 4) It is of no real value to the public anyway, so better that the council gets some money from selling it.**
- a. The value of this road to the public for cyclists, runners and walkers cannot be overstated. As an offroad trail between Dungog and Wallarobba station via Pilchers mountain it's potential value to the shire and broader public is enormous.
- 5) People go through there all the time and abuse the land, leave gates open, leave rubbish etc.**
- a. This is indeed unfortunate. But if the road was properly fenced off and accessible only to cyclists and pedestrians it would largely address the problem. If the public is allowed access to the incredible natural beauty up there, they will respect it.

Please feel free to contact me to discuss.

Regards,

[REDACTED]

6.

I am writing to formally object to the proposal from land owners to purchase a section of council road, Wallaringa Road (between Hanley's Creek Road and Pilcher's Reserve).

As a region we are striving for increased recreational facilities and access to the natural environment. This section of road provides possibilities for bushwalking and mountain bike riding between Dungog and other regions of the Shire and is part of a wider vision to connect Dungog with Vacy, Paterson and Gresford, either by back roads or the train. By closing this section of road you are preventing a longer-term strategy and vision, which will make this region sustainable and attractive to tourism.

We need more of these roads to remain open, not closed for public access. We should be a region committed to community, sharing, recreation and having the vision to see the future for the generations to come.

Only two landowners will directly benefit from this road closure, whereas, a whole community will benefit from the road remaining open to the public.

Please do not make a short-sighted decision regarding this matter. There is a much larger vision for this region at play with many more stakeholders than two landowners.

If the funding is an issue for this section of road in terms of fencing and maintenance then the community needs to be aware of it, as there is an army of people prepared to invest and support this road remaining open.

Thank you for accepting my objection. I look forward to Dungog Shire Council standing by their vision, and the vision of many of their important community stakeholders, including Dungog Regional Tourism and Dungog Chamber of Commerce and Ride Dungog to increase access to sustainable recreation and tourism.

[REDACTED]

[REDACTED]

7.

I am emailing to object to the proposal of closing Wallaringa Road and selling the land to adjoining landowners.

As a resident of the Dungog Shire I feel it is important we continue to advocate and provide access to recreational facilities and green spaces, which is aligned with the [NSW Government's Premier Priorities](#) of well connected communities with quality local environments and greener public spaces.

[REDACTED] it is critical for the Dungog Shire Council to take a long-term and visionary approach to the well-being of our community and the importance of all residents being able to access and utilise the natural environment. The usage rates of electronic devices and the decline in youth mental-health is a serious challenge, and as a community we should strategically be addressing these problems - we need increased access to recreational facilities of this nature.

I understand the challenges with Wallaringa Road, in terms of access currently being denied by landowners and the potential difficulties of road maintenance, however, this does not need to be a road for vehicle access, this could be established as a walking and biking trail, which would provide much needed green space for our residents, including the 100 lot residential development, which has been approved on Hanley's Creek Road.

Not to mention the increased number of tourists who are visiting regions with biking and walking trails - this is an economic opportunity for Dungog and the wider shire.

I hope Council seriously considers the impact of this road closure, and makes a visionary decision, which will benefit the community.

Kind regards

[REDACTED]

[REDACTED]

8.

I strongly oppose the closure of Wallaringa Road as proposed, on several grounds.

1. Most importantly, this public asset is crucial in times of serious & catastrophic bushfires. We have been lucky with no recent events. This will not always be the case. This road is critical not only for the safe access/egress of residents living either end of Wallaringa/Hanleys Creek Roads but for quick and efficient access by emergency services, probably primarily the RFS. This road should not only not be closed but should be maintained to at least fire trail level. If our local RFS cannot quickly attend to bushfire in such close proximity to residential developments and the township of Dungog itself when there was an existing public road then this council will be held responsible.
2. The reasons for the proposed closure have not been made public. Why?
3. Given the seemingly only 'growth industry' in Dungog shire is tourism, why close an asset that would enhance the opportunities for such activities? Twenty years ago I could drive a 2WD car from Wallaringa to Hanleys Creek Road and the drive is magical, the views spectacular. This is a fantastic, low level, limited tourist drive so close to the town.
4. With the further push for 'adventure' tourism, closing this road would lose the opportunity to provide a walking/cycling trail, again so close to town.

I reiterate my opposition to the closure of this road. I can see no reason or sense for its closure.

Yours sincerely,



9.

I would like to voice my opinion on the Wallaringa road closure.

This road is a public road therefore it should remain accessible to the public. We have a beautiful shire with some stunning places to visit, would we want to close that road and stop people from having the opportunity to visit one of our amazing attractions.

Thankyou for your time



10.

We are writing in regards to Wallaringa Road and the proposed closure of this road to the public.

We have all seen the huge positive changes that are taking place in Dungog with numerous new shops and cafes opening over the last few months which are in no minor part due to the visiting mountain bikers who are here to visit Dungog Common tracks & other areas of interest. As local tourism operators we can see the benefits of leaving this historic convict built And very scenic road remaining open to the public including mountain bikers, trail runners and walkers both from within and outside of the Shire

As parents we can see the benefits for our family and all the other Shire residents and families who would like to be able to explore, run and ride on our public roads. Once it's closed it will never be open again and will only benefit a few rather than the many current and future residents and visitors to Dungog Shire, this is a community asset and should remain so.



11.

My heart sunk into my stomach when I heard about the proposal to shut Wallaringa Rd. As a resident [REDACTED] in the Dungog region, I feel really let down that this is being considered. This is an incredibly valuable public right of way, that exhibits majestic beauty, showcases history and promotes adventure and inspiration - it would be such a loss and a big mistake to close it to the public forever.

It represents a backwards step, by reducing access to one of the best roads in the region in which to take in the essence of Dungog regional country side, with magnificent views, glorious country side and access to one of the most unique natural features in NSW - Pilchers Mountain. I don't think it is a good thing to suddenly remove this opportunity to the public.

Imagine the positives that keeping the road open to the public will have in the current climate. Right now, the level of pride, positivity and economic growth in the Dungog community has soared due to embracing the outdoors in the form of Mountain Biking. There is energy amongst the community to do positive things that benefit the majority. Realistically, Dungog can be a hub and gateway to this low-development impact, super positive form of tourism. We should be sharing and promoting, rather than shutting down, a genuine world class ride/walk along Wallaringa Rd and to Pilchers Mountain. It would be a genuine contender for the jewel in the Crown of Dungog Regional tourism alongside The Common! It is an opportunity we can embrace.

It is time to be on the right side of history and be remembered as the council that showed this wonder to our local community and visitors rather than the one that made it inaccessible to all but the landowners who seem to want to stop people enjoying public land (I refer to the signage and locked gates that have been put up).

As a community we can work together to keep the road open for cycling and walking and respect the private land we pass through. That is what makes a good community.

I would be happy to donate my time and experience in adventure guiding and outdoor education to creating an amazing interpretive walk in that area.

I don't see any benefits to selling and closing the road, but would be happy to hear them and would welcome feedback on my submission.

I look forward to hearing back from you,

Yours Sincerely,

[REDACTED]

12.

Wishing to voice my absolute objection to the proposal to close off wallaringa road and sell to the adjoining land owners.as a runner, walker, bike rider let's preserve our public spaces and make dungog a world class destination.

[REDACTED]

13.

As a supporter of outdoor recreation at Dungog I wish to object to the proposed closure of the Wallaringa Road between Hanley's Creek Road and Pilcher's Reserve.

Yours faithfully,

[REDACTED]

14.

I wish to object to the proposal to close and sell Wallaringa Road.

I am a supporter of local tourism in DUNGOG and I think it is imperative that walkers and bike riders have a variety of places and attractions to see.

I have had an increase of business from walkers and particularly bike riders in the last few months and I would strongly encourage DUNGOG Council to assist in this tourist boom that has come to town in every way.

Yours Sincerely

[REDACTED]

15.

I recently left a telephone message regarding the proposed closure of Wallaringa Road but felt compelled to write regarding this important matter also.

I moved to Dungog [REDACTED] to allow us the opportunity to live a life connected with nature, spending time as a family being active in the outdoors. We love all Dungog has to offer in this regard and enjoy mountain biking, trail running and kayaking. It is incredible we are able to do these activities for free in such a beautiful environment.

[REDACTED] As a community member I am delighted with the revitalisation of the town I have observed and enjoyed as a result of the influx of mountain bikers to our town. I see the growth of Adventure tourism in our area as a critical element unpinning the financial wellbeing of our community into the future.

I object to the closure of Wallaringa Road to the public. It has been disappointing to see this road locked to the public for many years giving the impression access is prohibited. It is a shame to see a historic road so poorly maintained. This beautiful road provides a unique opportunity to utilise our rail network to access a scenic ride / run back to Dungog.

Closure of this road is short sighted and benefits so few people when so many would benefit into the future from what it offers, building upon our adventure tourism opportunities and allowing locals to enjoy this glorious asset.

[REDACTED]

16.

I am writing to object to the Councils proposal to close Wallaringa Road between Hanleys Creek and Pilchers reserve.

This road should be kept in public hands and not sold to adjoining land holders as it is used by ratepayers for recreational use.

Regards

[REDACTED]

17.

I am starting to realise how much the next generation want to get out in nature, to stay fit and particularly mentally fit, to keep their families active, to invite friends to enjoy a day out and biking seems to be the way to do this.

Biking hits all the ticks and Dungog seems to be leading the pack, showing great community spirit and enormous vision for the future by way of biking.

Many people are talking about what the Dungog Community are doing and envious of the opportunities.

Closing the Wallaringa Road seems like short term gain stuff, and personally I feel will make council look very old fashioned , backward thinking and lacking in vision for what should be a beautiful bike trail for the community.

This road is, after all a public road and should be kept that way, for the community not for one or two individuals, those attitudes have gone.

Please think wisely before closing Wallaringa Road, think of a beautiful bike track for the future.

[REDACTED]

18.

I feel the sale of Hanleys Creek rd - Pilchers is a negative one and should not proceed , (ref EF07/ 52).

Council has the opportunity to make this town even better and the sale of such a prized future drawcard and ideal access that council already owns that once lost will never be regained.

Please Dungog Shire think of future generations and not sell Hanleys Creek Rd -Pilchers.

Many Regards

[REDACTED]

19.

Just writing to put my objection forward to the proposed closure of Wallaringa Road in Dungog. This is a beautiful section of land and road that many cyclists and tourists get to enjoy out in Dungog.

Cycling has changed the town of Dungog over the past 12 months in a massive way. And I believe that's only going to continue over the coming years.

We need these green corridors for the community to access and enjoy and to grow the town. Please listen to the community and don't close this road.

Regards,

[REDACTED]

20.

I am astounded that this may even be raised as a possibility. [REDACTED]

[REDACTED] never has there been a gate left open or has there been any interference to land owned by adjoining property owners. My point being that there is not a valid reason to be asking for this public road to be closed to any future use by locals. It is offering perfect recreation possibilities and should be seen as the ideal add on or diversion from the ever growing pressure on our Dungog common. Let's think to the future to what benefits the majority of people not a minority.

I am aware that many people feel the same as I do and are prepared to support the continuing status of this historic road which I doubt is a burden to Dungog Shire council.
Please do not make a decision that, in the future, will be regretted; we need to protect this corridor,

[REDACTED]

21.

I would like to register a formal objection to proposal EF07/52.

I am willing to attend any meeting or put this objection into a more detailed format as required.

[REDACTED]

22.

I object to proposal EF07/52.

23.

I am writing to voice my objection to proposal EF07/52.

I really believe that the future of Dungog is in the tourism associated with green space, and that this proposal is a step in the wrong direction.

Please don't hesitate to contact me if you'd like any further information.

Warm Regards,

[REDACTED]

24.

[REDACTED]
Please accept this submission expressing my objection to the sale of the above road.

[REDACTED] familiar with the section of old road alignment between Hanleys Creek Road and Pilchers Mountain.

I have cycled this route and walked it. I value its remaining in the public domain particularly for its connection to both Indigenous and settler history. The opportunity for the public to engage with this history will be lost if the road falls into private ownership.

The earliest settlers came to the Dungog area along what is now Wallaringa Road. They came on this route because it had existed for countless years before as an Aboriginal pathway following up the valley of Wallarobba Creek to Pilchers Mountain and then via the saddle to the west of Pilchers down into the Hanleys Creek and Tabbil Creek valleys.

Maintaining public access to this road is important to the future of a town that seeks to retain connection to its past, and develop a diversity of visitor attractions for walking and cycling.

The Plan of Management (POM) for Pilchers Mountain, prepared by Dungog Shire Council in 2005 (and available on Council's website), is a clear enunciation of the importance of this unique area, and public access to it. (See map attached, extracted from the POM.)

Pilchers is an area of special significance to Aboriginal culture, as indicated in the POM. Pilchers Mountain provided a hide-out for Thunderbolt and his gang. It's geology and rainforest remains an utterly remarkable natural asset to the district, to the country. For now and into the future the obvious route to access the ravines and rainforest of Pilchers is via Hanleys Creek Road and the approach to Pilchers from the north along Wallaringa Road, in addition to the approach from the south.

Closing the road and subsuming the land into private property denies this opportunity for a scenic route of access from the Dungog side.

There is a clear opportunity to work with adjoining land-owners to keep the road open but keep gates closed, using stiles in the manner common in the UK, to enable access for those on foot or on bicycles. Future housing development in the Dungog area is likely to be on the south side of town, and keeping old road routes open will be a recreational asset to those communities of the future occupying the Hanleys Creek and Tabbil Creek valleys. Opportunities for tourism and visitor accommodation go with the retention of public access.

Retaining the road in public ownership ensures that people will continue to visit Pilchers Mountain. It is this visitation and the knowledge that comes from it that provides the insurance for this remarkable area's continuing protection.

Please do not allow this historic road to be closed and transferred into private ownership.

Sincerely,



25.

Re Proposed Road Closure - Wallaringa Road (between Hanleys Creek Road and Pilcher's Reserve) Dungog.

As representative of Dungog Walkers Inc I would like to make an objection to the proposed closure of the above road.

Our group has walked this route for a number of years without incident or damage to any of the adjoining landowners properties or stock. As well as access to spectacular hiking country it is also a historic road being part the original road from Dungog to Maitland with some of the features still remaining evident.

Closure would also deny us the opportunity to visit and explore the amazing Pilchers Mountain Reserve the highlight of our annual walks programme.

For our present club members and walkers in the future please leave access to the beautiful area opened and not go ahead with proposed closure.

Regards

Marion Stuart
Dungog Walkers Inc



26.

RE: Proposed Closure of Wallaringa Road (between Hanleys Creek Road and Pilchers Reserve)

I am writing on behalf of the Dungog District Chamber of Commerce (DDCC) and it's members with regards to the proposed closure of Wallaringa Road (between Hanleys Creek Road and Pilcher's Reserve) Dungog under s38B of the Roads Act 1993 and intention to sell the land to adjoining property owners. The DDCC objects to the Dungog Shire Council's proposal.

This road provides alternative access to the regionally significant Pilcher's Mountain Reserve. The road is currently used by walkers and push bike riders, given the increasing demand for walking and mountain bike trails (as evidenced by the Dungog Common Recreation Reserve), the Shire should be looking to expand its offering, not reduce. The road also potentially provides a secondary access for future residents of the Hanley Creek Development. The Pilcher's Reserve is currently used by various community groups and members of the general public for passive recreational activities and is a place visited by hikers and walking groups. Given the natural uniqueness of the Pilcher's Reserve within the region and the increasing demand for nature-based tourism, Dungog is well positioned to further develop its tourism offering through the development of a strategic and considered long term plan that looks to capitalise on its natural assets (such as the Pilcher's Reserve), rather than what appears to be a short sighted decision with no consideration of the broader implications and opportunities for this community.

Given the environmental and cultural significance of the Reserve, it is important that it be properly managed and protected, with careful planning this reserve could become a real drawcard for nature-based tourism and the Dungog Shire.

Our members feel very strongly about the proposed closure which seems to be under consideration entirely because of a minority of residents with vested interests. This road must remain opened for the benefit of the broader community and visitors to the Dungog region.

Kind Regards,

Marion Stuart

President – Dungog District Chamber of Commerce

[REDACTED]

[REDACTED] oppose the closure and sale of Wallaringa Road. The road provides a great public passage for cyclists, walkers and horse riders looking for a beautiful journey through our shire. It is an asset that should be retained, especially given the cycling tourism boom the Dungog is currently in. Losing it would be a real shame.

Kind regards

[REDACTED]

28.

Dear Sir,

Re: Access to Pilchers Reserve

Dungog Regional Tourism understands that consideration is being given to close the public access to the Pilchers Mountain reserve.

This reserve of great interest to Dungog Regional Tourism because of its unique natural features. If public access is lost to this unique site, it will be very hard to ever re-establish it in the future.

We do not see it as a location which would attract or cater for large numbers of visitors, instead serving a niche market for special interest groups.

DRT is aiming to position the region as a destination for outdoor recreation with natural history and the environment as an element of that strategy. This site will be an important part of our overall approach.

We understand the concerns local landholders may have and that public access needs to be carefully managed and monitored. DRT would be more than happy to work with Council to source funds for additional improvements at the site to increase safety and amenity for visitors and to reduce the impact on neighbours.

We therefore seek that access remains as it is at present.

Yours sincerely,

AC Archer AM

Chair


DRT Inc.



29.


I write regarding the proposed closure and sale of Wallaringa Road (between Hanleys Creek Road and Pilcher's Reserve).

I strongly object to the closure and sale of the above-mentioned road.

 and spent much of my childhood exploring the Pilcher's Reserve. Closing the road connecting the township of Dungog to the reserve would be a huge loss to our region. We are in a time in which we should be promoting outdoor activities not putting in restrictions to explore our beautiful region.

All the property owners adjoining the road would have been made aware of the road prior to purchase of their properties. One thing you must be aware of is the road has been in place since settlement of Wallarobba. As a convict-built road connecting Wallarobba to Dungog.

It would be a terrible shame to delete this part of history and in doing so set a precedent of further road closures.



30.

As a proud resident of the region, I would like to express my concerns about the proposal being put before the Dungog Shire Council to make Wallaringa Road private. I would also like to invite Council to reestablish a sub-committee responsible for developing an updated plan of management (PoM) for Pilcher's Mountain Reserve. The most recent PoM was adopted in 2007.

Pilcher's is a stunningly beautiful natural site just a few kilometres from Dungog. It is of great environmental and historical importance. There are around 14 known caves within the reserve. Some are quite large with one, known as the 'Rebel Cave' has a vertical depth of 50 metres. The large depressions in the reserve have created a microclimate that supports a dry rainforest stand and as such the flora is particularly rich in species diversity. The reserve is dominated by around ten gorges of varying sizes that dissect the surrounding undulating landscape. Pilcher's is rich in history and intrigue - it is an important Indigenous site and is also said to have been one of Captain Thunderbolt's hiding places.

Given the exponential growth in tourism currently being experienced in our region, it must be a top priority that we consider how unique places like Pilcher's Mountain can become a 'must-see' attraction for our rapidly increasing number of visitors. Low-impact environmental tourism has fantastic and sustainable economic benefits and, Pilcher's, provided it is managed carefully, would be another source of needed stimulus for our shire. However, I cannot see how privatising the Wallirunga road would allow Pilcher's Mountain to be successfully managed as a tourist attraction. It seems to me that it would only serve the interests of the surrounding private landholders. Putting Pilcher's Mountain on the local tourist trail would not only be an economically good move for the shire but environmentally as well; if done properly, Pilcher's could benefit from environmental management (for example, volunteers from local Landcare groups).

As Dungog Shire Council records will show, a Pilcher's Mountain Reserve committee was established in the early 2000s to manage this precious local site. The committee developed a PoM which was adopted in December 2007. The PoM was considered and passed by Dungog Shire Council in February 2008 and forwarded to the Department of Lands prior to being placed on public exhibition. Participating stakeholders included:

Karuah Aboriginal Land Council; relevant landholders; Department of Environment and Climate Change (formerly National Parks and Wildlife Service); Department of Lands; Department of Infrastructure, Planning and Natural Resources; Dungog Shire Council; and Department of Primary Industries.

The committee settled on the following vision:

To respect and protect the intrinsic natural, cultural and heritage values of Pilcher's Reserve in perpetuity in co-operation with Council, landowners, the Karuah Local Aboriginal Land Council, the Goorenggai People and the wider community.

There was a clear consensus at the time about the importance of Pilcher's and its great potential as a natural tourist attraction. I propose that before any further decisions are made about Wallirunga Road, relevant stakeholders are brought together to discuss the future of Pilcher's in detail. This course of action would show that the Dungog Shire Council is indeed representing the best interests of its constituents as a whole, not just a few.

I would be happy to expand on my concerns further if required.

I look forward to hearing your response.

Warm regards

A large black rectangular redaction box covering the signature and name of the person who wrote the letter.

31.

I write regarding the proposed closure and sale of Wallaringa Road (between Hanleys Creek Road and Pilcher's Reserve).

I strongly object to the closure and sale of the above-mentioned road.

The closure and sale of the section of the road linking the township of Dungog to Pilcher's Reserve would be great loss to our region. The reserve is a beautiful apart of our area and we cannot allow the closure of access. I feel this could also then lead to further requests to close or deny access to the reserve itself.

Now more than ever we should be prompting outdoor activities not putting in restrictions to explore our beautiful region.

All the property owners adjoining the road would have been made aware of the road prior to purchase of their properties. One thing you must be aware of is the road has been in place since settlement of Wallarobba. As a convict-built road connecting Wallarobba to Dungog.

It would be a terrible shame to delete this part of history and in doing so set a precedent of further road closures.

Kind Regards,

[REDACTED]

32.

I'm sending this email in objection of Dungog Council's plans to sell off a public road at the end of Wallaringa Rd. I know this is a trend for the council, to sell things that require a little bit of work but in the interest of the community please don't. For once, please do what is right for the community and not for 2 or 3 landowners.

[REDACTED]

33.

Please accept this email as my objection to the sale of Wallaringa Road in part to adjoining landowners. I've used this public road on occasion with the local walking group with much enjoyment and would certainly use it for mountain biking in the future. I believe the future for Dungog is in keeping these areas open and available for the increasing number of visitors to our area, which is also encouraging us locals to use the great facilities we have. It is so good to see so many people becoming more active with healthy clean activities such as biking and walking. Please don't sell off a perfect piece of real estate that could be used for these purposes.

[REDACTED]

[REDACTED]

34.

[REDACTED] I enjoy cycling all the roads north of Dungog, road and mountain bike rides, as well as the Dungog Common. I would like to see more outdoors opportunities, and areas for outdoor recreation for the Dungog community and Tourists. These out door areas greatly impact people's lives in a very positive way.

I would not like to see the closure of the "green corridor" along Wallaringa Road, I object to proposal EF07/52.

[REDACTED]

35.

Having just read of the Councils proposed closure of Hanleys Creek Rd access to Pilchies Mt, I was wondering how many of our current councillors have actually taken the opportunity to hike to see this unique natural landscape we have on our doorstep?

It is a stunning ravine, with significant flora and fauna and cave systems that would be a draw card to our shire, if so promoted. As a local attraction, the area has an interesting history and one that our councillors should be aware of.

It is an area that is worthy of National Park status, not one to be locked up and only enjoyed by those who have land adjoining it.

Instead of privatising the access, shouldn't we be promoting it for bush walkers, hikers and Mt bike riders - which means more tourists to our shire?

It has been heartening to see the energy and trust our new business houses have in the town's economic future, but I strongly feel we need keep up this momentum or risk losing new tourist \$s, (in view of the slower than anticipated progress on further bike tracks at The Dungog Common) guided walks and rides could help build on this confidence.

I ask our councillors to reconsider this closure and investigate the possibilities of actually encouraging people to discover Pilchies rather than locking them out.

[REDACTED]

36.

Objection to closure of Wallaringa Road (between Hanleys Creek Road and Pilcher's Reserve) Please note my objection to the proposed closure of the Council road referred to above.

I do not see how Council has made out a case for the closure of the road, particularly a road which has been the subject of requests for increased access for tourism events in recent years.

