

JRPP Number	2011NTH023
DA No.	DA415/2011
Proposed Development	Staged Development – Stages 2-5 Motel Accommodation total 650 rooms.
Applicant	The MAC Services Group
Report By	Mr Nick Wilton – Narrabri Shire Council - Manager Planning and Development Services

Assessment Report and Recommendation

Owner	MAC Services Group
Lodgement Date	14 June 2011
Capital Investment Value	\$33 Million
Land Zoning	1(a) General Rural
Current use and Development	Motel and Vacant Land

Purpose

The purpose of this report is to place before the Joint Regional Planning Panel (Northern Region) for determination the following application:

Number:	DA 415/2011
Applicant:	The Mac Services Group Pty Ltd
Owner of Site:	The Mac Services Group Pty Ltd
Site:	96 Old Gunnedah Road, Narrabri
Title Description:	Lot 100 in Deposited Plan 1161967
Zone:	1(A) General Rural (Narrabri Local Environment Plan Number 2) 1(A) General Rural (Narrabri Local Environment Plan 1992) (see attached zoning arrangement)
Proposed Capital Invest Value:	\$33 Million Dollars CIV
Proposed Development:	Staged Development: (Stages 2-5 being a total of 650 rooms and ancillary structures)
Proposed Use:	Motel (Accommodation for mining employees and the general public where necessary).
Current Use:	Motel accommodation and vacant land

Background

A development application has been lodged with Council for the purposes of seeking development consent of a staged motel accommodation development. The application fundamentally proposes a village style development for the accommodation of both mining employees and also the general public where requested.

The proposed site for the development is at the current stage 1 site which supports 242 accommodation rooms, laundry facilities and also dining facility. The land prior to the stage 1 development was a vacant rural holding which is bounded by O'Connor's Lane, Arnold Street, and Old Gunnedah Road Narrabri.

The land is located upon the urban fringe of Narrabri and is centrally located within thirty minutes drive of the current three coal mining operations (Idemitsu (Boggabri Coal), Turrawonga Coal and also the underground operation of Narrabri Coal). A fourth Coal mine is expected in early 2012 for Aston resources which will be located within the Maules Creek vicinity. Current approvals are being sought through the major development State Environmental Planning Policy for the extension of the Turrawonga Coal development and also the Idemitsu mining operation.

Recent mining activities including coal and gas construction contractors have exhausted an existing shortage of accommodation in Narrabri. It is evident both from a review of current motel occupancy rates and also real estate rental supplies that accommodation is becoming increasingly difficult to find in the Narrabri Local Government Area. A real issue that is also currently surfacing in light of the mining exploratory and operational phases, is housing affordability. Investors have capitalised on strong market rental values which is causing a local rental accommodation affordability crisis. This has predominantly evolved over the past 5 years and there is an evident nexus to the increase in exploratory activity and operational output and expansions of the mining sector.

¹ Pursuant to section 23 of the Environmental Planning and Assessment Act 1979, the application has been referred to the Joint regional Planning Panel being the consent authority for the application on the basis that the capital investment value of the development exceeds \$20 million dollars.

Shortages of accommodation experienced during the construction phase of mining shall be further stretched as the workforce for the operation of the mining commences predominantly for Whitehaven Coal and also Aston Resources, Turrawonga Coal and Boggabri Coal in 2012. The facilitation of accommodation services industries has been partially met by a number of smaller developments such as serviced apartments and also unit development and to an extent of minor motel extensions². It is noted however in order to cope with the initial 240 person operational workforce injection into Narrabri Shire Local Government Area for one mining operation alone being Whitehaven (Narrabri Coal Project), current supplies of accommodation would not be sufficient. In order to cope with the accommodation of such a large scale population movement would require a village of 200+ rooms to facilitate such influx without creating a further negative strain on existing housing supplies. From a review of more recent presentations from the mining companies to Narrabri Shire Council it is expected that the three mines could increase their workforces combined in excess of 1500 workers. The proposed staging of this development will enable these housing demands to be met in the short to medium term. Although contractual arrangements will be put in place with respect to occupation of mining employees within the development, there shall also be provision for the acceptance of the members of the public whether or not related to mining for overnight accommodation.