The Roads Act 1993, [REDACTED] sets out in section 38A the criteria which a Council must consider in making a decision to close a council public road:

38A When council may close council public road

A council may propose the closure of a council public road for which it is the roads authority if—

(a) the road is not reasonably required as a road for public use (whether for present or future needs), and

(b) the road is not required to provide continuity for an existing road network, and

(c) if the road provides a means of vehicular access to particular land, another public road provides lawful and reasonably practicable vehicular access to that land.

As a tourist operator, I am aware of proposals over recent years to increase the range and quality of events in town. This particular road formed the centrepiece of a proposal for an

expanded running race organised by Run Dungog. It is a key access to Pilchers Reserve, a site which is an enormous attraction, only limited by the lack of reliable access and unexpectedly locked gates. It is also a proposed part of a bicycling route organised by Ride Dungog.

It would appear clear that the road is reasonably required for future public use, provides continuity to the rest of the road network in this area, and provides vehicular access to particular land.

It would also seem likely that a review of a decision to close the road in the Land and Environment Court would find that at least one of the three criteria above are not met, particularly in the absence of any published justification of the reasons for the closure, or consideration of recent proposals on future use.

I would hope that Council is promoting better access to the attractions in the Shire, not limiting access. I would like to hear more about the proposal, but at this stage remain strongly opposed.

[REDACTED]

37.

RE: DUNGOG COMMUNITY TRAILS COMMITTEE

We act for Dungog Community Trails Committee which objects to the proposal to close Wallaringa Road between Hanley's Creek Road and Pilcher's Reserve and then sell to adjoining landholders.

We make the following submissions in the strongest possible terms against this proposal.

1. The landholders maintain that they have acquired rights as result of their de facto possession of the road which has not been used by the public for some time. To the extent that the road may not have been regularly accessed by the public we submit that any such lack of access is the result of steps taken by the landholders to deliberately discourage access by locked gates or other impediments to public access to the road.
 2. The landholders express a concern about dumping of rubbish in the area. We submit that maintaining public ownership and encouraging community organisations to actively utilise the area for organised recreational purposes will best maintain the area and avoid nuisance such as illegal dumping of rubbish.
 3. How is this small parcel of land any different to any other publicly owned land adjoining private property?
 4. Recreational user organisations have a vested interest in maintaining a high level of maintenance of the area as part of the activities which they are promoting.
 5. The road should be retained in public ownership, fenced and restricted to use by pedestrians, cyclists and equestrians similar to the existing Dungog Common useage which has been so successful.
 6. Such usage will follow and enhance the recent development of recreational facilities which has been so widely embraced by the Dungog community.
 7. The landholders are campaigning for an unnecessary acquisition of a small area of land, unrelated to the viability of their existing holdings, with an expressed objective only of excluding any use for legitimate public purposes.
 8. The maintenance of the road in public ownership must override any attempts to close and sell the road for any individual or personal benefit.
 9. The public amenity must be preferred to the landholders wish to remove the area from public ownership.
 10. The landholders are not offering any better use of the area, only a desire to exclude the public from use for community purposes of land which has always been in public ownership.
- Please acknowledge receipt of the above submissions.

Yours faithfully

PEACOCKES SOLICITORS

DOUG MCKAY

[REDACTED]

38.

I wish to register my objection to the sale of the subject portion of Wallaringa Road by Dungog Shire Council.

I am the Captain of Bendolba Salisbury Rural Fire Brigade and while the affected area is not within Bendolba Salisbury brigade area of responsibility, we are regularly called to fires in the vicinity of Wallaringa road. I am particularly concerned about the restriction of access for fire appliances responding to fires in the Pilchard's Mountain locality as well as private residences and sheds along Wallaringa Road. Volunteer fire fighters have a tough enough time as it is without the added challenge of struggling to gain access to private road which should rightfully be public road reserve.

Best regards,

Nick Helyer
Captain
Bendolba Salisbury RFB.

39.

Please accept this submission objecting to the sale of the above road.

Since the early 1990s I have regularly been using the historic Wallaringa Rd that links to Hanleys Creek Rd for Bush walks and Mountain biking. This was done privately and with groups such as the Bicycle User Group of Dungog, National Parks Association, and the Dungog Walkers, a Sport and Recreation Walking for Pleasure group.

Note: Cycles and walkers do not leave much evidence of use. They are also very clean and don't leave rubbish.

It is a Council Road and therefore has the highest level of public access. It is not fenced off from the adjoining lands so I gained agreement from the land owners, Tickles, Kellners and Landers.

It was agreed that I would shut gates and not agitate the cattle, that is , if they started running we would stop until they settled.

This agreement held until old Mr Landers died and Peter Tickle sold to people from Sydney who have locked gates and erected Private Property keep out signs.

So far they have not been open to discussion.

Please refer to: <https://ridedungog.org/about-local-rides>

and as you can see we are promoting adventure tourism, not only on the Dungog Common, but for the whole shire.

Adventure tourism is booming and Dungog is thriving. To close this public asset would be a loss for local businesses and the local economy.

Rundungog wants to have a similar website promoting running and bushwalking.

Wallaringa Rd is key to our Plans for this website. One example.

Our Dungog Walking for Pleasure group has had a 20km walk from Wallarobba Railway Station back to Dungog via Wallaringa Rd. This walk/run/mountain bike route could be widely promoted. The history of Wallaringa Rd. is interesting and the views spectacular.

On the 17 June 2020 I sent Dungog Council an email complaining of the illegally locked gates and do not enter signs. It is an old ploy to do this and then say "well no one is using the road so why not close it".

Council seem fearful to address the issue of the illegally locked gates and private property signs. Maybe they think they will need to commit money to it. But for our passive activities it does not require the road to be upgraded. I rode it recently, lifting my bike over the illegally locked gate. It is in good condition for our activities. All it needs are some strategic guideposts

and informative signs, which could be paid for by private donations. If need be, I am sure a group of us can "adopt" the road to maintain it for our purposes.

As far as I know there have been no requests to Council for money to be spent on this section of the road in the nearly 30 years since I have been using it.

I have also heard one of the reasons it is being sold is that 2 short sections of Wallaringa Road are not within the gazetted road reserve. This is accepted on many other Council maintained roads. Some are up to 100m outside the road reserve. It could be an expensive precedence to require all Council roads be within their gazetted road reserve.

This is a valuable public asset please don't close it or sell it.



Submissions that Support the Proposal to Close the Road.

1.

In reference to the above road closure application by James and Suzanne Landers and Dominic O'Neil, [REDACTED] am in support of this application. [REDACTED]

[REDACTED] understand the issues involved with public access on farm land.

To my knowledge, this section of road has not been used as a thoroughfare for close to 70 years, and hasn't been maintained by council since the early '50's. Since then, the road has suffered landslides and floods, and is almost impassable.

In recent years, bio security and public liability has been a major issue with landowners. Any public access brings the problems of bio security management, which is supposed to be a shared responsibility. If public access is allowed, the potential increase in people going up to Pilchers Gorge would have great impact on flora and fauna, bio security breaches, illegal camping, vandalism and theft, cattle being spooked and forced through fences, trespassing, to name but a few. As I'm sure you are aware, in the last 4 years [REDACTED] 2 situations where emergency services have had to be called out to incidents involving walkers [REDACTED]

The cost of emergency personnel including helicopters, fire trucks and police must have been astronomical. Allowing public access through unmaintained roads is a liability that council would be responsible for.

I urge council to take into consideration these issues that I have personally had to deal with over the past few years, and allow this road closure application to go ahead.

[REDACTED]

2.



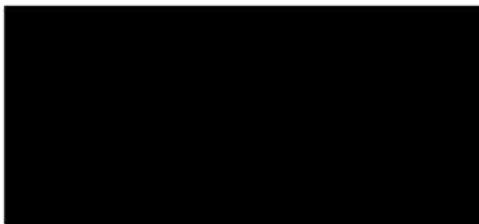
The General Manager
Dungog Shire Council
98 Dowling St
DUNGOG NSW 2420
10th November, 2020

Attention Paul Minett Ref 07/52

Dear Sir

App'n to close Road Ph Dungog in pors 41 and 44 & Lot 1 DP 522516 and Por 42 & lot 2 /436347
I refer to the above applications by James and Suzanne Landers and Dominic O'Neil of Hanleys Creek to close the above road. **I support closure of the above road for the following reasons:**

1. I understand that this part of the designed road **has not been used as a thoroughfare to Wallaringa Road properties for almost 70 years** and ceased to be maintained by Council when the Wallaringa road was established in the early 1950's and in most part has been washed away by subsequent floods and landslides and **now for the most part is between a rock and a hard place and does not in any shape or form provide all weather access.**
2. The road is not required to provide continuity for an existing road network as Wallaringa Road provides **vehicular all weather access to privately owned rural blocks on the southern side of Pilchers Mountain.**
3. **The NSW Bio Security Act** enacted in 2016 demands that primary producers with a property identification code comply with its provisions to **prevent the spread of disease and weeds by carriers such as unauthorised trespass on adjoining remote properties.** I also understand that this Act promotes a shared responsibility between government, industry and communities to this end.
4. Use of the designed unformed road, by town recreationists, such as runners or bicycle riders, will **subject adjoining land owners to legal liability for accidents in the event of unauthorised trespass. SES and Fire brigade personnel** required to attempt to attend such accidents and deviating off the path of the designated road will also cause unnecessary liability to adjoining land owners who are commercial / professional beef producers . **As you know primary production is the biggest sustainable wage earner in Dungog.**



3.

The General Manager

Dungog Shire Council

198 Dowling St.

DUNGOG NSW 2420

9th November, 2020

Attention Paul Minett Ref 07/52

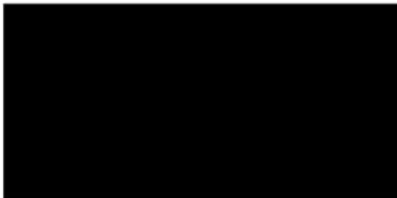
Dear Sir

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2. The road is not required to provide continuity for an existing road network as Wallaringa Road provides vehicular all weather access to my lands and other privately owned rural blocks on the southern side of Plichers Mountain.
3. The NSW Bio Security Act enacted in 2016 demands that primary producers with a property identification code comply with its provisions to prevent the spread of disease and weeds by carriers such as unauthorised trespass on adjoining remote properties. I also understand that this Act promotes a shared responsibility between government, industry and communities to this end.
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Yours faithfully,



4.

The General Manager

Dungog Shire Council

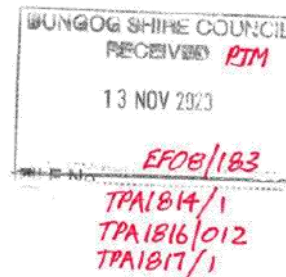
198 Dowling St

DUNGOG NSW 2420

9th November, 2020

Attention Paul Minett Ref 07/52

Dear Sir



App'n to close Road Ph Dungog in pors 41 and 44 & Lot 1 DP 522516 and Por 42 & lot 2 /436347

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2. The road is not required to provide continuity for an existing road network as Wallaringa Road provides vehicular all weather access to my lands and other privately owned rural blocks on the southern side of Pilchers Mountain.
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Yours faithfully,



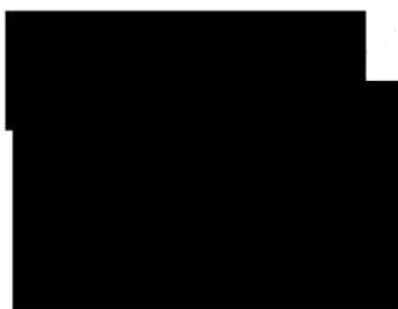
5.

Dear Sir,

App'n to close Road Ph Dungog in pors 41 and 44 & Lot 1 DP 522516 and Por 42 & lot 2 /436347

I refer to the above applications by James and Suzanne Landers and Dominic O'Neil of Hanleys Creek to close the above road. I support closure of the above road for the following reasons:

1. I understand that this part of the designed road has not been used as a thoroughfare to Wallaringa Road properties for almost 70 years and ceased to be maintained by Council when the Wallaringa road was established in the early 1950's and in most part has been washed away by subsequent floods and landslides and now for the most part is between a rock and a hard place and does not in any shape or form provide all weather access.
2. The road is not required to provide continuity for an existing road network as Wallaringa Road provides vehicular all weather access to privately owned rural blocks on the southern side of Pilchers Mountain.
3. The NSW Bio Security Act enacted in 2016 demands that primary producers with a property identification code comply with its provisions to prevent the spread of disease and weeds by carriers such as unauthorised trespass on adjoining remote properties. I also understand that this Act promotes a shared responsibility between government, industry and communities to this end. A recent amendment facilitates an on the spot fine of \$1000 for trespass.
4. Further, the Federal Criminal Code Amendment, 2019 protects and recognises a farmers right to farm and aims to protect them from nuisance claims and trespass.
5. Use of the designed unformed road, by town recreationists, such as runners or bicycle riders, will subject adjoining land owners to legal liability for accidents in the event of unauthorised trespass. SES and Fire brigade personnel required to attempt to attend such accidents and deviating off the path of the designated road will also cause unnecessary liability to adjoining land owners who are commercial / professional beef producers. As you know primary production is the biggest sustainable wage earner in Dungog (80%).



6.



The General Manager
Dungog Shire Council
98 Dowling St
DUNGOG NSW 2420

Attention Paul Minett Ref 07/52

Dear Sir

Re: App'n to close Road Ph Dungog in pors 41 and 44 & Lot 1 DP 522516 and Por 42 & lot 2 /436347

RECEIVED R
30 NOV 2020
EF20/218

I refer to the above applications by James and Suzanne Landers and Dominic O'Neil of Hanleys Creek to close the above road.

I support closure of the above road for the following reasons:

1. I understand that this part of the designed road **has not been used as a thoroughfare to Wallaringa Road properties for almost 70 years** and ceased to be maintained by Council when the Wallaringa road was established in the early 1950's and in most part has been washed away by subsequent floods and landslides and **now for the most part is between a rock and a hard place and does not in any shape or form provide all weather access.**
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3. **The NSW Bio Security Act** enacted in 2016 demands that primary producers with a property identification code comply with its provisions to **prevent the spread of disease and weeds by carriers such as unauthorised trespass on adjoining remote properties.** I also understand that this Act promotes a **shared responsibility between government, industry and communities to this end.** A recent amendment facilitates an on the spot fine of \$1000 for trespass.
4. **Further, the Federal Criminal Code Amendment, 2019** protects and recognises a farmers **right to farm** and aims to protect them from nuisance claims and trespass.
5. Use of the designed unformed road, by town recreationists, such as runners or bicycle riders, **will subject adjoining land owners to legal liability for accidents in the event of unauthorised trespass.** SES and Fire brigade personnel required to attempt to attend such accidents and deviating off the path of the designated road will also cause unnecessary liability to adjoining land.

6. As you know primary production is the biggest sustainable wage earner in Dungog (80%).



7.



03 DEC 2020

December 2, 2020

The General Manager
Dungog Shire Council
98 Dowling Street
Dungog NSW 2420



Attn: Mr Paul Minett

Dear General Manager,

Re: ref 07/52 Application to close Dungog in Pors. 41 and 44 and Lot 1 DP 522516 and Por. 42 and Lot 2/436347

We refer to the above applications re closing of the road, we support the closure of the road in question for the following reasons:

- We understand that this part of the designed road has not been used as a thoroughfare to Wallaringa Road properties for almost 70 years and maintenance ceased by Council when Wallaringa Road was established in the early 1950's. In most part the road has been washed away by subsequent floods and landslides and now does not provide safe access in any shape of form.
- The Road is not required to provide continuity for an existing road network as Wallaringa Road provides vehicular all-weather access to privately owned rural blocks on the southern side of Pilchers Mountain.
- The NSW Bio Security Act enacted in 2016, demands that primary producers with a property identification code comply with its provisions to prevent the spread of disease and weeds by carriers such as unauthorised trespass on adjoining remote properties. I also understand that this Act promotes a shared responsibility between government, industry and communities to this end.
- Use of the designed unformed road, by town recreationists, such as runners or bicycle riders, will subject adjoining land owners to legal liability for accidents in the event of unauthorised trespass. SES and Fire brigade personnel required to attempt to attend such accidents and deviating off the path of the designated road will also cause unnecessary liability to adjoining land owners.



11.2 CITIES POWER PARTNERSHIP MEMBERSHIP

File Number: EF08/302
Author: Manager Environmental Services
Authoriser: General Manager
Annexures: Nil

Precis

The purpose of this report is to recommend that Council to join and participate in the Cities Power Partnership.

RECOMMENDATION

- That Council join the Cities Power Partnership.
- That a further report be provided to Council within 6 months to determine the pledges to be made under the partnership.

REPORT

At its July 2020 meeting, Council considered an information report regarding potential participation in the Cities Power Partnership. The information was noted along with an acknowledgement that staff would attend a workshop on the matter and report back to Council.

Since this time, a workshop facilitated by the Hunter Joint Organisation of Councils (Hunter JO) was attended by the Mayor, General Manager and Manager Environmental Services on 12 November 2020. The workshop was attended by representatives of all of the Councils of the Hunter and proved to be a useful forum in establishing areas where individual Councils could benefit from membership and also where Councils could act collaboratively to address Climate Change actions via clean energy solutions.

The Cities Power Partnership is Australia's largest Local Government climate network, made up of 123 councils from across the country and representing almost 11 million Australians. It is a not for profit organisation that encourages and provides resources to Councils and communities to transform their energy usage with the objective of making the switch to clean energy.

Councils who join the partnership make action pledges in areas such as renewable energy, efficiency, transport or working in partnership to tackle climate change. Some examples of pledges that have been made by Councils are putting solar on the local library, switching to electric fleet, or opening up old landfills for new solar farms.

At the workshop, it was learnt that all councils in the Hunter except for Dungog and Maitland had now signed up to take part in the Cities Power Partnership and that there were clear advantages for all Councils to participate, collaborate and think regionally. In this respect, the Hunter JO has undertaken to facilitate some regional actions to assist all Councils- an example being to facilitate a Regional Electronic Vehicle policy.

There are real advantages for Council to participate in this free program, most importantly giving Dungog the ability to leverage off initiatives that have been developed in other areas and to use the collective experience and knowledge base of the 123 Councils that participate Australia wide. Participation in the Cities Power Partnership and consideration of pledges that are practical and appropriate to Council's resource capabilities will assist in addressing the objectives of the

Community Strategic Plan in relation to Climate Change which are non specific but encourage regional collaboration.

Where Council resolves to participate in this program, a letter from the Mayor would be required to request membership and also provide an undertaking to-

- Within 6 months, identify 5 items included in the Cities Power Partnership Pledge that council will strive to achieve. (Noting that some projects already in councils work programs could be included towards a pledge).
- Complete a 12 monthly online survey that provides the Climate Council with basic information on how the 5 pledge items are progressing.
- Confirm a willingness to connect and collaborate with other councils to share knowledge

A further report would be provided to Council to gain resolution in regard to the pledges that are considered appropriate and achievable for Dungog Shire.

COMMUNITY STRATEGIC PLAN

Natural Environment – the potential impacts of climate change on our natural environment need to be monitored and addressed.

DELIVERY PROGRAM

1.3.1 Work with Hunter Councils to develop and implement regional strategy to address the impacts of climate change.

IMPLICATIONS

Finance and Resourcing

The Cities Power partnership is non for profit and free to join. Any financial implications applicable to Council's pledges under the partnership in the future would need to be carefully considered before being endorsed by Council. Those pledges should align with Council's strategic plans and directions.

Previous Council Resolutions

15 July 2020- Ordinary meeting of Council

The report be received and noted

(the report gave an overview of the program and suggested that staff attend a workshop facilitated by the Hunter JO and report back to Council)

Implementation

If Council resolves to join the partnership, then a letter requesting membership would be sent from the Mayor.

A further report would be referred to Council for consideration of appropriate pledges (5) that are achievable and valued by Council and the community.

Once endorsed, the achievement of the pledges would be incorporated in to the delivery and operational plans.

Statutory/Legislative

Consideration of Climate Change impacts is a key priority under Councils Community Strategic Plan

Community Consultation

It is intended that all Councils in the Hunter collaborate to consider pledges that can be applied regionally as part of the Partnership. The Hunter JO will co-ordinate and facilitate this.

Council membership of the Cities Power Partnership is aimed at benefiting the wider community through addressing the impacts of Climate Change through Councils energy usage activities.

12 INFRASTRUCTURE AND ASSETS DEPARTMENT**12.1 REGIONAL PROCUREMENT - TENDER FOR THE SUPPLY AND DELIVERY OF ROAD BASE MATERIALS - TENDER T272021HUN**

File Number: EF08/290
Author: Executive Manager Infrastructure and Assets
Authoriser: Executive Manager Infrastructure and Assets
Annexures: Nil

Precis

Reporting on the Tender undertaken by Regional Procurement for the Supply and Delivery of Road Base Materials – Tender No T272021HUN

RECOMMENDATION

1. That the Tenders from the following three Tenderers be awarded this Tender (T272021HUN) as Panel Source suppliers for the period 1 January 2021 to 31 December 2022:-
 - (a) Boral Resources (NSW) Pty Ltd;
 - (b) Buttai Gravel Pty Ltd t/a Daracon Quarries;
 - (c) Quarry Products (Newcastle) Pty Ltd.
2. That a provision be allowed for a 12 month extension based on satisfactory supplier performance which may take this contract through to 31 December 2023.

REPORT

Regional Procurement recently called Tenders for the Supply and Delivery of Road Base Materials (Tender T272021HUN) for the 24 month period commencing 1 January 2021 with provision allowed for a further 12 month extension based on satisfactory supplier performance. Tenders closed 10.00am Tuesday 29 September 2020.

Participating councils in this Tender are:

- Cessnock City Council
- Dungog Shire Council
- Mid-Western Regional Council
- Muswellbrook Shire Council
- Singleton Shire Council
- Upper Hunter Shire Council

Four (4) Tenders in total were received from:

- Boral Resources (NSW) Pty Ltd
- Buttai Gravel Pty Ltd t/a Daracon Quarries
- Quarry Products (Newcastle) Pty Ltd
- Hebden Quarries Pty Ltd t/a Hebden Quarries

Probity

The Tender has been conducted in accordance with Clause 166(a) of the Local Government (General) Regulation 2005.

Conflict of Interest Declarations were signed by all participating evaluation panel members including the Regional Procurement facilitator. The declarations are available to be viewed if required.

No late Tenders were received.

All Tenderers were noted as active on the ASIC website.

All Tenderer insurance records were checked against Tender requirements and potential non-conformities were noted in the evaluation matrix for the consideration of the panel.

All tenders were deemed conforming to the Tender requirements.

The evaluation was conducted in accordance with the Local Government Tendering Guidelines, Regional Procurement Tendering Code of Conduct and Tendering Evaluation Principles and Process. Confidentiality and probity were maintained throughout the process.

Tender Evaluation

The Tender evaluation was undertaken by nominated staff from member Councils and facilitators from Regional Procurement. Further local evaluation was then undertaken by Dungog Shire Council engineering staff based on Council's general project requirements. The % weightings and criteria were agreed upon prior to the Tender closing. The evaluation result is determined by:

- Adding the total value of all items together to determine the lowest overall price;
- The lowest overall amount was awarded the full criteria % for each category;
- Each subsequent total \$ value was then divided into the lowest total amount to obtain a score.
- Pricing comparisons undertaken by Dungog Shire Council were taken on products normally used as part of Council's works;
- Other evaluation criteria was evaluated based on the following factors:
 - If the Tenderer provided the required evidence to meet the benchmark, e.g. a current ISO certificate and QMS document contents page, the Evaluation Panel awarded full marks (5) for that category.
 - If the Tenderer provided partial evidence to meet the benchmark, e.g. provided a QMS document contents page but they are not ISO certified, the Panel determined a lower score between 2-4, subject to the evidence in front of them.
 - If the Tenderer failed to meet the benchmark completely, e.g., they demonstrated no ability to meet the criteria and did not provide any evidence, the Panel awarded 0 points to the Tenderer for that evaluation criteria.
- Where "Referees" was included as weighted criteria, each Tenderer's referees score was calculated by adding the total scores obtained from the Tenderer's three nominated referees (where each is worth up to 25 points) and dividing this total by the maximum possible score of 75, then multiplying this number by the allocated matrix weighting value.

Evaluation Matrix

T272021HUN	Weighting	Supply and Delivery of Road Base Materials		
Price Comparison	%	Boral Resources NSW	Daracon Quarries	Quarry Products N'cle
DGB20	20.00	20.00	16.14	17.58
ARRB20 Base	20.00	19.84	18.96	20.00
ARRB20 Sub Base	20.00	20.00	18.24	19.82
Total Price	60	59.84	53.34	57.40
Referees	10	8.73	9.27	9.85
Quality Assurance	10	10.00	10.00	5.00
WH&S	10	10.00	10.00	7.00
Customer Service	5	4.00	4.00	4.00
ESD	5	5.00	5.00	3.50
Total	100	97.57	91.61	86.75

Given Council's forecast road base and associated material requirements over the next 3 years, it is recommended that all three (3) providers that submitted tenders for Dungog Shire Council be included on the Panel for the provision of these materials.

COMMUNITY STRATEGIC PLAN

Public Infrastructure and Services – Strategy 1: Improve the safety and functionality of our road network

DELIVERY PROGRAM

Public Infrastructure & Services – 9.2 Asset Maintenance

IMPLICATIONS**Finance and Resourcing**

Tendered pricing is in line with Council's expectations and will be included for projects in forward Council budgets

Previous Council Resolutions

Nil

Implementation

Implementation will be undertaken by Strategic Services Australia Regional Procurement upon receiving Councils resolution regarding this matter


Statutory/Legislative

In accordance with the Local Government (General) Regulation 2005 – Part 7 Tendering, where expenditure on a Tender exceeds, or is expected to exceed \$250,000 over the term of the Contract, a Council must adopt by resolution a report accepting the Tender recommendation.

Community Consultation

Nil required

12.2 WORKS PROGRESS REPORT

File Number: EF19/70
Author: Works Manager
Authoriser: Executive Manager Infrastructure and Assets
Annexures: 1. Works Report - December 2020 [↓](#) 

Precis

Reporting on construction and maintenance works undertaken in November 2020.

RECOMMENDATION

That the report be received and the information noted.

WORKS CARRIED OUT DURING NOVEMBER 2020:-

Road and Bridge Construction

- | | |
|--|--|
| RR7764 – Bingleburra Road – West of Sugarloaf Road | - Shoulder and sealing works. |
| MR301 – Clarence Town Road – Union Bridge to Parers Hill – Blackspot | - Drainage, pavement and earthworks undertaken. |
| MR101 – Clarence Town Road – South of Hanleys Creek – Blackspot | - Pavement and earthworks undertaken. |
| RR7764 – Bingleburra Road – East of Turnbull's Quarry | - Earthworks and tree removal works. |
| Dowling Street – Mary Street to Mackay Street | - Resealing works including line marking. |
| MR101 Dungog Road – North of Grace Avenue | - Resealing works including line marking. |
| Tillegra Bridge | - Bridge construction works ongoing including approach earthworks. |

Building and Other Construction Works

- | | |
|---------------------------------|---|
| Bennett Park | - Kiosk building construction works undertaken. |
| Clarence Town Sporting Facility | - Drainage and Earthworks undertaken |
| Reg Ford Oval | - Installation of flood lighting. |
| Williams River Caravan Park | - Van site establishment and site works for new amenities block. |
| Dungog Showground | - Drainage and fire hose reel installation and commenced oval top dressing works. |

Sealed Road Maintenance

- | | |
|--------------|--|
| Tar Patching | - Dungog Streets, Gresford Streets, MR101, RR7764, Brentwood Drive. Woerdens Road, Martins Creek Road, McKellar Drive, Gilmore Street, Grace Avenue, Paterson Streets, Cory Street, Cook Street, Vogeles Road, Salisbury Road, Allyn River Road, Chichester Road, Limeburners Creek Road, MR301. |
|--------------|--|

Shoulder Maintenance	- Summer Hill Road
Resealing Works	- MR101
Drainage Maintenance	- Cory Street, Skimmings Gap Road, Marshdale Road.
Vegetation Maintenance	- Gaggin Street.
Roadside Slashing	- Salisbury Road, Dungog Urban, MR301

Unsealed Road Maintenance

Drainage Maintenance	- Webbers Creek Road
----------------------	----------------------

Bridge, Concrete and Other Maintenance Works

Bridge Maintenance	- Hicks Bridge, Dowling's Bridge, Middlebrooks Bridge and Ryan Bridge.
Clarence Town Caravan Park	- Van site establishment.
Dungog Showground	- Drainage and water main installation.

Sporting Grounds:-

The following Sporting Grounds were mown (*the number of mowing's shown in brackets*):- Bennett Park Oval (4), Bennett Park Surrounds (1), Dungog Showground (1), Dungog Showground Surrounds (1), Reg Ford Oval (1), Vacy Sports Ground (4) and Clarence Town Football Oval (4).

Parks/Reserves/Cemeteries:-

The following Parks, Reserves and Cemeteries were mown (*the number of mowing's shown in brackets*):- Jubilee Park (1), Lions Park (Clarence Town Road) (1), Lions Park (Scott Avenue) (2), Lioness Park (1), Frank Robison Park (1), Apex Park (2), Coronation Park (1), Dave Sand Memorial Park (1), Clarence Town Wetlands (1), Clarence Town War Memorial (1), Clarence Town Museum (1), Clarence Town SOA (1), John Tucker Park (2), Kings Wharf Reserve (2), Allan Fairhalls Reserve (2), Paterson War Memorial (2), Orana park (2), Gresford Skate Park (1), Vacy Park (1), Dungog Cemetery (1), Dungog Lawn Cemetery (1), Paterson Cemetery (2) and Clarence Town Cemetery (1).

Major Works scheduled to be continued or commenced in the next 3 months:-

Attached as **Annexure '1'** is a list of the major works scheduled for the forthcoming 3 months.

COMMUNITY STRATEGIC PLAN

Public Infrastructure and Services - Strategy 9: Ensure that community assets, facilities and public infrastructure are planned for, improved and maintained to a reasonable standard

DELIVERY PROGRAM

Public Infrastructure & Services - 9.2 Asset Maintenance

IMPLICATIONS

Finance and Resourcing

Works are undertaken as per Council's Operational Plan and budgetary constraints.

Previous Council Resolutions

This report is provided monthly for Councillor information.

Work Location / Description	Proposed Works	Status
MR301 Clarence Town Road – South of Union Bridge to Parers Hill. (Blackspot/Special Grant)	Rehabilitation of 2.30km of road. Includes clear zones provisions, pavement widening works and guardrail improvements.	Construction works currently being undertaken. First stage will be practically completed by late December 2020
RR7764 Bingleburra Road – West of Sugar loaf Road (Blackspot)	Shoulder widening and clear zone improvements including guardrail works.	Construction works currently being undertaken.
RR7764 Bingleburra Road – West of Turnbolls Road (Blackspot)	Shoulder widening and clear zone improvements including guardrail works.	Construction works currently being undertaken.
Black Rock Road Full length of sealed section (SRV)	Rehabilitation of 2.5km of pavement only. Does not include widening.	Survey and design currently being undertaken.
Summer Hill Road – Bruxner Bridge to End of Seal (SRV)	Rehabilitation of pavement only. Does not include widening.	Survey and design currently being undertaken. Construction to commence in December 2020.
Paterson River Road – Coulston Bridge to North of Mount Rivers	Rehabilitation of pavement only. Does not include widening.	Survey and design currently being undertaken.
Durham, Glendonbrook and Paterson Roads Intersection (Roads to Recovery)	Reconstruction of intersection and includes kerb and gutter works.	Survey and design currently being undertaken. Initial stage of construction to commence in January 2021.
Spooner Bridge (Fixing Country Roads)	Replacement of existing timber bridge with single lane concrete structure.	Construction works are practically complete. Final seal to be placed in December 2020.
Tillegra Bridge (Fixing Country Roads and Bridge Renewal)	Replacement of existing timber bridge with dual lane concrete structure.	Bridge contract has been awarded to Bridge Build and Civil Pty Ltd. Construction works are currently being undertaken

13 CORPORATE AND CUSTOMER SERVICES DEPARTMENT**13.1 GRESFORD DISTRICT AGRICULTURAL SOCIETY INC.**

File Number: EF08/3
Author: Executive Manager Corporate and Customer Services
Authoriser: Executive Manager Corporate and Customer Services
Annexures: Nil

Precis

Request for financial assistance toward the 2021 Gresford Annual Show.

RECOMMENDATION

That Council donate \$250 from the 2020/21 Section 356 Budget Allocation to the Gresford District Agricultural Society Inc. for the 2021 Gresford Show.

REPORT

Correspondence has been received from the Gresford District Agricultural Society Inc. **(included below)**; seeking sponsorship from council toward the Art and Photography sections for the 2021 Annual Show, council has supported this event in previous years.

Council last year donated \$250 towards the 2020 Gresford Annual Show as part of the Community Small Grants Program.

COMMUNITY STRATEGIC PLAN

Community and Culture – Raise public awareness of local activities and events that provide a foundation for community building.

DELIVERY PROGRAM**4.3 Community Events****IMPLICATIONS****Finance and Resourcing**

Funding for the donation will be sourced from Council's budget allocation for Sec 356 contributions and donations.

Previous Council Resolutions

Minute: 38108

1. That Council endorse an ongoing Community (Small) Grants Program;
2. That Council adopt the minor amendments to the Community (Small) Grants 2018/2019 Program including an amendment that reflects Point 3 below;
3. That Council note the funding source for the 2019/2020 Community (Small) Grants Program relying only on the Restricted Assets account should the donation from Tracy Norman not be forthcoming;
4. That Council request the General Manager approach Hunter Water for the purposes of securing their continued participation in the Community (Small) Grants Program.
5. A sum of \$5,000 be quarantined annually from the funding source identified in Point 3 above to allow for community special projects to be funded throughout the year.

Moved: Cr T Norman, Seconded: Cr D Rayward.

Carried

Implementation

A letter will be sent to the Organisation advising the outcome of their request.

Statutory/Legislative

Nil



Dungog Shire Council
P.O. Box 95
DUNGOG NSW 2420

GRESFORD DISTRICT AGRICULTURAL SOCIETY INC.

ABN – 28 118 043 254
P. O. BOX 9, EAST GRESFORD, N. S. W. 2311
Email: gdasgresfordshow@yahoo.com.au
SHOW OFFICE: GRESFORD SHOWGROUND – PHONE/FAX (02) 4938 9380
Website: www.gresfordshow.com.au



On behalf of the President and Committee members of the Gresford District Agricultural Society, I would like to thank you for your past sponsorship/in kind donation and advise the dates of the 2021 Gresford Show will be Friday 12th and Saturday 13th March. We would again like to invite you to continue your valued contribution for our 2021 Show.

We know and understand that 2020 has presented many businesses and individuals with difficult and uncertain times along with many challenges to be overcome. We would like to take this opportunity to extend our thanks and appreciation of your continued support of the Gresford Show. We hope you will be able to continue to support Gresford Show into the future in any capacity you are able and you can be assured that we will encourage our members to support those businesses that support the Show. We look forward to holding the 2021 Gresford under more favourable circumstances.

Gresford District Agricultural Show is well known for its excellence in pavilion displays and comprehensive ring events. We are proud of this fine tradition of providing encouragement for participants, both local and further afield. The Gresford Show would be honoured to include you as one of our sponsors for 2021, to help us continue this fine tradition.

The support of all sponsors is important to us and will be recognised in the Show Schedule with business sponsors over \$250 allocated a proportionate advertisement (in the schedule). If you would like to discuss any changes/upgrade to your advertisement, size, colour or Web please contact the Secretary.

In anticipation of your continued support we have included our Invoice for the same amount and allocation as your previous years pledged sponsorship. To ensure that you are identified in our sponsors list for the 2021 show schedule and allow us time to make any necessary amendments to your advertisement, if applicable, could you please **return this form no later than 15th November 2020.** We would appreciate your efforts in following up payment of our invoice at your earliest convenience.

Yours Sincerely,
Rosalie Lawrence (GDAS Inc. Hon. Sec)

13.2 AGENCY INFORMATION GUIDE 2019 - 20

File Number: EF09/226
Author: Executive Manager Corporate and Customer Services
Authoriser: Executive Manager Corporate and Customer Services
Annexures: Nil

Precis

Reporting on the requirement for Council to adopt its Agency Information Guide under The Government Information (Public Access) Act 2009 (NSW).

RECOMMENDATION

That Council adopt the Agency Information Guide as submitted, post a copy on Council's website and forward a copy to the Information Commissioner.

REPORT

Section 20 of the Government Information (Public Access) Act 2009 (NSW) ('the GIPA Act') requires agencies to develop and adopt an agency information guide as part of their mandatory open access information. Council must review the agency information guide and adopt a new Agency Information Guide at intervals of not more than 12 months.

The Agency Information Guide describes the agencies (Council's) structure, functions and how the functions affect members of the public. It identifies the various kinds of government information held by the agency, the kinds of government information it holds that it makes publicly available and the kinds of publicly available information available for free or for a charge. The Agency Information Guide also specifies any arrangements that exist to enable the public to participate in forming the agency's policies and how the agency makes government information publicly available.

Council may update and amend its agency information guide at any time. Once adopted the agency information guide is posted on Council's website and a copy sent to the Information Commissioner who may comment and provide advice or feedback on the guide.

A review of Council's Information Guide has been completed, as required by the Information and Privacy Commission, no changes have been made to the document.

A copy of the information guide has not been provided as no changes have been made to the document; a copy can be provided upon Councillor's request.

COMMUNITY STRATEGIC PLAN

2. Decision-making processes are open, transparent and inclusive.

DELIVERY PROGRAM

2.3 Governance – Public Access

IMPLICATIONS**Finance and Resourcing**

Nil

Implementation


A copy of the Agency Information Guide will be placed on Council's website and a copy forwarded to the Information Commissioner.

Statutory/Legislative

Satisfies Council's obligations under Sections 20 – 22 of The Government Information (Public Access) Act 2009 (NSW).

Community Consultation

Nil required.

13.3 ACCOUNTING POLICY C2:1 REVIEW**File Number:** EF08/566**Author:** Executive Manager Corporate and Customer Services**Authoriser:** Executive Manager Corporate and Customer Services**Annexures:** 1. Accounting Policy C2:1 Update [↓](#) **Precis**

Reporting on new requirements pertaining to the recognition and reporting of revenue and leases in Council's annual financial statements and required updates to Council's Accounting Policy.

RECOMMENDATION

1. That Council note the changes to the Accounting Standards as detailed in this report.
2. Council adopt the Dungog Shire Council Policy No. C2:1 - Accounting Policy.

REPORT**Background Information**

New accounting standards relating to revenue and leases come into effect for the first time for the 2019/20 financial year and will affect Council's 2019/20 annual financial statements.

The most substantial changes relate to the recognition of operating leases in the Statement of Financial Position (AASB 16 Leases) and the timing of revenue recognition in accordance with the fulfilment of contract performance obligations (AASB 15 Revenue from Contracts with Customers & AASB 1058 Income for Not-for-Profit Entities).

As a result of the implementation of the new accounting standards, Council's Accounting Policy also requires revision.

Summary of changes to the 2019/20 Financial Statements

The majority of changes to the 2019/20 financial statements are primarily due to new disclosure requirements of the new accounting standards, as detailed below.

The General effects on Financial Statements table below summarises expected changes arising from the new standards.

Impact of AASB 16 - Leases

The Australian Accounting Standards Board has made substantial changes to lease accounting with the introduction of the new Accounting Standard, AASB16 Leases (AASB 16). The new standard removes the distinction between operating and finance leases for lessees, with most leases now being recognised in the lessee's Statement of Financial Position.

General effects on Financial Statements

Effect	Statement	Explanation
Increased Lease Assets Increased Financial Liabilities	Statement of Financial Position	Increase in non-current assets as requirement of recognising leases as a right of use asset and a respective lease liability split between current and non-current.

Decreased Equity	Statement of Financial Position	Decrease in equity as the carrying amount of lease assets is likely to fall at a greater rate (with higher interest expense at the beginning of the life of the lease) than the carrying amount of lease liabilities.
Increased Expenses	Income Statement	Operating lease costs included in operating expenses will be replaced by interest expenses (Finance costs – leases) and amortisation – right of use assets.
Increased/Decreased Surplus or Deficit for the year	Income Statement	Interest expenses will be higher in earlier years of a lease. Combined with amortisation costs, this will accelerate expenses compared to compared to operating lease expenses. Financial impact on the annual financial performance will be dependent on the nature of the lease portfolio.
Increased cash from operating activities Decreased cash from financing activities	Statement of Cash Flows	Increase in cash from operating activities as the interest portion of lease payments will be classified as cash outflows from financing activities, instead of the entire operating lease payment being classified as a cash outflow from operating activities.
No overall change to total cash flow	Statement of Cash Flows	No change expected as changes are related to reclassification of interest and principal in different sections of the cash flow statement.

Impact of the New Standard – AASB 15 Revenue from Contracts with Customers

AASB 15 Revenue from Contracts with Customers (AASB 15) provides a comprehensive framework for accounting for revenues from contracts with customers, including for the delivery of goods and/or services.

AASB 15 introduces a five step process for revenue recognition:

1. Identify the contract.
2. Identify the performance obligations.
3. Determine the transaction price.
4. Allocate the transaction price to the performance obligations.
5. Recognise revenue progressively as individual performance obligations are satisfied.

Revenue should be recognised when an entity (such as a government agency) transfers control of goods/services (e.g. grant funding) to a customer (Council), at the amount to which the entity expects to be entitled.

Depending on specific contractual terms, this may result in a change in the timing of revenue recognised. Under the new framework of AASB 15 and AASB 1058 Income for Not-for-Profit Entities, the key assessment is whether the grant is a 'contract with a customer' that falls within the scope of AASB 15.

If so, grant funding (or other revenue) received in advance of performance obligations being met, will initially be recognised as a 'contract liability' rather than revenue and later recognised as revenue as and when performance obligations are satisfied.

AASB 15's scope includes arrangements where the grant recipient provides benefits to third parties on behalf of the grantor/customer.



General effects on Financial Statements

Effect	Statement	Explanation
Increased Revenue in Advance (Liability)	Statement of Financial Position	Increase in revenue received in advance if funding received prior to Council meeting designated performance obligations.
Decreased Equity	Statement of Financial Position	Decrease due to increased liabilities.
Decreased Revenue	Income Statement	Decrease in revenue recognised if designated performance obligations are not met.
Increased/Decreased Surplus or Deficit for the year	Income Statement	Due to decrease in revenue recognised.
No overall change to total cash flow	Statement of Cash Flows	No overall change expected as changes are related to the timing of revenue recognition only.

In accordance with previous accounting standards and Council's Accounting Policy, grant revenue was recognised by Council when Council obtained control over the revenue (usually upon receipt).

From 2019/20, Council must assess each operating grant contract to determine if it falls within the scope of AASB 15.

Impact of the New Standards – AASB1058 Income for Not-for-Profit Entities

AASB 1058 - Income for Not-for-Profit Entities (AASB 1058) is effective for Not-For-Profit (NFP) public sector agencies from the 2019/2020 financial reporting period and replaces most of the income recognition requirements previously mandated by AASB 1004 Contributions.

The purpose of AASB 1058 is to more closely align the recognition of income (excluding contracts with customers covered under AASB 15) with their economic reality. This may involve the deferment of revenue recognition to a future period, with the amount of revenue received being initially recognised as a liability.

AASB 1058 will apply to an entire grant, or a portion of a grant, that does not meet the enforceable and sufficiently specific performance obligations of AASB 15 and therefore needs to be considered in conjunction with AASB 15.

AASB 1058 applies to transactions of not-for-profit entities where the consideration to acquire an asset (including cash) is significantly less than the asset's fair value, principally to enable the entity to further its objectives.

Examples include:

- Cash and other assets received from grants (which do not meet the specific performance obligations of AASB 15), bequests or donations.
- Receipts of appropriations by government departments.
- Assets acquired for nominal or low amounts.

AASB 1058 also applies to the acquisition of volunteer services.

General effects on Financial Statements

Effect	Statement	Explanation
Increased Revenue in Advance (Liability)	Statement of Financial Position	Increase in revenue in advance if funding received designated performance obligations have not been met.
Decreased Equity	Statement of Financial Position	Decrease due to increased liabilities.
Decreased Revenue	Income Statement	Decrease in revenue recognised if designated performance obligations are not met.
Increased/Decreased Surplus or Deficit for the year	Income Statement	Due to decrease in revenue recognised.
No overall change to total cash flow	Statement of Cash Flows	No overall change expected as changes are related to the timing of revenue recognition only.

From 2019/20, council must assess each capital grant contract to determine if the following criteria have been met:

- The grant agreement requires the agency to acquire or construct an asset to identified specifications. The resulting asset must be a non-financial asset that is recognisable by the agency.
- The agency is not required to transfer the asset to the grantor or other parties.
- There is an enforceable agreement – this may be evidenced by a requirement to return funds if they were not used to acquire/construct an asset to the set specifications.

Volunteer Services

According to AASB 1058, Councils shall recognise an asset or expense for volunteer where the fair value can be measured reliably and the entity would have purchased those services, had they not been donated.

Councils can also elect to recognise volunteer services where the fair value of those services can be reliably measured, whether or not the services would have been purchased, had they not been donated.

Amendment to Accounting Policy

Council's Accounting Policy states the following:

"2 Grants

Grants, contributions and donations are recognised as revenue when the Council obtains control over the revenue comprising the contributions. Control over assets which are dedicated is normally obtained upon their receipt. It can also exist when Council has an enforceable claim for expenditure in anticipation of payment of a grant."

This principle is repeated in the Accounting Procedures section of the Policy, section 4 – Grants.

The introduction of AASB 15 and AASB 1058 mean that these sections of Council's Accounting Policy are no longer relevant or enforceable. To ensure that these specific policy/procedure elements retain their relevance the following new clauses have been inserted:

"2 Grants

Grants, contributions and donations received by Council will be recognised by Council in accordance with relevant Australian Accounting Standards, including AASB 15 Revenue from Contracts with Customers and AASB 1058 Income for Not-for-Profit Entities."

and from the Accounting Procedures section of the Policy:

"4 Grants

Grants, contributions and donations received by Council will be recognised by Council in accordance with relevant Australian Accounting Standards, including AASB 15 Revenue from Contracts with Customers and AASB 1058 Income for Not-for-Profit Entities."

Further, more specific Accounting Policy statements pertaining to income and leases are contained within the draft 2019/20 Annual Financial Statements, which are also being presented to Council for consideration.

COMMUNITY STRATEGIC PLAN

Dungog Shire Council Governance & Finance

DELIVERY PROGRAM

Strategy 5: Council undertakes prudent financial management to ensure its long-term viability

IMPLICATIONS

Finance and Resourcing

There are no direct financial implications associated with this report. The introduction of the new accounting standards will change the pattern of revenue recognition across various time periods; however, there should be negligible overall financial impact on Council.

Previous Council Resolutions

Nil

Implementation

As noted within the body of this report, the new Accounting Policies must be applied to Council's 2019/20 Annual Financial Statements, which have been prepared for audit. Not all aspects of the new Accounting Standards contained within the body of this report may apply to Council. The exact nature of the impact of the new Accounting Standards is presented throughout the 2019/20 Annual Financial Statements.

Statutory/Legislative

Council is required to comply with Australian Accounting Standards and the Code of Accounting Practice issued by the Office of Local Government.

Community Consultation

Nil

POLICY NO**C2:1****POLICY TITLE****ACCOUNTING POLICY****VERSION II:**

Adopted 19 August 2003

Last reviewed:

30 November 2020

OBJECTIVES

To provide a framework for those matters that require consideration by Council.
To provide a framework for the operational areas of Council.
To recognise and account for the acquisition of assets

POLICY STATEMENT**Introduction**

All Managers are accountable for the control of expenditure and income of those budgets that are under their Departmental control. Included in this responsibility is the reporting of variances in the quarterly review process.

Reports to Committees and Council

Unless it has been adopted in Council's Operating Plan there is to be consultation with the General Manager and the Executive Manager Corporate & Customer Service prior to submission of reports to Committees, Council or external bodies where the subject matter involves:

- a) New initiatives, projects or service expansion
- b) External or grant funding where Council is required to also contribute to the funding of the project
- c) Special arrangements or financial support to external organisations
- d) A financial impact on the Budget or Operating Plan

The heading of **Finance and Resourcing** under **Implications** within reports is to be addressed by providing:

- a) The full cost of the proposal in current and future years and in relation to recurrent costs the impact upon future revenue streams.
- b) The source of funds
- c) Where no funds are provided in the current Budget a statement to that effect and the submission to indicate by what means the proposal is to be funded so that the necessary budget adjustments can be made.

Under no circumstance should reports suggest unfunded expenditure or suggest adding to a deficit/reducing a surplus without consultation with the General Manager and the Executive Manager Corporate & Customer Service.

2 Grants

Grants, contributions and donations received by Council will be recognised by Council in accordance with relevant Australian Accounting Standards, including AASB 15 Revenue from Contracts with Customers and AASB 1058 Income for Not-for-Profit Entities.

The following procedures are to be adopted concerning external grants:

a) Grants not included in Original Budget

If application is to be made for a grant that was not included in the original Budget adopted by Council, and the grant requires the allocation of Council funds, a report must be submitted to Council prior to application for the grant, and the report must identify the source of the funding component required to match the grant.

In the event of short notice or tight timeframes (ie insufficient time between notification of the grant opportunity, and the application deadline) to apply for a particular grant, and this precludes the matter going to Council prior to application, approval to apply must be obtained from the General Manager. In these circumstances if approval is given, then the Executive Manager Corporate & Customer Service, must be notified of the application and the amounts involved and the matter must be reported to the next Council Meeting for decision.

b) On receipt of a grant advice

In all circumstances the receipt of the advice of a successful grant application **must, without exception**, be reported to Council for Council's acceptance. Such report must detail the source of and funds required to match or support the grant. Full documentation of the grant must also be forwarded to the Executive Manager Corporate and Customer Service to enable formal processes to occur.

3 Capital Expenditure

Capital expenditure is defined as expenditure, which relates to the acquisition or creation of a non current asset, or expenditure on existing assets which results in:

- a) The extension of the economic life of the asset.
- b) An improvement in the assets revenue capacity or service potential.
- c) Added attributes to the asset, which were not previously, part of the asset, e.g. length, width etc.

4 Capitalisation Thresholds

The threshold for capitalising assets is \$1,000. Whilst small tools under \$1,000 will not be capitalised, a register of items such as chainsaws, mowers, whipper snippers etc, is to be maintained by the Workshop Superintendent.

A separate register is to be maintained by the State Emergency Services. The NSW Rural Fire Services under the Service level Agreement is to maintain a register of all equipment in relation to the brigades and their administrative offices within the fire district. Those items under \$1,000 not capitalised are to be expensed.

If an asset has a value of \$1,000 or over and an economic life that is determined to be longer than one year and the asset will not be technologically obsolete within one year that asset is to be capitalised.

5 Vote Adjustments

All vote adjustments require the approval of Council; the Manager Finance/Senior Finance Officer is responsible for the compilation of the quarterly finance report to Council. The compilation of the report requires input from the respective managers, whose budget line items may require variations.

Requests for vote adjustments requiring Council approval are to be submitted to the Manager Finance/Senior Finance Officer in writing within 7 days of the quarter ending.

6 Carried Forward Expenditure

It is the general practice of Council not to carry forward expenditure items unless:

- i) The expenditure has been committed, through execution of the purchase order, the works are in progress, and there is evidence to substantiate such or goods have been received prior to 30 June.
- ii) The projects are of major asset works and it has already been identified and reported to Council that the works will overlap financial years.

Managers are to identify projects that will not be completed in a financial year, and the amount that will not be spent in the current financial year. These projects and the carry forward component are to be identified in Quarterly Reviews so that the funding can be transferred to a Restricted Asset. These projects and the funding source will then be considered for inclusion in the following year's Operating Plan and Budget.

It should be noted that Revenue Funded items will not be carried forward unless the above criteria has been met. All unexpended votes at year end will lapse.

7 Loan Funds

Loan funds are only to be used for the purpose of funding expenditures where the expected life of the asset created is to be at least the term of the loan repayments. The type of expenditure, which would meet the above criterion:

- a) Major capital works of a bricks and mortar type construction.
- b) Land acquisitions.
- c) Matching RTA grants for roads, bridges and drainage.

Under no circumstances are loan funds to be used for operating or maintenance purposes.

Proposed loan projects in excess of \$500,000 are required to undergo a capital expenditure review in accordance with the Department of Local Governments guidelines. Loan borrowings are determined by the Minister on an annual basis, Council is required to submit a return in April of each year as regards to loan borrowings and a statement of proposed loan borrowings must be included within the Annual Operating Plan, Sec 404 (1) of the Local Government Act 1993.

8 Restricted Assets

Council holds externally and internally Restricted Assets. Externally Restricted Assets are those bound by imposed restriction (eg. Statute), while Internally Restricted Assets are those created for financial prudence. Council's Restricted Assets are to be fully cash funded. The list of Restricted Assets is contained in Council's Accounting Procedures document.

The amounts held within these Restricted Assets will vary over time depending on the utilisation and additions to these assets, and as a result of Council policy.

ACCOUNTING PROCEDURES

Introduction

All Managers are reminded that they are accountable for the control of expenditure, and generation of income in those budgets that are under their Departmental control. Included in this responsibility is the reporting of variances in the quarterly review process.

The purpose of these procedures is to provide all staff with guidelines that will improve their understanding of requirements with regard to standards and methodology to be employed in the accounting practices of Council.

The procedures should ensure:

- a) Consistency in accounting methodology
- b) Accuracy
- c) Policy compliance
- d) Compliance with the Local Government Act 1993, the Local Government (General) Regulation 2005, the Local Government Code of Accounting Practice and Financial Reporting and the Local Government Asset Accounting Manual.
- e) Income and expenditure control
- f) Educational benefits
- g) Transparency

1 Reports to Committees and Council

Unless it has been adopted in Council's Operational Plan, there is a need for both General Manager approval and consultation with the Executive Manager Corporate & Customer Service and the Manager Finance/Senior Finance Officer, prior to submission of reports to Committees, Council or external bodies where the subject matter involves:

- a) New initiatives, projects or service expansion
- b) External or grant funding where Council is required to also contribute to the funding of the project
- c) Special arrangements or financial support to external organisations
- d) A financial impact on the Budget or Operational Plan

The heading of **Finance and Resourcing** under **Implications** within reports is to be addressed by providing:

- a) The full cost of the proposal in current and future years and in relation to recurrent costs the impact upon future revenue streams
- b) The source of funds
- c) Where no funds are provided in the current Budget a statement to that effect and the submission to indicate by what means the proposal is to be funded so that the necessary budget adjustments can be made.

Under no circumstances should reports suggest unfunded expenditure or suggest adding to a deficit or reducing a surplus, without prior consultation with the Executive Manager Corporate & Customer Service and the Manager Finance/Senior Finance Officer.

2 Costing Accuracy

Managers are accountable for job numbers under their control. It is their responsibility to ensure that income and expenditure items are correctly costed, and to verify the accuracy of information contained within their Budget areas.

Under no circumstances are costs to be allocated to accounts or jobs to which they do not relate. Purchase orders must be issued prior to committing Council to an expense, the purchase order must also contain the relevant job costing number, prior to sign off by the appropriate manager.

Expenditure is not to be authorised against any account number unless sufficient funds are available to cover that expenditure. Where additional funds are required, the provision of additional funds is to be dealt with in accordance with the instructions in Section 9.

Random checks of account costings are made by the Executive Manager Corporate & Customer Service to ensure the integrity of the costings.

3 Income Items

In preparation of Budgets, Budget Reviews and for submission of expenditure authorities, Managers are **equally** responsible for income **and** expenditure. Additional income may only be considered for additional expenditure where a nexus can be proved and the income will in fact be generated and received.

The Finance Manager/Senior Finance Officer is responsible for ensuring the monitoring and receipt of grant fund income once the procedures in Section 4 below have been carried out by the Department involved in obtaining or auditing the grant.

The Finance Manager/Senior Finance Officer is also responsible to ensure that the "actuals" source of funds for any source of funds are apportioned at the Quarterly Review in line with the expenditure actually incurred.

In the determination of income votes, Managers are to ensure that a realistic and conservative approach is applied to the calculation of anticipated income. This will ensure that Council does not authorise expenditure elsewhere in the Budget on the assumption of income which will not be realised.

When calculating the anticipated income for individual areas within the Budget, Managers must ensure that due reference is given to the proposed fees and charges to be adopted for that year. Managers must ensure that the anticipated income predicted in the Budget has a direct relationship with the proposed fees and charges for that area of operation.

Sufficient information is to be provided to the Executive Manager Corporate & Customer Service or the Manager Finance/Senior Finance Officer on request to ensure the achievement of the income is realistic.

4 Grants

Grants, contributions and donations received by Council will be recognised by Council in accordance with relevant Australian Accounting Standards, including AASB 15 Revenue from Contracts with Customers and AASB 1058 Income for Not-for-Profit Entities

The following procedures are to be adopted in regard to the accounting for external grants:

a) Grants not included in Original Budget

If application is to be made for a grant that was not included in the original Budget adopted by Council, and the grant requires the allocation of Council funds, a report must be submitted to Council prior to application for the grant, and the report must identify the source of the funding component required to match the grant.

In the event of short notice or tight timeframes (ie insufficient time between notification of the grant opportunity, and the application deadline) to apply for a particular grant, and this precludes the matter going to Council prior to application, approval to apply must be obtained from the General Manager. In these circumstances if approval is given, then the Executive Manager Corporate & Customer Service, must be notified of the application and the amounts involved and the matter must be reported to the next Council Meeting for decision.

b) Grants included in Original Budget

Application for such grants should be made on a timely basis having regard to the funds allocated in the Budget, the required timing of the works or services to be funded by the grant, and the position of Council's cash flow.

c) On receipt of a grant advice

In all circumstances the receipt of the advice of a successful grant application **must, without exception**, be reported to Council for Council's acceptance. Such report must detail the source of and funds required to match or support the grant. Full documentation of the grant must also be forwarded to the Executive Manager Corporate & Customer Service to enable formal processes to occur.

d) On receipt of grant funds

Grant funds will be credited to an income number as determined by the Manager Finance/Senior Finance Officer. Under no circumstances should grant funds be credited to an expense number (this has the effect of reducing amounts due to both income and expenditure). A copy of any receipt advice should be provided to the Manager Finance/Senior Finance Officer.

e) On completion of projects

Care should be taken to ensure that grants are acquitted as required in the funding agreement. This process should be completed in conjunction with the Manager Finance/Senior Finance Officer to ensure accurate end of year reporting, and compliance with the requirements of Council auditor's.

f) Projects not proceeding

Where a project will not proceed that involves some level of grant funding the Manager Finance/Senior Finance Officer is to be advised so that a decision may be made on the reallocation of the Council funding component of the project.

5 Capital Expenditure

Capital expenditure is defined as expenditure, which relates to the acquisition or creation of a non current asset, or expenditure on existing assets which results in:

- a) The extension of the economic life of the asset.
- b) An improvement in the assets revenue capacity or service potential.
- c) Added attributes to the asset, which were not previously, part of the asset, e.g. length, width etc.

6 Capitalisation Thresholds

The threshold for capitalising assets is \$1,000. Whilst small tools under \$1,000 will not be capitalised, a register of items such as chainsaws, mowers, whipper snippers etc, is to be maintained by the Workshop Superintendent.

A separate register is to be maintained by the State Emergency Services. The NSW Rural Fire Services under the Service Level Agreement is to maintain a register of all equipment in relation to the brigades and their administrative offices within the fire district. Those items under \$1,000 not capitalised are to be expensed.

If an asset has a value of \$1,000 or over and an economic life that is determined to be longer than one year and the asset will not be technologically obsolete within one year that asset is to be capitalised.

7 Depreciation

Depreciation is recognised on a straight-line value basis, having regard to residual values. The depreciation rates applying to assets are reviewed by the Manager Finance/Senior Finance Officer in consultation with the relevant Departments on an annual basis, and amended where necessary.

8 Operational Expenditure

Operational expenditure is defined as all other expenditure other than Capital Expenditure (as defined above) and including, but not limited to wages, salaries, consumables, telephone operating expenses, office sundries, rates, lighting, insurance, etc.

Salaries are not to be costed to an account, which has not been identified and voted to receive salary costings, unless authorised by the Manager Finance/Senior Finance Officer.

Use of Operating Expenditure for Capital Purchases

No Capital Expenditure is to be charged to an operating expenditure account unless it is expenditure on items listed under paragraph 6 Capitalisation Thresholds as being items under \$1,000.

9 Monitoring of Income/Expenditure

All Managers are to constantly review the expenditure and income for the areas for which they are responsible. If incorrect costings are detected, Managers are to submit journal requests to the Manager Finance/Senior Finance Officer as soon as possible. The review document is readily available on the network server for managers to review. (See S:/Public/9.AA-Reviews/Work Files/"Year" Current) e.g. 2021 Current.

At the end of each quarter, the Manager Finance/Senior Finance Officer will provide information to each Department, which will identify the current financial year to date expenditure compared with the total authorised vote for each account number.

Managers are required to analyse the variances and provide explanations for those variances that are significant. This includes situations where expenditure/income is

Dungog Shire Council Policy No C2:1

spent/received on a non proportionate basis e.g. spent/received in the first part of the year. Managers are also required to request adjustments to the respective vote allocations to ensure that all current, and anticipated future expenditures will be contained within the total vote allocation.

The following principles will apply to vote adjustments:

- a) All variations will be reported to Council for adoption.
- b) Where the variation will exceed 5% of the adopted budget item a supporting commentary is to be made within the quarterly finance review report to Council.
- c) Where the variation has been reported to Council for adoption as a consequence of Council accepting the financial implications of a report during the financial quarter, a commentary will not be submitted however such is to be referenced by the Minute Number and date of Council meeting where adopted.

If any instance arises where the actual income or expenditure of a particular account number is materially different from its estimated income or expenditure and this variance could have an effect on Council's overall financial position, the matter must be brought to the immediate attention of the Executive Manager Corporate & Customer Service or the Manager Finance/Senior Finance Officer.

No votes will be amended until the Council, has authorised the variation. Vote amendments will be adjusted on the spreadsheet after the adoption by Council of the quarterly review by the Manager Finance/Senior Finance Officer.

Where a Manager seeks to reallocate funding approvals of the Council, the Manager must prepare a report for Council and obtain the Councils' approval for the re-allocation of resources before commencement of the project. In the case of emergencies, the matter should be brought to the General Managers attention for notification the Mayor as soon as practicable, and a report should be submitted to the next meeting of Council.

10 Carried Forward Expenditure

It is the general practice of Council not to carry forward expenditure items unless:

- i) The expenditure has been committed, through execution of the purchase order, the works are in progress, and there is evidence to substantiate such or goods have been received prior to 30 June.
- ii) The projects are of major asset works, and have already been identified and reported to Council on the basis that the works will overlap financial years.

Managers are to identify projects that will not be completed in a financial year, and the amount that will not be spent in the current financial year. These projects and the carry forward component are to be identified in Quarterly Reviews so that the funding can be transferred to a Restricted Asset. These projects and the funding source will then be considered for inclusion in the following year's Operating Plan and Budget.

It should be noted that Revenue Funded items will not be carried forward unless the above criteria has been met. All unexpended votes at year-end will lapse.

11 Loan Funds

Loan funds are only to be used for the purpose of funding expenditures where the expected life of the asset created is to be at least the term of the loan repayments. The type of expenditure, which would meet the above criterion:

Dungog Shire Council Policy No C2:1

- a) Major capital works of a bricks and mortar type construction.
- b) Land acquisitions.
- c) Matching RTA grants for roads, bridges and drainage.

Under no circumstances are loan funds to be used for operating or maintenance purposes.

All borrowings that exceed \$500,000 will require a capital expenditure review in accordance with the Department of Local Governments guidelines. Loan borrowing limits are determined by the Minister on an annual basis, Council is required to submit a borrowing return in April of each year. The borrowing determinations are then handed down by the Minister in late July, following analysis by the Department on the overall global borrowing limit for Government.

When loan borrowings are raised, the Department must be notified within 7 days of the loan raising.

In necessitous circumstances, Council may make an application to the Department for additional loan borrowings, however availability of funding will be dependent upon the utilisation levels of the Global Borrowing limit for local government.

12 Restricted Assets

Council holds externally and internally Restricted Assets. Externally Restricted Assets are those bound by imposed restriction (eg. Statute or Grant conditions), while Internally Restricted Assets are those created for financial prudence. Council's Restricted Assets are to be fully cash funded.

The current list of Council's Restricted Assets is as follows:

General Fund & Domestic Waste Management

External Restrictions

- Specific Purpose Unexpended Loans
- RTA Advances
- Developer Contributions Section 711
- Specific Purpose Unexpended Grants
- Domestic Waste Management Surplus
- Caravan Parks Reserve
- Contributions to Works

Internal Restrictions

- Employee Leave Entitlements
- Plant Replacement
- Shire Property
- Alison Court
- Waste Management Site Rehabilitation
- Special Projects
- Quarry Rehabilitation
- Bennett Park Lighting
- Community Land Transactions

The amounts held within these Restricted Assets will vary over time depending on the utilisation and additions to these assets and as a result of Council policy.

Dungog Shire Council Policy No C2:1

Date Policy Adopted	Minute No	Authority
18 February 2003	31343	Council resolution
19 August 2003	31593	Council resolution

Dungog Shire Council Policy No C2:1






13.4 DRAFT FINANCIAL REPORTS FOR THE PERIOD ENDED 30 JUNE 2020 – COUNCIL STATEMENT GENERAL PURPOSE FINANCIAL REPORTS

File Number: EF08/64

Author: Senior Finance Officer

Authoriser: Executive Manager Corporate and Customer Services

Annexures:

1. Income Statement [↓](#) 
2. Statement of Financial Position [↓](#) 
3. Statement of Cash Flows [↓](#) 
4. Statement of Comprehensive Income [↓](#) 
5. Statement by Councillors and Management [↓](#) 

Precis

The Draft 2019/2020 Financial Statements have been prepared and are currently undergoing external audit. This report recommends to Council the adoption of the Draft 2019/2020 Financial Statements and the completion of the Statement by Council in the approved form as to its opinion on the General Purpose Financial Reports in accordance with *Section 413(2)(c) of the Local Government Act 1993* and a statement by Council in the approved form as to its opinion on the special purpose financial reports in accordance with the *Local Government Code of Accounting Practice and Financial Reporting*.

RECOMMENDATION

1. That Council's 2019/2020 Financial Statements be referred to the NSW Audit Office for audit.
2. That approval be granted for the Financial Statements, pursuant to Section 413(2)(c) of the *Local Government Act 1993* and Clause 215 of the Local Government (General) Regulation 2005 and the Local Government Code of Accounting Practice and Financial Reporting, be signed on behalf of Council and attached to the Annual Financial Reports.

REPORT

Council's Annual Financial Reports for the year ended 30 June 2020 are in the process of being finalised with Council's Auditor, Pitcher Partners and the NSW Audit Office. Audit staff were on site at council last week and are in the final stage of audit prior to signing off.

Attached for councillor's information are draft copies of Council's Income Statement (**Annexure 1**), Statement of Financial Position (**Annexure 2**), Statement of Cash Flows (**Annexure 3**) and the Statement of Comprehensive Income (**Annexure 4**). Whilst these are the likely final results they are still subject to change until the auditors have completed their audit and with approval and sign-off from the NSW Audit Office.

In accordance with *Section 413(2)(c) of the Local Government Act 1993* (the "Act"), the Financial Report must include a statement in the approved form by the Council as to its opinion on the General Purpose Financial Report. *Clause 215 of the Local Government (General) Regulation 2005* states:-

1. "Required by *section 413(2)(c)* of the Act, the statement must:-
 - (a) be made by resolution of the council; and
 - (b) be signed by:-
 - (i) the mayor; and
 - (ii) at least one other member of the council; and
 - (iii) the responsible accounting officer; and

- (iv) the General Manager (if not the responsible accounting officer).
2. The statement must indicate:-
- (a) whether or not the council's annual financial report have been drawn up in accordance with:-
 - (i) the Act and Regulations; and
 - (ii) the *Local Government Code of Accounting Practice and Financial Reporting*; and
 - (iii) the *Local Government Asset Accounting Manual*; and
 - (iv) the *Australian Accounting Standards* issued by the Australian Accounting Standards Board; and
 - (b) whether or not those reports present fairly the council's financial position and operating result for the year; and
 - (c) whether or not those reports accord with the council's accounting and other records; and
 - (d) whether or not the signatories know of anything that would make those reports false or misleading in any way and include such information and explanations as will prevent those reports from being misleading because of any qualification that is included in the statement.
3. The Council must ensure that the statement is attached to the relevant annual financial reports."

The required statement is attached as **Annexure 5** for Councillors information.

Primary movements in the attached financial reports include:

1. **Annexure 1 - Income Statement.** Net operating result is favourable by over \$2m from last year. This is due to:
 - (a) Slight increase in Rates and User Charges reflecting the rate peg increase and follow-up on council's debt recovery activity.
 - (b) Over \$2m increase in Capital grants. Offsetting this is a small decrease in Operating grants of approximately \$200K, primarily due to reduced payment received from Roads to Recovery grant.
 - (c) Employees benefits and on-costs have increased by over \$400K due to the increase in Full-time Equivalent Employees (FTE) from 59 to 71 whereby new positions were created and vacant positions filled.
 - (d) Other expenses have risen by over \$600K with \$530K primarily relating to maintenance works across the shire.
2. **Annexure 2 & 4 – Statement of Financial Position and Statement of Comprehensive Income.** Total comprehensive income attributable to Council has decreased by approximately \$65m due to:
 - (a) The previous year 2018/2019 included a revaluation of Road and Bridge assets resulting in an increase of \$70m.
 - (b) A revaluation of Drainage assets resulting in an increase of \$2.5m this year.
 - (c) The statement of financial position also shows an increase in Contract liabilities over \$1.5m impacted by various capital unexpended grants.
3. **Annexure 3 – Statement of Cash Flows:** is primarily a result of the transactions reflected by the movements discussed in the previous annexures.

A further report will be provided to council upon completion of the accounts together with a presentation by the auditors. This will be coordinated with the auditors and expected to occur in

February 2021. A full copy of the Financial Reports will also be available to councillors upon completion of the audit.

COMMUNITY STRATEGIC PLAN

Council undertakes prudent financial management to ensure its long-term viability.

DELIVERY PROGRAM

5.1 Finance - Budget

IMPLICATIONS

Previous Council Resolutions

38210	1.	That Council's 2018/2019 Financial Statements be referred to the NSW Audit Office for audit.
	2.	That approval be granted for the Financial Statements, pursuant to Section 413(2)(c) of the <i>Local Government Act 1993</i> and Clause 215 of the <i>Local Government (General) Regulation 2005</i> and the <i>Local Government Code of Accounting Practice and Financial Reporting</i> , be signed on behalf of Council and attached to the Annual Financial Reports.
Moved: Cr G Riley, Seconded: Cr D Rayward.		
Carried.		

Implementation

Pending Council's decision, the attached form is signed on behalf of Council and attached to the Annual Financial Reports prior to submission to the Office of Local Government.

Statutory/Legislative

Section 413(2) (c) of the Local Government Act 1993

Clause 215 of the Local Government (General) Regulation 2005

Local Government Code of Accounting Practice and Financial Reporting.

Community Consultation

Not applicable at this time.

The audited financial statements will be advertised and the community invited to comment prior to presentation to Council in February.

ANNEXURE 1

Dungog Shire Council

Income Statement

for the year ended 30 June 2020

Original unaudited budget 2020	\$ '000	Notes	Actual 2020	Actual 2019
Income from continuing operations				
8,402	Rates and annual charges	3a	8,308	7,420
1,550	User charges and fees	3b	1,356	1,219
496	Other revenues	3c	1,604	839
4,119	Grants and contributions provided for operating purposes	3d,3e	4,717	4,996
6,269	Grants and contributions provided for capital purposes	3d,3e	8,138	5,924
456	Interest and investment income	4	390	531
177	Rental income	15e	177	—
21,469	Total income from continuing operations		24,690	20,929
Expenses from continuing operations				
5,522	Employee benefits and on-costs	5a	5,279	4,847
240	Borrowing costs	5b	289	118
5,294	Materials and contracts	5c	4,723	4,900
6,144	Depreciation and amortisation	5d	6,118	6,149
2,635	Other expenses	5e	2,384	1,932
170	Net losses from the disposal of assets	6	1,947	1,291
—	Net share of interests in joint ventures and associates using the equity method	20	11	14
20,005	Total expenses from continuing operations		20,751	19,251
1,464	Operating result from continuing operations		3,939	1,678
1,464	Net operating result for the year		3,939	1,678
1,464	Net operating result attributable to council		3,939	1,678
(4,805)	Net operating result for the year before grants and contributions provided for capital purposes		(4,199)	(4,246)

The Council has not restated comparatives when initially applying AASB 1058 *Income of Not-for-Profit Entities*, AASB 15 *Revenue from Contracts with Customers* and AASB 16 *Leases*. The comparative information has been prepared under AASB 111 *Construction Contracts*, AASB 118 *Revenue*, AASB 1004 *Contributions*, AASB 117 *Leases* and related Accounting Interpretations.

The above Income Statement should be read in conjunction with the accompanying notes.

ANNEXURE 2

Dungog Shire Council

Statement of Financial Position

as at 30 June 2020

\$ '000	Notes	2020	2019
ASSETS			
Current assets			
Cash and cash equivalents	7(a)	3,303	2,128
Investments	7(b)	14,000	15,259
Receivables	8	2,697	1,239
Inventories	9a	606	587
Other	9b	37	47
Total current assets		20,643	19,260
Non-current assets			
Investments	7(b)	4,000	5,558
Receivables	8	36	48
Inventories	9a	26	27
Infrastructure, property, plant and equipment	11(a)	385,079	378,434
Right of use assets		—	—
Investments accounted for using the equity method	20	133	145
Total non-current assets		389,274	384,212
Total assets		409,917	403,472
LIABILITIES			
Current liabilities			
Payables	16	2,093	2,587
Income received in advance	16	—	57
Contract liabilities	14b	1,525	—
Borrowings	16	237	235
Provisions	17	2,017	1,981
Total current liabilities		5,872	4,860
Non-current liabilities			
Payables	16	64	—
Borrowings	16	4,346	4,559
Provisions	17	3,113	2,991
Total non-current liabilities		7,523	7,550
Total liabilities		13,395	12,410
Net assets		396,522	391,062
EQUITY			
Accumulated surplus	18	139,085	136,093
Revaluation reserves	18	257,437	254,969
Council equity interest		396,522	391,062
Total equity		396,522	391,062

The Council has not restated comparatives when initially applying AASB 1058 *Income of Not-for-Profit Entities*, AASB 15 *Revenue from Contracts with Customers* and AASB 16 *Leases*. The comparative information has been prepared under AASB 111 *Construction Contracts*, AASB 118 *Revenue*, AASB 1004 *Contributions*, AASB 117 *Leases* and related Accounting Interpretations.

The above Statement of Financial Position should be read in conjunction with the accompanying notes.

ANNEXURE 3

Dungog Shire Council

Statement of Cash Flows

for the year ended 30 June 2020

Original unaudited budget 2020	\$ '000	Notes	Actual 2020	Actual 2019
Cash flows from operating activities				
<i>Receipts:</i>				
8,402	Rates and annual charges		8,292	7,518
1,727	User charges and fees		1,316	1,242
456	Investment and interest revenue received		407	531
10,388	Grants and contributions		12,336	10,920
—	Bonds, deposits and retention amounts received		6	15
296	Other		1,533	305
<i>Payments:</i>				
(5,522)	Employee benefits and on-costs		(5,239)	(4,540)
(5,294)	Materials and contracts		(5,268)	(3,370)
(240)	Borrowing costs		(282)	(118)
(2,635)	Other		(2,266)	(1,836)
7,578	Net cash provided (or used in) operating activities	19b	10,835	10,667
Cash flows from investing activities				
<i>Receipts:</i>				
—	Sale of investment securities		—	9,000
200	Sale of infrastructure, property, plant and equipment		107	163
5	Deferred debtors receipts		12	5
<i>Payments:</i>				
—	Purchase of investment securities		2,817	(13,000)
(10,859)	Purchase of infrastructure, property, plant and equipment		(12,349)	(9,414)
—	Purchase of real estate assets		(37)	(9)
(10,654)	Net cash provided (or used in) investing activities		(9,450)	(13,255)
Cash flows from financing activities				
<i>Receipts:</i>				
—	Proceeds from borrowings and advances		—	3,720
<i>Payments:</i>				
(460)	Repayment of borrowings and advances		(211)	(172)
(460)	Net cash flow provided (used in) financing activities		(211)	3,548
(3,536)	Net increase/(decrease) in cash and cash equivalents		1,174	960
—	Plus: cash and cash equivalents – beginning of year	19a	2,128	1,168
(3,536)	Cash and cash equivalents – end of the year	19a	3,302	2,128
—	plus: Investments on hand – end of year	7(b)	18,000	20,817
(3,536)	Total cash, cash equivalents and investments		21,302	22,945

The Council has not restated comparatives when initially applying AASB 1058 *Income of Not-for-Profit Entities*, AASB 15 *Revenue from Contracts with Customers* and AASB 16 *Leases*. The comparative information has been prepared under AASB 111 *Construction Contracts*, AASB 118 *Revenue*, AASB 1004 *Contributions*, AASB 117 *Leases* and related Accounting Interpretations.

The above Statement of Cash Flows should be read in conjunction with the accompanying notes.

ANNEXURE 4

Dungog Shire Council

Statement of Comprehensive Income
for the year ended 30 June 2020

\$ '000	Notes	2020	2019
Net operating result for the year (as per Income Statement)		3,939	1,678
Other comprehensive income:			
Amounts which will not be reclassified subsequently to the operating result			
Gain (loss) on revaluation of IPP&E	11(a)	2,468	70,990
Other comprehensive income – joint ventures and associates	20b	(1)	2
Total items which will not be reclassified subsequently to the operating result		2,467	70,992
Amounts which will be reclassified subsequently to the operating result when specific conditions are met			
Other movements		–	169
Total items which will be reclassified subsequently to the operating result when specific conditions are met		–	169
Total other comprehensive income for the year		2,467	71,161
Total comprehensive income for the year		6,406	72,839
 Total comprehensive income attributable to Council		 6,406	 72,839

The Council has not restated comparatives when initially applying AASB 1058 *Income of Not-for-Profit Entities*, AASB 15 *Revenue from Contracts with Customers* and AASB 16 *Leases*. The comparative information has been prepared under AASB 111 *Construction Contracts*, AASB 118 *Revenue*, AASB 1004 *Contributions*, AASB 117 *Leases* and related Accounting Interpretations.

The above Statement of Comprehensive Income should be read in conjunction with the accompanying notes.

ANNEXURE 5

Dungog Shire Council**General Purpose Financial Statements**for the year ended 30 June 2020

Statement by Councillors and Management made pursuant to Section 413(2)(c) of the Local Government Act 1993 (NSW) (as amended)

The attached General Purpose Financial Statements have been prepared in accordance with:

- the *Local Government Act 1993* (NSW) (as amended) and the regulations made thereunder;
- the Australian Accounting Standards and other pronouncements of the Australian Accounting Standards Board; and
- the *Local Government Code of Accounting Practice and Financial Reporting*.

To the best of our knowledge and belief, these statements:

- present fairly the Council's operating result and financial position for the year; and
- accord with Council's accounting and other records.

We are not aware of any matter that would render these statements false or misleading in any way.

Signed in accordance with a resolution of Council made on 16 December 2020.

Cr John Connors
MAYOR

Cr Digby Rayward
COUNCILLOR

Gareth Curtis
GENERAL MANAGER

Shaun Chandler
RESPONSIBLE ACCOUNTING OFFICER

13.5 WORKS COST STATEMENT

File Number: EF08/221

Author: Senior Finance Officer

Authoriser: Executive Manager Corporate and Customer Services

Annexures: 1. Works Cost Statement - Period Ended 30 November 2020 [↓](#) 

Precis

A selective summary of expenditures on capital works and maintenance expense areas within Council's roads, bridges, cemeteries, toilets, parks and sports grounds cost centres.

RECOMMENDATION

That the report be received and the information noted.

REPORT

The Works Cost Statement for the period ending 30 November 2020 is attached for Councillors' information as **Annexure '1'**.

With the passing of five (5) months into the financial year, notional expenditure levels would be expected to take-up 42% of budget allocation. This was reflected across the majority of Maintenance and Capital Work areas. Line items exceeding their budget allocation are identified as follows:

- *Rural Roads Unsealed Maintenance* as reported previously, is over budget due to the timing and scheduling of Council's rural road unsealed maintenance works. Majority of this expense relates to pavement and drainage maintenance along rural unsealed roads.

Capital works are at varying levels of completion and expenditure reflects such activity and is mostly within budget allocations. Engineering overheads were applied to individual projects in line with the original budget and in accordance with Councils normal operating practice.

The works progress report within the Infrastructure & Assets area provides further information on some items in this report including scheduled dates for commencement for individual projects and works undertaken in the prior month.

COMMUNITY STRATEGIC PLAN

Council Governance & Finance - Council undertakes prudent financial management to ensure its long-term viability.

DELIVERY PROGRAM

5.1.1 Continue to provide monthly works cost statement to Council.

IMPLICATIONS**Previous Council Resolutions**

This report is provided every month for Council's review.

ANNEXURE '1'


Works Cost Statement 2020-21						
Description	Original Vote	Amended 2019/20	Revised Vote	Expend Oct-20	Expend Nov-20	% Spent
Urban Roads Maintenance	353,920		353,920	81,137	111,186	31.4%
Rural Roads Sealed Maintenance	791,710		791,710	225,269	332,902	42.0%
Rural Roads Unsealed Maintenance	339,470		339,470	232,807	253,781	74.8%
Rural Roads Unsealed Upgrades	73,140		73,140	-	-	0.0%
Bridges Maintenance	492,680		492,680	48,006	85,451	17.3%
Tree Planting & Maintenance	11,420		11,420	2,137	2,747	24.1%
Traffic Facilities	90,440		90,440	3,556	18,010	19.9%
Footpaths Maintenance	56,120		56,120	1,006	1,006	1.8%
Street Lighting	142,530		142,530	28,015	35,326	24.8%
Sporting Grounds Maintenance	85,230		85,230	17,790	26,631	31.2%
Parks & Reserves Maintenance	120,000		120,000	37,865	48,674	40.6%
Public Conveniences Maintenance	71,290	100,000	171,290	53,006	66,359	38.7%
Public Cemeteries Maintenance	41,300		41,300	15,276	19,720	47.7%
Total Maintenance Works	2,669,250	100,000	2,769,250	745,869	1,001,793	36.2%
RMS Ongoing Services						
Regional Roads Maintenance	939,169		939,169	92,979	153,260	16.3%
Traffic Facilities	58,000		58,000	5,028	13,271	22.9%
RMS Grants - Repair/Auslink/Blackspot						
MR101 - South of Hanleys Creek Rd (B/Spot)	510,000		510,000	96,312	168,947	33.1%
MR101 - Dungog Rd - North of Grace Avenue	1,248,000		1,248,000	10,900	10,900	0.9%
MR301 - Clarence Town Rd - South of Union Br (B/Spot)	530,000		530,000	418,492	601,322	113.5%
MR301 - Clarence Town Rd - North of Erringhi St	1,824,000		1,824,000	2,188	12,944	0.7%
MR301 - Clarence Town Rd - Union Br to Parers Hill	2,169,600		2,169,600	17,661	62,821	2.9%
RR7764 - Bingleburra Rd - West of Turnbull's Rd (B/Spot)	630,000		630,000	12,118	50,171	8.0%
RR7764 - Bingleburra Rd - West of Sugarloaf Rd (B/Spot)	630,000		630,000	81,007	304,430	48.3%
RR7778 - Gresford Road North of Summerhill Rd	775,000		775,000	10,819	10,819	1.4%
MR101 - Dowling St - Mary St to Mackay St (rollover from 2020)	-		-	251,045	253,010	100.0%
MR128 - Durham Rd, Paterson Rd Intersection	723,823		723,823	18,787	19,484	2.7%
Total RMS Capital Works	10,037,592	-	10,037,592	1,017,337	1,661,380	16.6%
Local Roads & Bridges Network						
Lord Street, Dungog - Mary St to Myles St	366,508		366,508	270,559	270,559	73.8%
Urban Road Reseals	85,565		85,565	-	-	0.0%
Paterson River Rd - Coulston Br to Cross Keys Rd	550,000		550,000	3,149	3,149	0.6%
Salisbury Road Bridge Approaches (rollover from 2020)	-		-	3,193	91,026	100.0%
Torryburn Road - Rehabilitation SRV	748,591		748,591	439,913	439,913	58.8%
Limeburners Creek Rd - CT Bridge to Glen Martin Rd	1,672,800		1,672,800	-	-	0.0%
Summerhill Road - Bruxner Br	100,000		100,000	2,467	10,548	10.5%
Rural Unsealed Roads Resheeting (rollover from 2020)	220,000		220,000	187,826	196,455	89.3%
Black Rock Road	650,000		650,000	-	-	0.0%
Brig O'Johnson Bridge	700,000		700,000	2,444	2,444	0.3%
Spooner Bridge (rollover from 2020)	-		-	213,684	213,684	100.0%
Tillega Bridge	1,574,440		1,574,440	28,050	387,223	24.6%
Summerhill Rd 2nd Bridge	605,548		605,548	509,213	421,903	69.7%
Rural Sealed Roads Reseals	298,387		298,387	-	-	0.0%
Total Other Capital Works	7,571,839	-	7,571,839	1,660,497	2,036,903	26.9%
Total Capital Works	17,609,431	-	17,609,431	2,677,834	3,698,283	21.0%

13.6 STATEMENT OF INVESTMENTS

File Number: EF08/220

Author: Finance Officer

Authoriser: Executive Manager Corporate and Customer Services

Annexures: 1. Statement of Investments - November 2020 [↓](#) 

Precis

Clause 212 of Local Government (General) Regulation 2005 requires a monthly report to Council outlining all money's Council has invested under Section 625 of the Local Government Act.

RECOMMENDATION

That the report be received and the information noted.

REPORT

The Statement of Investments as at 30 November 2020 incorporating the Responsible Accounting Officer's Certificate is attached as **Annexure 1**.

COMMUNITY STRATEGIC PLAN

Council Governance & Finance - Council undertakes prudent financial management to ensure its long-term viability.

DELIVERY PROGRAM

5.4 Finance – Investments.

IMPLICATIONS**Previous Council Resolutions**

This report is provided monthly for Councillor information.

Statutory/Legislative

Clause 212 of Local Government (General) Regulation 2005 requires a monthly report to Council outlining all money's Council has invested under Section 625 of the Local Government Act.

Investment Summary as at 30th of November 2020.

Cash at Call	500,613.99
Term Deposits	18,500,000.00
Floating Rate Notes	4,500,000.00
Total Investments	\$23,500,613.99

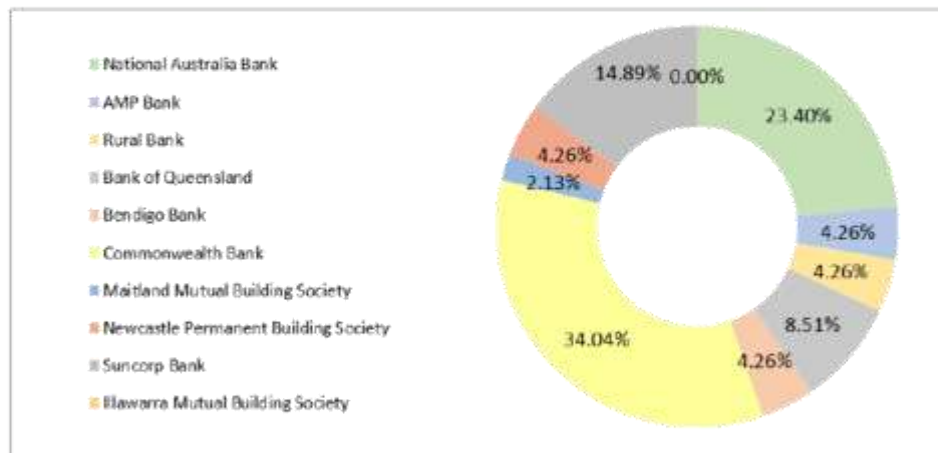
Portfolio Listing:**Term Deposits:**

Institution	Period	Due Date	Interest	Total
CBA	363	25-Aug-21	0.700%	\$500,000.00
CBA	216	31-Mar-21	0.650%	\$500,000.00
CBA	119	23-Dec-20	0.600%	\$500,000.00
CBA	154	27-Jan-21	0.620%	\$500,000.00
CBA	182	24-Feb-21	0.640%	\$500,000.00
CBA	243	28-Apr-21	0.650%	\$500,000.00
CBA	364	28-Sep-21	0.700%	\$500,000.00
CBA	244	23-Jun-21	0.560%	\$3,000,000.00
MMBS	365	5-Sep-21	1.050%	\$500,000.00
NAB	92	8-Dec-20	0.700%	\$500,000.00
NAB	211	6-Apr-21	0.700%	\$500,000.00
NAB	362	12-Oct-21	0.630%	\$500,000.00
NAB	365	25-Nov-21	0.550%	\$500,000.00
NAB	365	17-Aug-21	0.810%	\$500,000.00
NAB	274	18-May-21	0.750%	\$500,000.00
NAB	183	16-Feb-21	0.700%	\$500,000.00
NAB	364	16-Nov-21	0.550%	\$500,000.00
NAB	151	2-Mar-21	0.620%	\$500,000.00
NAB	300	18-Aug-21	0.520%	\$1,000,000.00
Suncorp Bank	90	20-Jan-21	0.500%	\$3,500,000.00
AMP	333	8-Jun-21	1.000%	\$500,000.00
AMP	362	13-Jul-21	1.000%	\$500,000.00
Bank of QLD	731	24-Oct-22	0.800%	\$500,000.00
Rural Bank	181	21-Apr-21	0.550%	\$500,000.00
Rural Bank	125	2-Mar-21	0.550%	\$500,000.00
Total Term Deposits				\$18,500,000.00

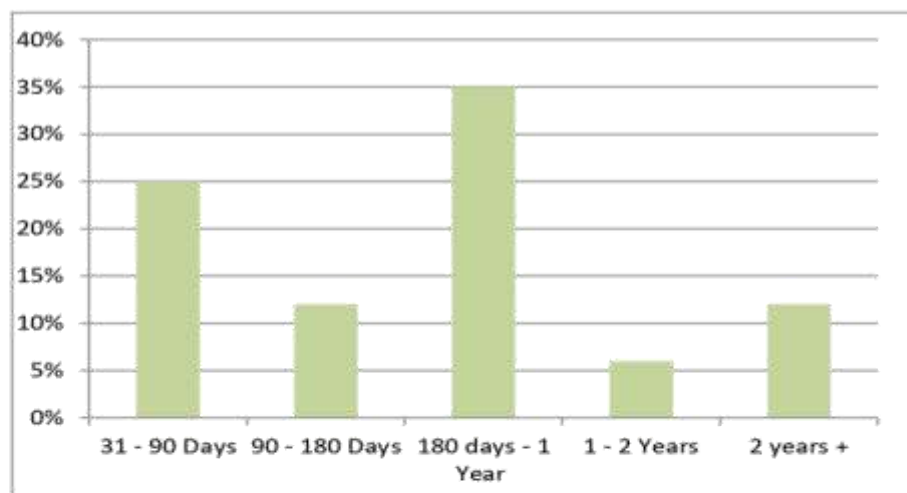
Other Investments:

Institution	Investment Type	Due Date	Yield	Total
CBA	FRN	25/07/2022	BBSW+88	\$1,000,000.00
BOQ	FRN	18/05/2021	BBSW+102	\$500,000.00
BOQ	FRN	3/02/2023	BBSW+143	\$1,000,000.00
Bendigo	FRN	25/01/2023	BBSW+109	\$1,000,000.00
NPBS	FRN	6/02/2023	BBSW+140	\$1,000,000.00
CBA	At Call	At Call	0.350%	\$500,613.99
Total Other Investments				\$5,000,613.99

Financial Institution Distribution:



Investment Maturity Distribution:



I hereby certify that the above Investments have been made in accordance with the Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy.

S L Chandler
RESPONSIBLE ACCOUNTING OFFICER

14 OFFICE OF THE GENERAL MANAGER**14.1 CORRESPONDENCE FROM PREMIER THE HON. GLADYS BEREJIKLIAN MP - ACKNOWLEDGEMENT OF RECEIPT OF LETTER RE: MEDICARE LICENCE FOR MRI UNITS AT THE NEW MAITLAND HOSPITAL**

File Number: EF08/471

Author: Executive Assistant

Authoriser: General Manager

Annexures: 1. Letter - Premier NSW - MRI for new Maitland Hospital [!\[\]\(b15a52694309ea4c274a394158422056_img.jpg\)](#) 

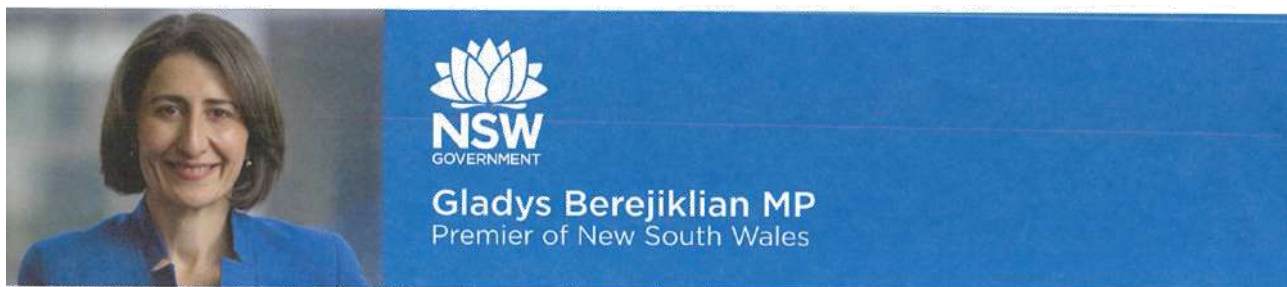
Precis

Council received correspondence on Monday 30 November 2020 from Premier of New South Wales, The Hon. Gladys Berejiklian MP.

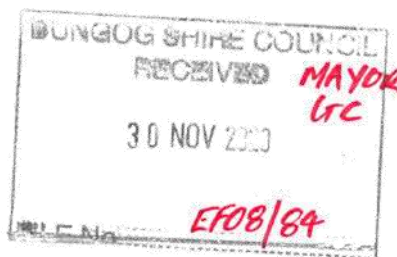
The Premier acknowledged the receipt of Council's letter dated 19 October 2020 requesting support for a full Medicare licence for the Magnetic Resonance Imaging units at the new Maitland Hospital. The Premier also advised that Council's letter was forwarded to the Minister for Health and Medical Research, The Hon. Brad Hazzard MP for his consideration.

RECOMMENDATION

That Council note the correspondence from Premier of New South Wales, The Hon. Gladys Berejiklian MP in relation to Council's support for a full Medicare licence for the Magnetic



Councillor John Connors
Mayor
Dungog Shire Council
PO Box 95
DUNGOG NSW 2420



Ref: A3980774

25 NOV 2020

Dear Mayor,

Thank you for your correspondence regarding Council's support for a full Medicare licence for the Magnetic Resonance Imaging units at the new Maitland Hospital.

I appreciate your advocacy for better health services on behalf of your community.

I note that you have also written directly to the Federal Minister for Health, The Hon Greg Hunt MP. As Minister Hunt has primary responsibility for this matter, it is appropriate that you have written to him in the first instance.

I have also forwarded your correspondence to the Minister for Health and Medical Research, The Hon Brad Hazzard MP for his consideration.


Thank you for taking the time to bring this matter to my attention.

Yours faithfully,

Gladys Berejiklian MP
Premier

CC: The Hon Brad Hazzard MP, Minister for Health and Medical Research

14.2 C1.24 PUBLIC INTEREST DISCLOSURES (PID) POLICY

File Number: EF08/61
Author: Executive Assistant
Authoriser: General Manager
Annexures: 1. C1.24 Public Interest Disclosures Policy [↓](#) 

Precis

Reporting on an update of organisation title and contact details of existing Council Policy C1:24 Public Interest Disclosure (PID) Policy.

RECOMMENDATION

That the revised Council Policy C1.24 Public Interest Disclosures (PID) Policy is distributed to Councillors and Council Staff for information.

REPORT

A reminder notification was received from NSW Ombudsman to review contact details for relevant investigation authorities within Council's existing C1:24 Public Interest Disclosure Policy (PID). The PID policy was updated with minor amendments made to organisation titles and contact information.

The revised policy was tabled at the Managers and Executives (MANEX) Meeting held 3 November 2020, with no further comments or amendments received.

COMMUNITY STRATEGIC PLAN

6.4 Governance – Policy Development

DELIVERY PROGRAM

6.4.1 Development of a suitable range of Human Resource policies to assist staff

IMPLICATIONS**Finance and Resourcing**

This matter has no direct financial impact upon Council's adopted budget or forward estimates

Previous Council Resolutions

Ordinary Council Meeting 21 March 2018 - Minute 37689

COUNCIL RESOLUTION

37689	1. Council adopt the draft Public Interest Disclosures policy.
	2. The General Manager be authorised to amend the names of personnel mentioned in the policy when and if required and to also do likewise with job titles
Moved: Cr S Low AM, Seconded: Cr R Booth	
Carried.	

Implementation

The amended policy to distributed to all staff and Councillors for information.

Statutory/Legislative

Council, as a public authority, has certain responsibilities under the Public Interest Disclosures Act

Community Consultation

There is no requirement to consult with the community on this matter.

POLICY NO:**C 1:24****POLICY TITLE: PUBLIC INTEREST DISCLOSURES****VERSION I:** Adopted 21 March 2018**Last reviewed:** 9 November 2020

1. Purpose and context

This policy is based on the NSW Ombudsman's Model Internal reporting Policy- Local Government (July 2020) and supersedes Council's Protected Disclosures Policy.

The purpose of this policy is to establish an internal reporting system for staff and Councillors to report wrongdoing without fear of reprisal. The policy sets out who you can report wrongdoing to in Dungog Shire Council, what can be reported and how reports of wrongdoing will be dealt with by Dungog Shire Council.

This policy is designed to complement normal communication channels between supervisors and staff. Staff are encouraged to raise matters of concern at any time with their supervisors, but also have the option of making a report about a public interest issue in accordance with this policy and the Public Interest Disclosures Act 1994 (PID Act).

The internal reporting system established under this policy is not intended to be used for staff grievances. If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to the General Manager to be dealt with in accordance with adopted internal procedures.

2. Organisational commitment

Dungog Shire Council does not tolerate corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention or local government pecuniary interest contravention.

Dungog Shire Council:

- is committed to creating a climate of trust, where people are comfortable and confident about reporting wrongdoing
- encourages individuals to come forward if they are aware of wrongdoing within the Council
- will keep the identity of the person disclosing wrongdoing confidential, where this is possible and appropriate
- will protect the person from any adverse action resulting from them making a report
- will deal with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it
- will keep the individual who makes a report informed of their progress and the outcome
- encourages the reporting of wrongdoing within the Council, but respects any decision to disclose wrongdoing outside the Council that is made in accordance with the provisions of the PID Act

- will ensure managers and supervisors at all levels in the Council understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who report wrongdoing
- will review the policy periodically to ensure it is relevant and effective
- will provide adequate resources, to:
 - encourage reports of wrongdoing
 - protect and support those who make them
 - provide training periodically about how to make reports and the benefits of internal reports to the Council and the public interest generally
 - properly assess and investigate or otherwise deal with allegations
 - properly manage any workplace issues that the allegations identify or that result from a report
 - appropriately address any identified problems.

Under the PID Act, the General Manager is responsible for ensuring that:

- the Council has an internal reporting policy
- the staff of the Council and Councillors are aware of the contents of the policy and the protection under the PID Act for people who make public interest disclosures.
- the Council complies with the policy and the Council's obligations under the PID Act
- the policy delegates at least one staff member as being responsible for receiving public interest disclosures. Clause 3.15 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW requires the complaints coordinator to be a disclosures coordinator. The Ombudsman recommends Councils nominate more than one person as being responsible for receiving public interest disclosures.

3. Who does this policy apply to?

This policy will apply to:

- both Council staff and Councillors
- permanent employees, whether full-time or part-time
- temporary or casual employees
- consultants
- individual contractors working for Dungog Shire Council.
- employees of contractors providing services to Dungog Shire Council.
- other people who perform council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers.

The policy also applies to public officials of another Council or public authority who report wrongdoing relating to Dungog Shire Council.

4. Roles and responsibilities

a. The role of Council staff and Councillors

Staff and Councillors play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All Council staff and Councillors are obliged to:

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing
- if requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality

- treat any staff member or person dealing with a report of wrongdoing with courtesy and respect
- respect the rights of any person the subject of reports.

Staff and Councillors must not:

- make false or misleading reports of wrongdoing
- victimise or harass anyone who has made a report

Additionally, the behaviour of all Council staff and Councillors involved in the internal reporting process must adhere to Dungog Shire Council's Code of Conduct. A breach of the code could result in disciplinary action.

b. The role of the Dungog Shire Council

The Dungog Shire Council has a responsibility to establish and maintain a working environment that encourages staff and Councillors to report wrongdoing and supports them when they do. This includes keeping the identity of reporters confidential where practical and appropriate, and taking steps to protect reporters from reprisal and manage workplace conflict.

Dungog Shire Council will assess all reports of wrongdoing it receives from staff and Councillors and deal with them appropriately. Once wrongdoing has been reported, Council takes 'ownership' of the matter. This means it is up to us to decide whether a report should be investigated, and if so, how it should be investigated and by whom. Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.

Dungog Shire Council must report on its obligations under the PID Act and statistical information about public interest disclosures in its annual report and to the NSW Ombudsman every six months.

To ensure Council complies with the PID Act and deals with all reports of wrongdoing properly, all staff and Councillors with roles outlined below and elsewhere in this policy will receive training on their responsibilities.

c. Roles of key positions

General Manager

The General Manager has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring the Council complies with the PID Act. The General Manager can receive reports from staff and Councillors and has a responsibility to:

- assess reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with
- deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct Procedures
- ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- make decisions following any investigation or appoint an appropriate decision-maker

- take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified
- refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- refer any evidence of a reprisal offence under Section 20 of the PID Act to the Commissioner of Police or the ICAC.

Disclosures Coordinators

The Disclosures Coordinators have a central role in Council's internal reporting system. The Disclosures Coordinators can receive and assess reports, and is the primary point of contact in Council for the reporter. The Disclosures Coordinators have a responsibility to:

- assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the General Manager)
- deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct Procedures
- coordinate Council's response to a report
- acknowledge reports and provide updates and feedback to the reporter
- assess whether it is possible and appropriate to keep the reporter's identity confidential
- assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified
- where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- ensure the Dungog Shire Council complies with the PID Act
- provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

Disclosures Officers

Disclosures Officers are additional points of contact within the internal reporting system. They can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff and Councillors to make reports.

Disclosures Officers have a responsibility to:

- document in writing any reports received verbally, and have the document signed and dated by the reporter
- make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary away from the workplace
- discuss with the reporter any concerns they may have about reprisal or workplace conflict
- carry out preliminary assessment and forward reports to the Disclosures Coordinator or General Manager for full assessment.

Mayor

The Mayor can receive reports from staff and Councillors about the General Manager. Where the Mayor receives such reports, the Mayor has a responsibility to:

- assess the reports to determine whether or not they should be treated as a public interest disclosure, and to decide how they will be dealt with
- deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct Procedures
- refer reports to an investigating authority, where appropriate
- liaise with the Disclosures Coordinator to ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- refer actual or suspected corrupt conduct to the ICAC
- refer any evidence of a reprisal offence under Section 20 of the PID Act to the Commissioner of Police or the ICAC.

Managers, Coordinators and Supervisors

Managers, Coordinators and Supervisors play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process.

Managers, Coordinators and Supervisors should be aware of the internal reporting policy and are responsible for creating a local work environment where staff are comfortable and confident about reporting wrongdoing. They have a responsibility to:

- encourage staff to report known or suspected wrongdoing within the organisation and support staff when they do
- identify reports made to them in the course of their work which could be public interest disclosures, and assist the staff member to make the report to an officer authorised to receive public interest disclosures under this policy
- implement local management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report
- notify the Disclosures Coordinator or General Manager immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the General Manager, notify the Mayor.

5. What should be reported?

You should report any suspected wrongdoing within Dungog Shire Council, or any activities or incidents you see within the Council that you believe are wrong.

Reports about five categories of serious misconduct – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, and local government pecuniary interest contravention – which otherwise meet the criteria of a public interest disclosure, will be dealt with under the PID Act and according to this policy. See below for details about these types of conduct. More information about what can be reported under the PID Act can be found in the NSW Ombudsman's Guideline B2: What should be reported?

<https://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/public-interest-disclosures>

All other wrongdoing or suspected wrongdoing should be reported to a supervisor, to be dealt with in line with the relevant policies. This might include:

- harassment or unlawful discrimination
- practices that endanger the health or safety of staff or the public.

Even if these reports are not dealt with as public interest disclosures, Council recognises such reports may raise important issues. We will respond to all reports and make every attempt to protect the staff member making the report from reprisal.

Further information in relation to the Code of Conduct can be found on Council's website.

a. Corrupt conduct

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this could include:

- the improper use of knowledge, power or position for personal gain or the advantage of others
- acting dishonestly or unfairly, or breaching public trust
- a Council official being influenced by a member of public to use their position in a way that is dishonest, biased or breaches public trust.

b. Maladministration

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include:

- making a decision and/or taking action that is unlawful
- refusing to grant an approval for reasons that are not related to the merits of an application.

c. Serious and substantial waste of public money

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting public money.

For example, this could include:

- not following a competitive tendering process for a large scale contract
- having ineffective or no processes in place for a system involving large amounts of public funds.

d. Breach of the GIPA Act

A breach of the Government Information (Public Access) Act 2009 (GIPA Act) is a failure to properly fulfil functions under that Act.

For example, this could include:

- destroying, concealing or altering records to prevent them from being released
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation.

e. Local government pecuniary interest contravention

A local government pecuniary interest contravention is a failure to comply with requirements under the Local Government Act 1993 relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, disclose pecuniary interests at Council and Council committee meetings and leave the meeting while the matter is being discussed. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

For example, this could include:

- a senior Council staff member recommending a family member for a Council contract and not declaring the relationship
- a Councillor participating in consideration of a DA for a property they or their family have an interest in.

6. Assessment of reports

All reports will be promptly and thoroughly assessed to determine what action will be taken to deal with the report and whether or not the report will be treated as a public interest disclosure.

Disclosures Coordinators are responsible for assessing reports, in consultation with the General Manager where appropriate. All reports will be assessed on the information available to the Disclosures Coordinator(s) at the time. It is up to the Disclosures Coordinator(s) to decide whether an investigation should be carried out and how that investigation should be carried out. In assessing a report the Disclosures Coordinator(s) may decide that the report should be referred elsewhere or that no action should be taken on the report.

7. When will a report be treated as a public interest disclosure?

Dungog Shire Council] will treat a report as a public interest disclosure if it meets the criteria of a public interest disclosure under the PID Act. These requirements are:

- the report must be about one of the following five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention
- the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing

- the report has to be made to either the General Manager or, for reports about the General Manager, the Mayor, a position nominated in this policy (see Section 8), an investigating authority or in limited circumstances to an MP or journalist (see Section 9).

Reports by staff are not public interest disclosures if they:

- mostly question the merits of government policy (see Section 17)
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action (see Section 18).

8. Who can receive a report within Dungog Shire Council?

Staff are encouraged to report general wrongdoing to their supervisor. However the PID Act requires that, for a report to be a public interest disclosure, it must be made to certain public officials identified in this policy or any supporting procedures.

The following positions are the only people within Dungog Shire Council who are authorised to receive a public interest disclosure. Any supervisor who receives a report that they believe may be a public interest disclosure is obliged to assist the staff member to make the report to one of the positions listed below. The broader responsibilities of these positions are outlined under Roles and Responsibilities (Section 4).

If your report involves a Councillor, you should make it to the General Manager. If your report relates to the General Manager, you should make it to the Mayor.

General Manager - Phone 02 4995 7777

Mayor (for reports about the General Manager only) - Phone 0418 272 197

Disclosures Coordinators

Complaints Coordinator and Executive Manager Corporate Services (Shaun Chandler) - Phone 02 4995 7777.

[Clause 3.15 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW requires the complaints coordinator to be the disclosures coordinator.]

Disclosures Officers

Executive Manager Infrastructure & Assets (Steve Hitchens) - Phone: 02 4995 7777

Manager Planning (Jacqui Tupper) - Phone: 02 4995 7777

Manager Environmental Services (Paul Minett) - Phone: 02 4995 7777

9. Who can receive a report outside of Dungog Shire Council?

Staff and Councillors are encouraged to report wrongdoing within the Dungog Shire Council, but internal reporting is not your only option. You can also make a public interest disclosure to:

- An investigating authority.
- A Member of Parliament or a journalist, but only in the limited circumstances outlined below.

a. Investigating authorities

The PID Act lists a number of investigating authorities in NSW that staff and Councillors can report wrongdoing to and the type of wrongdoing each authority can deal with. In certain circumstances it may be preferable to make a report of wrongdoing to an investigating authority, for example a report about either the General Manager or the Mayor.

The relevant investigating authorities for Dungog Shire Council are:

- the Independent Commission Against Corruption (ICAC) — for reports about corrupt conduct
- the Ombudsman — for reports about maladministration
- the Information & Privacy Commissioner — for disclosures about a breach of the GIPA Act
- the Office of Local Government— for disclosures about local government pecuniary interest contravention
- Auditor-General for disclosures on serious and substantial waste of public money.

You should contact the relevant investigating authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this policy.

You should be aware that the investigating authority may well discuss any such reports with Dungog Shire Council. Every effort will be made to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. The Council will also provide appropriate support and assistance to staff or Councillors who report wrongdoing to an investigating authority, if it is made aware that this has occurred.

b. Members of Parliament or journalists

To have the protections of the PID Act, staff reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- the General Manager
- a person nominated in this policy, including the Mayor for reports about the General Manager
- an investigating authority.

Also, Dungog Shire Council or the investigating authority that received your initial report must have either:

- decided not to investigate the matter
- decided to investigate the matter, but not completed the investigation within six months of the original report
- investigated the matter but not recommended any action as a result
- not told the person who made the report, within six months of the report being made, whether the matter will be investigated.

Most importantly – to be protected under the PID Act – if you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true (see Section 19).

c. Other external reporting

If you report wrongdoing to a person or authority that is not listed above, or make a report to an MP or journalist without following the steps outlined above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or our Code of Conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside Dungog Shire Council, contact the Disclosures Coordinator or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.

10. How to make a report

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation.

If a report is made verbally, the person receiving the report will make a comprehensive record of the report and ask the person making the report to sign this record. The reporter should keep a copy of this record.

11. Can a report be anonymous?

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by Dungog Shire Council, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.

It is important to realise that an anonymous disclosure may not prevent you from being identified by the subjects of the report or your colleagues. If we do not know who made the report, it is very difficult for us to prevent any reprisal should others identify you.

12. Feedback to staff who report wrongdoing

Staff and Councillors who report wrongdoing will be told what is happening in response to their report.

a. Acknowledgement

When you make a report, Dungog Shire Council will contact you to confirm that your report has been received and to advise:

- the timeframe within which you will receive further updates
- the name and contact details of the people who can tell you what is happening or handle any concerns you may have.

After a decision is made about how your report will be dealt with, Dungog Shire Council will send you an acknowledgment letter, providing:

- information about the action that will be taken in response to your report
- the likely timeframes for any investigation or other action
- information about the internal and external resources or services available that you can access for support.

We will provide this information to you within ten (10) working days from the date you make your report. We will also advise you if we decide to treat your report as a public interest disclosure and provide you with a copy of this policy at that time, as required by the PID Act.

Please note, if you make a report which meets the requirements of the PID Act but the report was made under a statutory or legal obligation or incidental to the performance of your day to day functions, you will not receive an acknowledgement letter or a copy of this policy.

b. Progress updates

While your report is being dealt with, such as by investigation or making other enquiries, you will be given:

- information about the progress of the investigation or other enquiries and reasons for any delay
- advice of any decision by Council not to proceed with the matter
- advice if your identity needs to be disclosed for the purposes of investigating the matter or making enquiries, and an opportunity to talk about this beforehand.

c. Feedback

Once the matter has been finalised you will be given:

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified
- advice about whether you are likely to be called as a witness in any further matters, such as disciplinary or criminal proceedings.

13. Maintaining confidentiality

Dungog Shire Council realises reporters may want their identity and the fact they have made a report to remain confidential. This can help to prevent any action being taken against them for reporting wrongdoing.

Where possible and appropriate, steps to keep your identity, and the fact you have reported wrongdoing, confidential. Discussions will be held with you on whether it is possible to keep your identity confidential.

If confidentiality cannot be maintained, a plan will be developed, in consultation with you to support and protect you from reprisal.

If you report wrongdoing, it is important that you only discuss your report with those responsible for dealing with it. This will include the Disclosures Coordinator and the General Manager, or in the case of a report about the General Manager, the Disclosures Coordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that you can be protected from any reprisal.

Any staff or Councillors involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.

14. Managing the risk of reprisal and workplace conflict

When a staff member or Councillor reports wrongdoing, Council will undertake a thorough risk assessment to identify the risk to you of detrimental action in reprisal for reporting, as well as indirect but related risks of workplace conflict or difficulties. The risk assessment will also identify strategies to deal with those risks and determine the level of protection and support that is appropriate.

Depending on the circumstances, Council may:

- relocate the reporter or the staff member who is the subject of the allegation within the current workplace
- transfer the reporter or the staff member who is the subject of the allegation to another position for which they are qualified
- grant the reporter or the staff member who is the subject of the allegation leave of absence during the investigation of the disclosure.

These courses of action are not punishment and will only be taken in consultation with the reporter.

15. Protection against reprisals

Council will not tolerate any reprisal against staff or Councillors who report wrongdoing or are believed to have reported wrongdoing.

The PID Act provides protection for staff and Councillors who have made a public interest disclosure by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.

Detrimental action means action causing, comprising or involving any of the following:

- injury, damage or loss
- intimidation or harassment
- discrimination, disadvantage or adverse treatment in relation to employment

- dismissal from, or prejudice in, employment
- disciplinary proceedings.

A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines, and may be required to pay the victim damages for any loss suffered as a result of the detrimental action. Taking detrimental action in reprisal is also a breach of the Council's Code of Conduct which may result in disciplinary action. In the case of Councillors, such disciplinary action may be taken under the misconduct provisions of the Local Government Act 1993 and may include suspension or disqualification from civic office.

It is important for staff and Councillors to understand the nature and limitations of the protection provided by the PID Act. The PID Act protects reporters from detrimental action being taken against them because they have made, or are believed to have made, a public interest disclosure. It does not protect reporters from disciplinary or other management action where the Council has reasonable grounds to take such action.

a. Responding to allegations of reprisal

If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell your supervisor, the Disclosures Coordinator or the General Manager immediately. In the case of an allegation of reprisal by the General Manager, you can alternatively report this to the Mayor.

All supervisors must notify the Disclosures Coordinator or the General Manager if they suspect that reprisal against a staff member is occurring or has occurred, or if any such allegations are made to them. In the case of an allegation of reprisal by the General Manager, the Mayor can alternatively be notified.

If the Council becomes aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, Council will:

- assess the allegation of reprisal to decide whether the report should be treated as a public interest disclosure and whether the matter warrants investigation or if other action should be taken to resolve the issue
- if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff
- if it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter
- take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure
- refer any breach of Part 8 of the Council's Code of Conduct (reprisal action) by a Councillor or the General Manager to the Office of Local Government.
- refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.

If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation.

If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the Office of Local Government, the Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.

b. Protection against legal action

If you make a public interest disclosure in accordance with the PID Act, you will not be subject to any liability, and no action, claim or demand can be taken against you for having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

16. Support for those reporting wrongdoing

Dungog Shire Council will make sure that staff who have reported wrongdoing, regardless of whether their report is treated as a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management or counselling services.

Access to support may also be available for other staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with the Disclosures Coordinator.

17. Sanctions for making false or misleading statements

It is important all staff and Councillors are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. Dungog Shire Council will not support staff or Councillors who wilfully make false or misleading reports. Such conduct may also be a breach of the Code of Conduct resulting in disciplinary action. In the case of Councillors, disciplinary action may be taken under the misconduct provisions of the Local Government Act 1993 and may include suspension or disqualification from civic office.

18. The rights of persons the subject of a report

Dungog Shire Council is committed to ensuring staff or Councillors who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person the subject of a report confidential, where this is practical and appropriate.

If you are the subject of the report, you will be advised of the allegations made against you at an appropriate time and before any adverse findings. At this time you will be:

- advised of the details of the allegation
- advised of your rights and obligations under the relevant related policies and procedures
- kept informed about the progress of any investigation
- given a reasonable opportunity to respond to any allegation made against you
- told the outcome of any investigation, including any decision made about whether or not further action will be taken against you.

Where the reported allegations against the subject officer are clearly wrong, or have been investigated and unsubstantiated, the subject officer will be supported by Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

19. Review

This policy will be reviewed every two years.

20. More information

More information around public interest disclosures is available on the NSW Ombudsman's website at www.ombo.nsw.gov.au. Staff can also seek advice and guidance from the Disclosures Coordinator.

21. Resources

The contact details for external investigating authorities that staff can make a public interest disclosure to or seek from are listed below.

For disclosures about corrupt conduct:**Independent Commission Against Corruption (ICAC)**

Phone: 02 8281 5999
Toll free: 1800 463 909
Facsimile: 02 9264 5364
Email: icac@icac.nsw.gov.au
Web: www.icac.nsw.gov.au

Address: Level 7, 255 Elizabeth Street, Sydney NSW 2000

For disclosures about breaches of the GIPA Act**Information and Privacy Commissioner**

Toll free: 1800 472 679
Facsimile: 02 8114 3756
Email: ipcinfo@ipc.nsw.gov.au
Web: www.ipc.nsw.gov.au

Address: Level 17, 201 Elizabeth Street, Sydney NSW 2000

For disclosures about maladministration:**NSW Ombudsman**

Phone: 02 9286 1000
Toll free (outside Sydney metro): 1800 451 524
Facsimile: 02 9283 2911
Email: nswombo@ombo.nsw.gov.au
Web: www.ombo.nsw.gov.au

Address: Level 24, 580 George Street, Sydney NSW 2000

For disclosures about local Councils:**Office of Local Government**

Phone: 02 4428 4100
Facsimile: 024428 4199
Email: olg@olg.nsw.gov.au

Web: www.olg.nsw.gov.au

Address: 5 O'Keefe Avenue, Nowra NSW 2541

Date Policy Adopted	Minute No	Authority
21 March 2018	37689	Council Resolution





14.3 AMENDMENT TO DUNGOG LOCAL ENVIRONMENTAL PLAN 2014 - AMEND MAPPING ERRORS IN DUNGOG HERITAGE CONSERVATION PRECINCT

File Number: EF20/21

Author: Strategic Planner

Authoriser: General Manager

Annexures:

1. Heritage Map - Sheet HER_009AC 2014 - 2016 [↓](#) 
2. Heritage Map - Sheet HER_009AC 2016 - to date [↓](#) 
3. Heritage Map - Sheet HER_010AD 2014 - 2016 [↓](#) 
4. Heritage Map - Sheet HER_010AD 2016 - to date [↓](#) 

Precis

This report is for Council to consider the preparation of a submission to the Department of Planning Industry and Environment (DPIE) for an expedited amendment to the Dungog Local Environmental Plan 2014 to correct two (2) mapping errors in the LEP Heritage Maps. This submission is to be made under section 3.22 of the *Environmental Planning and Assessment Act 1979* and will be forwarded to DPIE for consideration.

RECOMMENDATION

That:

1. Council prepare a submission to amend the Dungog Local Environmental Plan 2014 under section 3.22 of the *Environmental Planning and Assessment Act 1979* and forward such submission to the Department of Planning Industry and Environment for consideration
2. A report be returned to Council advising the outcome of the request

REPORT

There are mapping errors in two (2) of the heritage maps of the Dungog Local Environmental Plan 2014 (DLEP). These errors relate to labelling in one instance and the misidentification of an item in another instance. These errors are minor in nature and can be considered under section 3.22 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Section 3.22 of the EP&A Act allows for expedited amendments to the LEP in the instance there has been a minor error, mis-description or a grammatical or spelling error. The amendment can be carried out under this section without the need for compliance with section 3.33 and section 3.34 of the EP&A Act, requiring the preparation of planning proposal.

In 2015, Council prepared a planning proposal to amend Schedule 5 of the DLEP to correct property descriptions, addresses, names and mapping anomalies. Due to this amendment, there have been changes to the Heritage Maps for the Dungog Conservation area, wherein a label for the Dungog Commercial Precinct is absent between the original gazettal in 2014 and the gazettal of amendment No. 2 in 2016. Full LEP map tiles are provided in an appendix to this report with excerpts below.

Both the commercial and residential heritage conservation precincts of the DLEP are referenced in Chapter 17 of Councils Development Control Plan. Section 9.2 of the Chapter refers to the Dungog commercial precinct heritage conservation area and section 9.3 refers to the Dungog Residential precinct heritage conservation. For legibility and clarity for the community, the amendments to the DLEP will align with the existing chapters of the DLEP and clearly represent the correct heritage precincts.

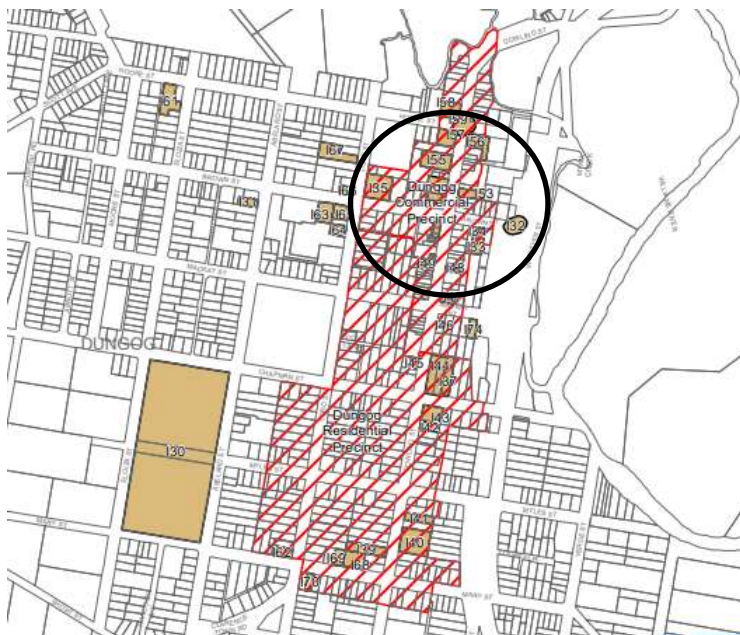
Error 1 – Missing label in the Dungog Heritage Conservation Area

Figure 1: Excerpt from *Dungog Local Environmental Plan 2014 Heritage Map - Sheet HER_009AC* current for the period 1 June 2014 to 15 Dec 2016 showing the *Dungog Commercial Precinct* label

Figure 1 shows an excerpt of the original gazetted Heritage map sheet of the DLEP, where the *Dungog Commercial Precinct* is clearly labelled. However, in Figure 2, the Heritage map gazetted as part of amendment 2, the *Dungog Commercial Precinct* label has been removed and an additional *Dungog Residential Precinct* label has been provided to label the northern section of the residential precinct.

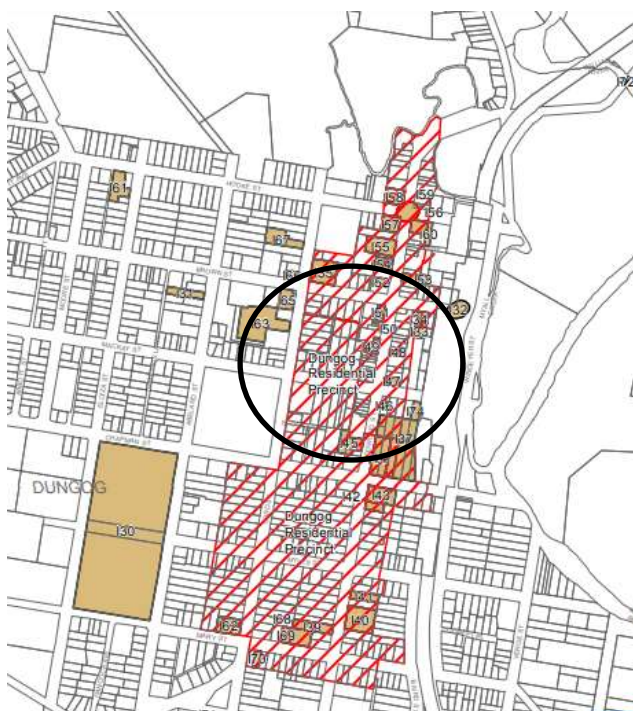


Figure 2: The current Heritage map showing the application of the multiple *Dungog Residential Precinct* labels and the absence of the *Dungog Commercial precinct* label. *Heritage Map Sheet HER_009AC 16 Dec 2016 – to date.*

Error 2 – Incorrect identification of archaeological item on mapping

The second error is the misidentification of an archaeological heritage item on mapping sheet HER_010AD. The item, being item I150 is listed in Schedule 5 Part 3 of the DLEP as having local significance. The site name for the item is Marshall & Lowe “Deptford” shipyard site, Fotheringaye and the property description is Lot 7303 DP1132982. The item is a crown reserve with no street frontage, adjoining the Williams River. Figure 3 shows the correct site and property description.



Figure 3 Item I150, Lot 7303 DP 1132982 known as Marshall & Lowe "Deptford" shipyard site, Fotheringaye.

Both the original map, HER_010AD dated 1 Jun 2014 – 15 Dec 2016 and the current map updated as part of Amendment 2 dated 16 Dec 2016 to date, have identified the wrong lot as item I150. The lot identified is instead, Lot 1 DP62789, commonly known as 27 Fotheringay Road, Clarence Town. This mapping sheet was updated as part of Amendment 2, to correctly identify a different item. As part of amendment 2, the error related to item I150 was not corrected, therefore this submission to DPIE will seek to correct it, under Section 3.22 of the EP&A Act.

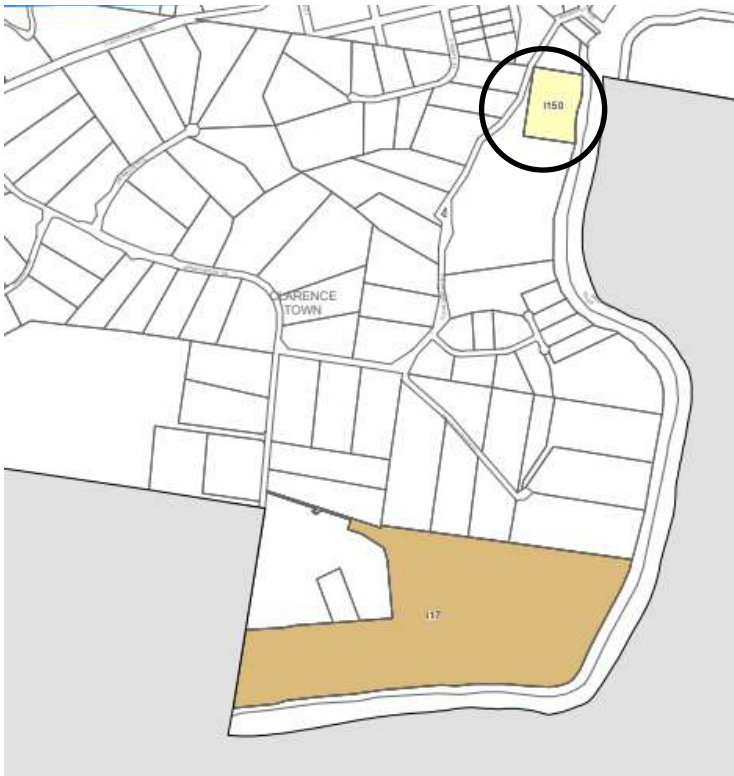


Figure 4: Exert from DLEP Map Sheet HER_010AD dated 16 Dec - to date showing the identification of the wrong lot as Item150

COMMUNITY STRATEGIC PLAN

Community and Culture

DELIVERY PROGRAM

Rural and Urban Development

IMPLICATIONS

Finance and Resourcing

There are no financial implications resulting from the submission of the application under Section 3.22 of the DLEP as the preparation of a planning proposal and supporting studies is not required.

Previous Council Resolutions

Nil

Statutory/Legislative

The legislative process for undertaking this amendment is under section 3.22 *Expedited amendments of environmental planning instruments* of the *Environmental Planning and Assessment Act 1979*.

3.22 Expedited amendments of environmental planning instrument (cf previous s 73A)

(1) *An amending environmental planning instrument may be made under this Part without compliance with the provisions of this Act relating to the conditions precedent to the making of the instrument if the instrument, if made, would amend or repeal a provision of a principal instrument in order to do any one or more of the following—*

(a) *correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error,*

(b) *address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature,*

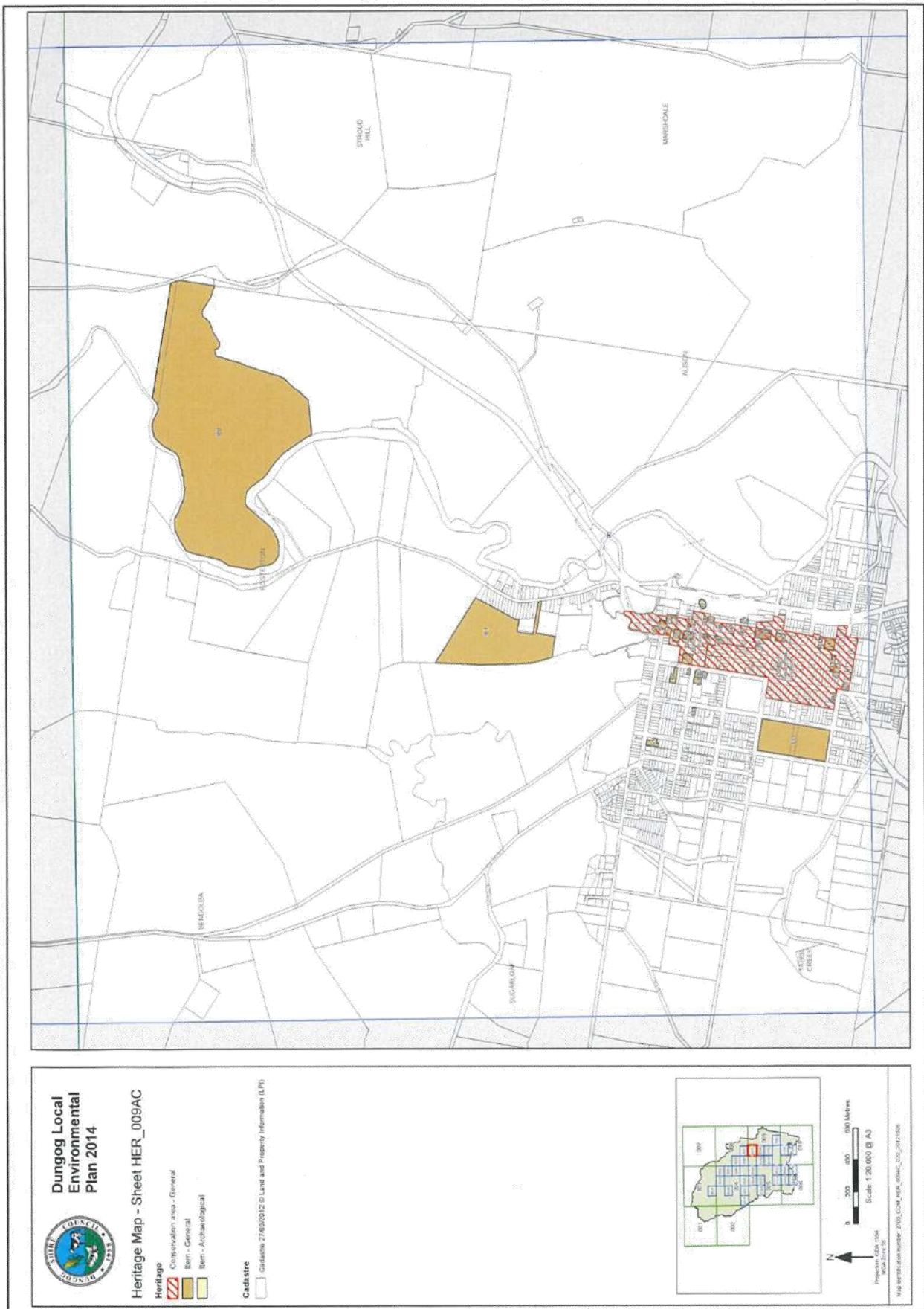
(c) *deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.*

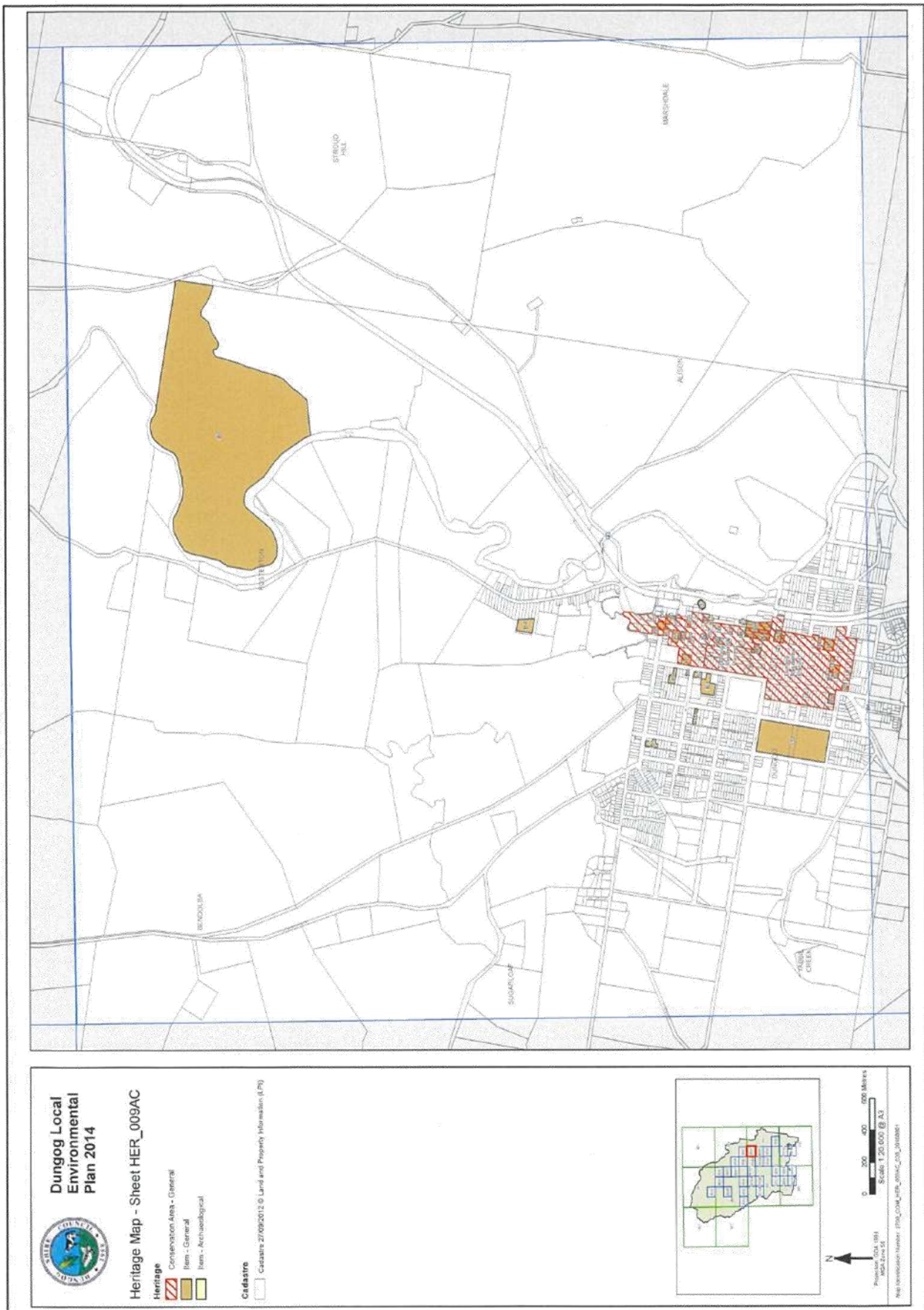
(2) *A reference in this section to an amendment of an instrument includes a reference to the amendment or replacement of a map adopted by an instrument.*

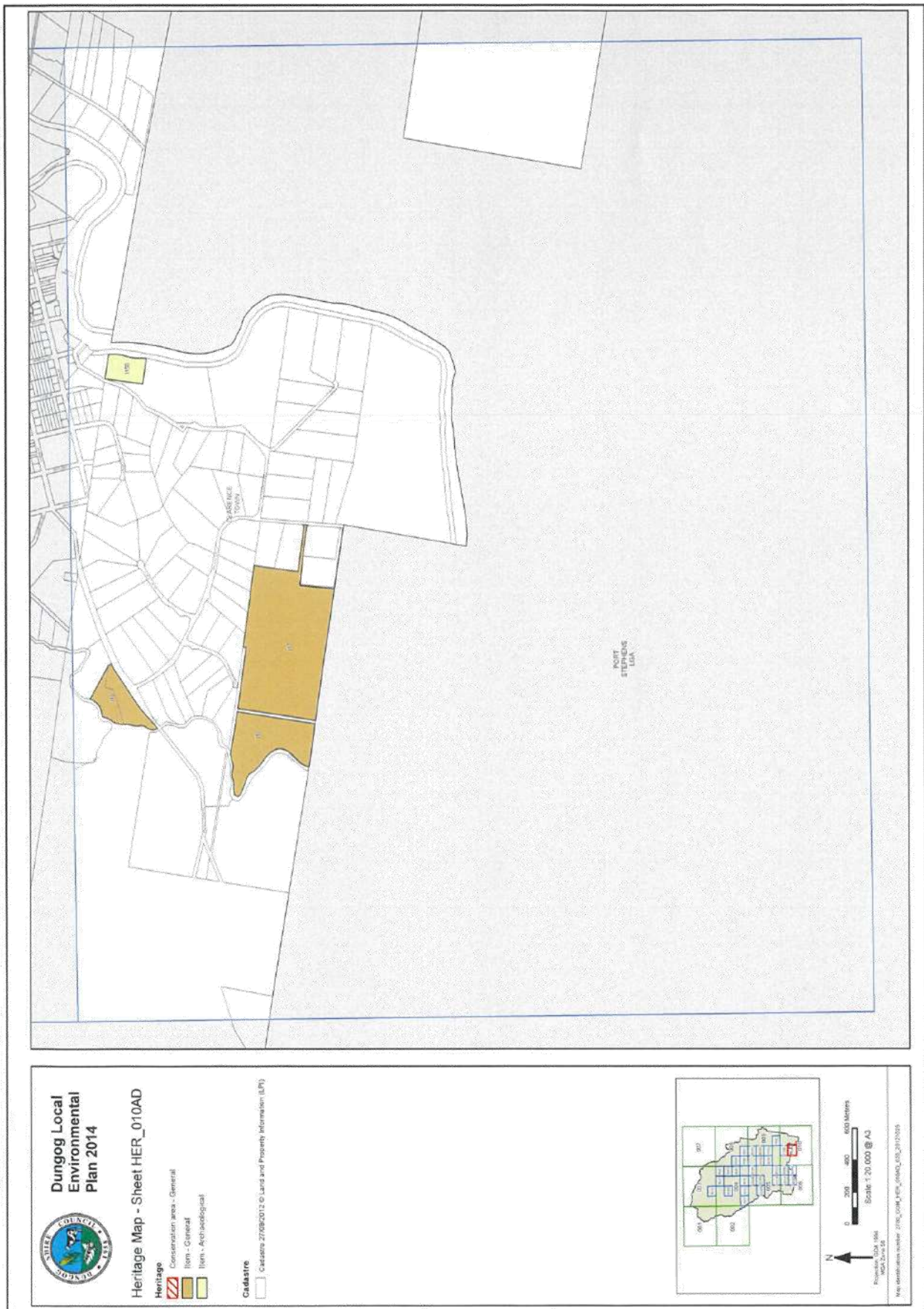
This process allows Council to resolve to submit an application to DPIE for the purposes of amending the plan, without the requirement to initiate a formal planning proposal under section 3.33 and 3.34 of the EP&A Act. The correction of these two errors can be considered under Clause 1(a) of Section 3.22.

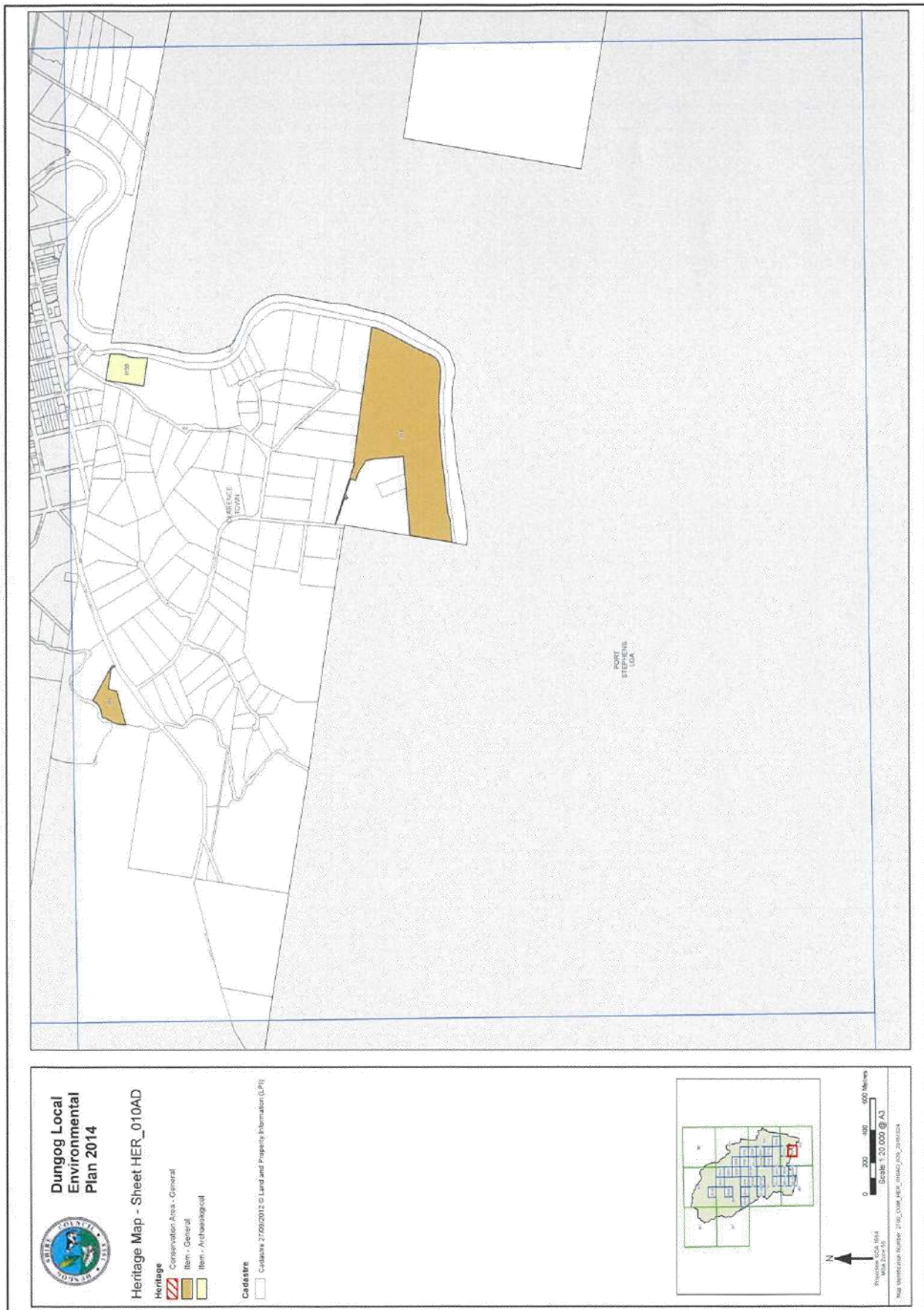
Community Consultation

As these amendments are minor errors in the mapping, without affect to landowners, there will be no community consultation required under the expedited process, under section 3.22.









14.4 RESOLUTIONS TRACKING REPORT 2020

File Number: EF19/33

Author: General Manager

Authoriser: General Manager

Annexures: 1. Resolutions Tracking Report to November 2020 [↓](#) 

Precis

The purpose of this report is to provide Council with a regular update on the implementation of Council resolutions.

RECOMMENDATION

That the report be received and the information noted.

REPORT

Annexure '1' contains a list of pending actions from previous meetings as well as completed actions for the period January 2019 to the November 2020 Ordinary Meeting and is provided for Councillors information.

IMPLICATIONS

There are no implications associated with this report, information only.

2019/20 COUNCIL RESOLUTIONS – ITEMS REQUIRING FURTHER ACTION			
21 AUGUST 2019 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
General Manager Department	Dungog Regional Tourism Board Selection Process Minute No. 38159	<ol style="list-style-type: none"> 1. The Council representatives on the Dungog Regional Tourism Inc. Director selection panel will be Councillors Murphy and Lyon. 2. A position paper be prepared for consideration at the September 2019 Ordinary Meeting of Council in regard to tourism strategy, interface with Dungog Regional Tourism Inc. and tourism funding generally. 	
COMPLETION STATUS & DATE	x Not complete	OFFICER COMMENTS	<ol style="list-style-type: none"> 1. Complete 2. Report on tourism strategy and interface delayed pending revised staffing arrangements.
General Manager Department	Matters Associated with the Operation and Future Direction of Council's Section 355 Committees Minute No. 38169	<ol style="list-style-type: none"> 1. A review be undertaken, in conjunction with current Committee Members, of all Section 355 Committee constitutions to ensure that those constitutions are fit for purpose and consistent with statutory imperatives and contemporary management best practice. 2. A report be provided to the October 2019 Ordinary Meeting of Council to seek Council adoption of the revised and updated Section 355 Committees constitutions and, in conjunction with that adoption, formal delegation of authority to the Committees. 3. A program of training and resource preparation be developed and implemented to assist the Section 355 in understanding their roles and the nature of their delegated authority. 4. An analysis be undertaken of all Plans of Management applying to the assets managed by Section 355 Committees with a view to the development of new Plans of Management where current Plans are viewed as being deficient or out of date. This review to be undertaken in conjunction with the review and Plan preparation process to be undertaken in regard to all Council managed Crown Land. 5. Development of the new Plans of Management be undertaken utilising in house resources only. 6. A Masterplanning process and subsequent business plan and Plan of Management development process be undertaken in regard to the James Theatre to guide the Theatre's development as one of our most important and unique visitor economy and community assets. 	
COMPLETION STATUS & DATE	x Not complete	OFFICER COMMENTS	<ol style="list-style-type: none"> 1. Staff currently reviewing constitutions 2. Report delayed pending revised staffing arrangements. 3. Dependant on 1 & 2 above 4. Commenced – POM priority currently with Dungog Showground and Paterson Sportsground 5. Noted 6. Commenced – correspondence regarding the process provided to 355 Committee Chair and Friends of James Theatre Chair.

18 DECEMBER 2019 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
Planning Department	Review of Council Policy C4.4- Establishment of Bed & Breakfast Amenities within the Shire of Dungog. Minute No. 2019/8	<ol style="list-style-type: none"> 1. Rescind Policy No C4.4 Establishment of Bed & Breakfast Amenities within the Shire of Dungog. 2. Council officers prepare an updated DCP No.1 Chapter 11 - Tourism Development so as not to be inconsistent with the terms of DUNGOG LEP 2014 and the BCA and to provide a contemporary guide for bed & breakfast accommodation development within Dungog LGA. The draft Chapter 11 is to be reported back to Council prior to being placed on public exhibition. 3. Monitor any legislative changes in respect of the inclusion of Short Term Rental Accommodation as a land use definition and if necessary update Council's relevant strategic documentation to reflect these outcomes. 4. Review the Comprehensive Local Environmental Plan with consideration given to whether a time limitation should be placed on the operation of short term rental accommodation, and expansion of the land use zones within which Tourist and Visitor Accommodation development are permitted. 	
COMPLETION STATUS & DATE	x Not complete	OFFICER COMMENTS	1, 3 Complete 2, 4: Not complete
19 FEBRUARY 2020 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
Planning Department	State Environmental Planning Policy (Koala Habitat Protection) 2019 Minute No. 2020/10	<ol style="list-style-type: none"> 1. Council receive and note the report. 2. Manager Planning provide a further report to include the following information as regards Council preparing a Shire Wide Koala Management Plan: <ul style="list-style-type: none"> • Resourcing implications (finding the relevant expertise to develop the plan and estimated time to complete the plan). • Projected financial implications taking into account the increased number of koala feed tree species identified in Schedule 2 of the SEPP and identification of such; and the need to have more defined spatial mapping to produce a Shire wide / Local Koala Development Application Map that includes the Site Investigation Areas for Koala Plans of Management Maps. 	
COMPLETION STATUS & DATE	x Not complete	OFFICER COMMENTS	Currently investigating requirements of other Government agencies and indicative costings.
18 MARCH 2020 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
General Manager Confidential	Communications Consultancy Minute No. 2020/60	<ol style="list-style-type: none"> 1. Council continues with a communications presence including Social Media. 2. Council continues with the web site re-development and launch. 3. Council delegate the General Manager engage appropriate resources to complete the initiatives numbered one to six as detailed within the report but excluding four. 4. The General Manager supply Council with an updated financial position on this at the next Council meeting. 5. Corporate branding be the subject of a further report to Council. 	
COMPLETION STATUS & DATE	x Not complete	OFFICER COMMENTS	1. Continuing 2. Complete. 3. Complete. 4. Covid-19 has prevented progression on this item. 5. Continuing.

20 MAY 2020 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
General Managers Department	Community Engagement Websites Minute No. 2020/100	1. Council endorse the creation of an updated web presence for community engagement for both business community and document exhibition. 2. Both web portals are presented to council in a format ready to be adopted prior to being released to the public.	
COMPLETION STATUS & DATE	× Not complete	OFFICER COMMENTS	Workshop held 7 September 2020
15 JULY 2020 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
Infrastructure & Assets Department	Grazing Leases Minute No. 2020/148	1. Identify through a workshop the value and/or process for determining the value for the calculation of lease fees; 2. Following the workshop staff write to existing lease holders requesting for them to respond to Council:- a) Indicating if they were willing to enter into new lease agreements for a further term (nominally 5 years); or b) Advising that they no longer willing to enter into a lease arrangement; or c) Expressing an interest to purchase the land. 3. Where an existing lease holder declines to continue the lease, staff write to property owners that adjoin the subject land asking them to respond to Council indicating if they were willing to enter into new lease agreements for a further term (nominally 5 years); 4. A further report be provided to Council at the conclusion of the above process.	
COMPLETION STATUS & DATE	× Not complete	OFFICER COMMENTS	In Progress.
16 SEPTEMBER 2020 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
Infrastructure & Assets Department	Dungog Shire Community Centre - Request for Rent Relief Minute No. 2020/198	1. That the report be noted. 2. That a further report be presented to the next available meeting of Council with a holistic analysis of Council's facilities and requests for rental relief with a view to a consistent shire wide approach to COVID-19 and non-COVID-19 impacts on tenants and user groups and the income of s.355 committees.	
COMPLETION STATUS & DATE	× Not complete	OFFICER COMMENTS	1. Report noted 2. Report not yet commenced due to resourcing focussed on grant submissions

16 SEPTEMBER 2020 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
Infrastructure & Assets Department	<p>Proposed Road Closure - Portion of Queen Street Clarence Town - Proposed Lot 100 DP1266973</p> <p>Minute No. 2020/201</p>	<p>That Council:-</p> <ol style="list-style-type: none"> Has considered and is satisfied that the part of Queen Street, Clarence Town proposed to be closed, shown as proposed Lot 100 in the plan attached marked "Annexure 2", is not: <ol style="list-style-type: none"> reasonably required as a road for public use for present or future needs; required to provide continuity for any existing road network; and the only means of vehicular access by public road to surrounding land as there is alternative public road access via either King Street or Prince Street, Clarence Town. Delegates authority to the General Manager to carry out the functions of the Council as the roads authority to close that part Queen Street, Clarence Town, (proposed Lot 100) being a council public road in accordance with the Roads Act 1993 including to: <ol style="list-style-type: none"> cause notice of a proposed closure of a public road to be notified in accordance with s38B; appeal against any formal objection made by a notifiable authority under s38C(3); consider any submission made; publish a notice in the Gazette to close the public road (s38D); and classify the closed public road, being proposed Lot 100, as community land. 	
COMPLETION STATUS & DATE	✓ Complete	OFFICER COMMENTS	
Infrastructure & Assets Department	<p>Encroachment on Council Road Reserve - 47 Earl Street Clarence Town</p> <p>Minute No. 2020/202</p>	<p>That Council permit the creation of an easement in the Earl Street road reserve immediately adjoining the frontage of 47 Earl Street, Clarence Town to permit the encroaching structures to remain subject to:-</p> <ol style="list-style-type: none"> Removal of the encroachment and extinguishment of the easement will be required upon redevelopment of the property; The area occupied being valued for a payment to be made in compensation for the alienation of public land for private use; and The adjoining owner being required to meet all costs in preparing the agreement 	
COMPLETION STATUS & DATE	✗ Not complete	OFFICER COMMENTS	In progress

16 SEPTEMBER 2020 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
Infrastructure & Assets Department	Proposed Closure and Development of a Portion of Queen Street Clarence Town - Proposed Lot 100 DP1266973 Minute No. 2020/213	<ol style="list-style-type: none"> 1. That Council undertakes the relevant notifications to residents and appropriate service providers in relation to the proposed Queen Street road closure; 2. If no significant objections are received during the prescribed timeframe (being 28 days), that Council authorises construction to commence on the construction pad and associated drainage works in Queen Street, Clarence Town in relation to the Clarence Town Sports Building Facility; and 3. That the General Manager continue to work with the grant funding provider in relation to extending and/or achieving the milestones and timeframes in relation to this project. 	
COMPLETION STATUS & DATE	✓ Complete	OFFICER COMMENTS	
21 OCTOBER 2020 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
Infrastructure & Assets Department	Public Amenity Cleaning Expenditure and Accessibility Review Minute No. 2020/228	<p>That Council modify the levels of service for Public Amenities as per the following:-</p> <ol style="list-style-type: none"> 1. Dungog:- <ol style="list-style-type: none"> (a) Undertake a weekend clean of the Brown Street, James Theatre accessible amenities and Lioness Park amenities in addition to their regular cleaning schedule; (b) Maintain full 24 hour/7 day per week access to the Brown Street, James Theatre and Lioness Park amenities; (c) Maintain partial access to all other Dungog amenities as follows:- <ol style="list-style-type: none"> (i) Weekdays – Open 7.00am until 4.30pm; (ii) Weekends – Closed. 2. Clarence Town - Maintain full 24 hour/7 day per week access to the Clarence Town School of Arts amenities including 3 weekday and 1 weekend clean; 3. Paterson - Maintain full 24 hour/7 day per week access at both John Tucker Park and Kings Wharf Reserve amenities including 3 weekday and 1 weekend clean; 4. Vacy - Maintain full 24 hour/7 day per week access at Vacy Park amenities including 2 weekday and 1 weekend clean; 5. East Gresford - Maintain full 24 hour/7 day per week access at both Orana Park and Gresford School of Arts amenities including 3 weekday and 1 weekend clean. 6. Provide an additional allocation of \$100,000 to the Public Amenities maintenance vote acknowledging this will have a direct effect on Council's annual budget forecast. 	
COMPLETION STATUS & DATE	✓ Complete	OFFICER COMMENTS	

21 OCTOBER 2020 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
Office of the General Manager	Supportive actions for the future of the Dungog Common Minute No. 2020/234	<ol style="list-style-type: none"> 1. That Council recognise and support the Dungog Common as an important driver and catalyst for mountain biking, recreation opportunities and recreation-based tourism which benefits the health, economy and environment of the Dungog Shire and wider region. 2. That Council supports the Dungog Common by working collaboratively with state agencies and the land manager and committing to prioritise the assessment of development applications and the additional permitted use planning proposal, in a timely and efficient manner to facilitate quality recreation outcomes which reflect the Crown Reserve purpose 3. That Council continue to work with relevant state agencies, in particular Crown Land NSW, to seek funding assistance for Council to facilitate the long term planning proposal of the Dungog Common that has been requested by Crown Lands NSW. 4. That Council note the broad and supportive actions carried out by Council will assist the Dungog Common, and related user groups, to be eligible for grant funding that will help to ensure long term viability of mountain biking and recreation opportunities. 5. That Council continue to actively promote and share our activities and collaborative projects with the Dungog Common in our community newsletters and on our website, social media pages and in the media 6. That Council include the Dungog Common to Dungog Showground Trail Project in the Operation Plan 2020/21 and seeks grant funding to further progress the proposal. 	
COMPLETION STATUS & DATE	× Not complete	OFFICER COMMENTS	Progressing
Office of the General Manager	Sculpture on the Farm - Acquisitive Art Prize Minute No. 2020/236	<ol style="list-style-type: none"> 1. That Council accept the donation by Sculpture on the Farm Inc. of the "Theatre of the Shadow" Sculpture by artist Peter Tilley and authorise the execution of the Deed of Donation by the Mayor and General Manager and the seal of the Council to be affixed to the Deed. 2. That the General Manager in consultation with Peter Tilley determine the location of the sculpture with the options being - in front of the Council in Dowling St: outside the Library in Mackay St or other locations within the vicinity of those two locations 3. That the General Manager, as part of the Operational Plan 2020/21 Action 8.2 to secure funding to develop a Cultural Plan, include the feasibility of planning and constructing a sculpture walk between the Library and Hooke Street, as an action in the new Cultural Plan. 	
COMPLETION STATUS & DATE	× Not complete	OFFICER COMMENTS	<ol style="list-style-type: none"> 1. Complete 2. Meeting held 18/11/2020 3. Progressing

21 OCTOBER 2020 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
Office of the General Manager Confidential Report	Tillegra Bridge - Land Acquisitions Minute No. 2020/245	<ol style="list-style-type: none"> 1. That council acquires part of Lot 22 DP752494 being proposed for acquisition on drawing titled "Proposed Acquisition Lot 22 DP752494 - Rev F" with an area of 85m² for road widening – shown in attachment 1; 2. That council acquires part of Lot 7001 DP96429 being proposed for acquisition on drawing titled "Proposed Acquisition Lot 7001 DP96429 - Rev F" with an area of 395m² for road widening – shown in attachment 2; 3. That council acquires part of Crown Land being proposed for acquisition on drawing titled "Proposed Acquisition Crown Lands - Rev F" with an area of 665m² for road widening – shown in attachment 3; 4. That council acquires part of Lot 204 DP 1214059 being proposed for acquisition on drawing titled "Proposed Acquisition Lot 204 DP 1214059 - Rev F" with an area of 299m² for road widening – shown in attachment 4; 5. That Council authorise the General Manager to negotiate compensation with the property owners by private agreement for acquisition of proposed Lot 22 in DP752494, Lot 7001 in DP96429, a portion of Crown Land and Lot 204 DP 1214059 in accordance with the Land Acquisition (Just Terms Compensation) Act 1991; 6. That in the event negotiation with the property owners cannot be satisfactorily finalised that Council make application to the Office of Local Government for approval of the Minister and Governor to proceed with compulsory acquisition of the proposed acquisitions in this report. 7. Council authorises the Mayor and/or General Manager to execute all documents relating to the acquisition between Dungog Shire Council and: <ol style="list-style-type: none"> (a) The owner of Lot 22 DP752494 (b) The owner of Lot 7001 DP96429 (c) The owner of the Crown Land over the watercourse; (d) The owner of Lot 204 DP 1214059 8. Council authorises the Mayor and/or General Manager to execute all documents relating to any applications to the Office of Local Government that may be required for any compulsory acquisitions 	
COMPLETION STATUS & DATE	× Not complete	OFFICER COMMENTS	

18 NOVEMBER 2020 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
Mayoral Minute	Mayoral Minute - Boer War Memorial Alexander Eagleton Gates Minute No. 2020/247	<ol style="list-style-type: none"> 1. Council notes the review of the original decision by the ANZAC Committee to relocate the Boer War Memorial Alexander Eagleton Gates and supports the original decision to relocate the gates to the main Cenotaph in Grey Street Clarence Town, and 2. The relocation of the Boer War Memorial, Alexander Eagleton Gates be carried out after Armistice Day 2020 and be completed before ANZAC Day 2021 3. That Council, subject to any Public Health Order requirements, support the concept of a community led ceremony at the relocated gates to commemorate Boer War Day being on or around 31 May 2021. 4. That Council writes to NSW Veterans Affairs advising of the outcome of the review and of Council's support for the relocation decision 	
COMPLETION STATUS & DATE	× Not complete	OFFICER COMMENTS	
Environmental Services	Deteriorating Water Quality in the Seaham Weir Pool Minute No. 2020/252	<ol style="list-style-type: none"> 1. That correspondence signed by the Mayor and General Manager as provided in Annexure 2, be forwarded to the NSW Premier and Minister for Water, Property and Housing, requesting a response to Council's letter of 16 January 2020. 2. That correspondence be forwarded to the Minister for Water, Property and Housing, the Minister for the Environment, the Shadow Minister for the Environment and the Secretary -Transport for NSW requesting advice on the status of the Williams River Erosion Management Plan and Stakeholders Group 	
COMPLETION STATUS & DATE	× Not complete	OFFICER COMMENTS	<ol style="list-style-type: none"> 1. Complete 2.
Environmental Services	Circular Economy Procurement Memorandum of Understanding Minute No. 2020/253	<ol style="list-style-type: none"> 1. That Council endorse the signing of a memorandum of understanding (MoU) between the Hunter Joint Organisation (Hunter JO) and all Hunter councils (including Central Coast), as a Statement of Intent to prioritise the procurement of recycled content products and circular economy services across Hunter JO member Councils, and with Central Coast Council. 2. That the Mayor and General Manager be signatories to the MoU. 	
COMPLETION STATUS & DATE	× Not complete	OFFICER COMMENTS	

18 NOVEMBER 2020 ORDINARY MEETING – ACTION ITEMS			
DEPARTMENT	REPORT	COUNCIL RESOLUTION	
Infrastructure and Assets Department	Alison Court Committee Minute No. 2020/254	<ol style="list-style-type: none"> 1. Dissolve the Dungog Aged Persons Units Committee (Alison Court Committee); 2. Request the residual funds of \$8,734.76 be donated to Council and placed in a Restricted Asset; 3. Formally acknowledge and commend, by means of a Letter from the Mayor, the efforts of Mr Doug Shelton for his commitment to the Alison Court facility; 4. Advise the Dungog Aged Persons Units Committee and the Alison Court residents of Council's decision. 	
COMPLETION STATUS & DATE	✓ Complete	OFFICER COMMENTS	Items 1, 2, 3 & 4 complete
Office of the General Manager	Correspondence from Arts Upper Hunter - Meeting Minutes June 2020 Board Meeting Minute No. 2020/260	<ol style="list-style-type: none"> 1. Council note the correspondence from Arts Upper Hunter 2. Council re-nominates Councillor Robert Booth as delegate to represent Dungog Shire on the Arts Upper Hunter Board for 2020/21. 	
COMPLETION STATUS & DATE	✓ Complete	OFFICER COMMENTS	Items 1, 2, complete
Office of the General Manager	Dungog Shire Council Community Small Grants Recommendations Minute No. 2020/265	<ol style="list-style-type: none"> 1. Note and endorse the Community Small Grants Program 2020/2021 funding recommendations to be funded by Council as provided in Annexure 1 and 2. Note the Community Small Grants Program 2020/2021 recommendations to be funded by Hunter Water (Love Water) as provided in Annexure 2. 	
COMPLETION STATUS & DATE	✗ Not complete	OFFICER COMMENTS	
Office of the General Manager	74 Common Road, Dungog Minute No. 2020/269	<ol style="list-style-type: none"> 1. That this matter be deferred until the next Ordinary meeting of Council to be considered in conjunction with a report by the General Manager on Council properties. 	
COMPLETION STATUS & DATE	✗ Not complete	OFFICER COMMENTS	Matter to be reported to Feb 2021 meeting following finalisation of Strategic Property Review documentation.

14.5 NSW OFFICE OF LOCAL GOVERNMENT CIRCULARS

File Number: EF08/142
Author: General Manager
Authoriser: General Manager
Annexures: Nil

Precis:

Providing a summary of circulars that have been released by the NSW Office of Local Government.

RECOMMENDATION

That the report be received and the information noted.

REPORT

The following circulars have been released by the Office of Local Government and the intent of this report is to keep Councillors informed of changes and/or requirements that Council officers may be required to implement. The circulars themselves may be found on the Office of Local Government's website (www.olg.nsw.gov.au). It is not the intent to reproduce such circulars but moreso provide them as a point of reference to Councillors should they wish to undertake further research.

When there is a requirement to inform Councillors or designated officers of a matter, correspondence and attachments will still be submitted to all Councillors in accordance with the requirements of the Director General of the Office of Local Government. Such circulars will be highlighted in **bold text**. The following Circulars have been released since 1 November 2020.

Date	Circular No.	Details
25/11/2020	20-38	Special Rate Variation and Minimum Rate Variation Guidelines and Process
30/11/2020	20-39	Constitutional Referendums and Council Polls

IMPLICATIONS

There are no implications associated with this report, information only.

14.6 NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL SESSION

File Number: EF19/70
Author: General Manager
Authoriser: General Manager
Annexures: Nil

Precis

Reporting on the intention to deal with matters in Confidential Session.

RECOMMENDATION

1. That Council considers in Confidential Session the following matters in accordance with Sections 10A (2)(di) of the *Local Government Act 1993*:
 - Report No. 18.1 Proposed Closure and Sale of Public Road Lot 45 DP883919 895 Fosterton Road, Fosterton
 - Report No. 18.2 Tender 08/2020 – Williams River Holiday Park Amenities Block
 - Report No. 18.3 Economic Development
2. That the General Manager reports on these matters to the meeting in Open Session following completion of the Confidential Session.

REPORT

It is necessary for the Council to adopt a resolution to formalise its intention to deal with certain matters in Confidential Session. The reports are incorporated in the “Confidential” business paper which has been circulated to Councillors.

The *Local Government Act 1993* requires the General Manager to identify those matters listed on the business paper which may be categorised as confidential in terms of *Section 10A of the Local Government Act 1993*.

15 NOTICES OF MOTION

Nil

16 COMMITTEE & OUTSIDE ORGANISATIONS REPORTS

Nil

17 QUESTIONS WITH NOTICE

Nil

18 CLOSED COUNCIL**RECOMMENDATION**

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 10A(2) of the Local Government Act 1993:

18.1 Proposed Closure and Sale of Public Road Lot 45 DP883919 895 Fosterton Road, Fosterton

This matter is considered to be confidential under Section 10A(2) - c of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

18.2 Tender 08/2020 - Williams River Holiday Park Amenities Block

This matter is considered to be confidential under Section 10A(2) - c of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

18.3 Economic Development

This matter is considered to be confidential under Section 10A(2) - a of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with personnel matters concerning particular individuals (other than councillors).

19 RESUMPTION OF OPEN COUNCIL