Mining villages of the past have been characterised by a stigma of negativity including dilapidated and unmaintained 'donga' style developments that have been fraught with very little master planning, have generally been isolated and characterised by many social issues due to lack of control and management.

Well developed, master planned, managed and maintained villages located appropriately upon urban fringes have the ability to contribute not only socially but also contribute economic vibrancy to the community fabric if integrated aptly. This has been evident particularly using the example of Roma where recent mining villages have been established on the urban fringe for provision of mining accommodation to the gas industries. These villages (although predominantly established for the mining employees and not the general public as proposed in the MAC development), have overcome social isolation through incorporating

² The Bowling Club Motel development of 30 rooms was established in 2007 and the Bellview Motel in 2010 increased its rooms by 6 double suites. Executive Oasis has also created 6 serviced apartments in Riverbend Estate in early 2010.

their workers into local sporting programs and local events and also promoting cohesion with the community through sharing of public facilities such as pools, local gyms, sport and recreational grounds for instance.

Description:

The proposal is located on the Old Gunnedah Road and Arnold Street and also O'Connor's lane. The site is bounded by Residential development to the North; Rural residential style development to the West and a commodities industry to the South and Rural Residential style development to the East. The surrounding development could be considered as predominantly residential with a parcel of industrial development on adjacent land to the South. The development is considered to be a compatible land use with respect to the adjacent developments.

The approved stage 1 of the development comprised of;

1. 242 Accommodation cabins in building modules of 12 cabins per module (6 cabins facing each other with a curved covered walk way in between). Of those 242 accommodation cabins 80 of those will be set up as a construction fly camp initially however will be later used as part of the development without alteration. The cabins will be located approximately 2 metres above ground level on concrete columns to allow passage of floodwaters.
2. Construction of a central facilities building comprising of a kitchen, dining, crib and office, maintenance office.
3. Construction of a temporary kitchen for construction workers for stage 1 of the development.
4. Construction of two small laundry buildings.
5. Construction of two gazebo structures to provide outdoor recreation and a meeting place facility for mine workers.
6. 121 car spaces (including 12 large vehicle bays), 4 visitor car spaces and 16 motorbike spaces.

7. A mini bus pick up and set down area including provision for 3 mini buses.
8. Provision of water, sewerage, electricity and telecommunication services to the site.
9. Construction of an internal road network off Arnold Street Narrabri.
10. A 12m x 2m corporate signage wall;
11. Onsite detention pond for any stormwater runoff from the development.

The application presented under DA 415/2011 seeks development consent for stages 2-5 being a residual 408 rooms of the proposed 650 room development.

The development stages comprise of;

Stage 2;

- i.* Accommodation rooms totalling 186 rooms being 62 16 square metre cabins;
- ii.* 2 gazebos
- iii.* 2 laundries at the rear of each building module
- iv.* Extension to the approved central building facility (under DA 97/2011) including the creation of a new administration building and ancillary shop and recreational room.
- v.* Bus waiting area and 189 carspaces
- vi.* Concrete footpaths linking the development.

Stage 3

- i.* Total of 306 rooms
- ii.* 102 x 16 square metre cabins; comprising of 5, 16square metre cabins are to replace the 20 temporary construction cabins built under the application as proposed however this will not occur until the village is completed (ie stage 5).
- iii.* 2 laundries
- iv.* 2 gazebos
- v.* 67 car spaces

- vi. Concrete pedestrian paths

Stage 4

- i. Total of 156 rooms comprising of 48, 16 square metre cabins and 6, 24 square metre cabins
- ii. 2 laundries
- iii. 2 gazebos
- iv. 108 car parking spaces
- v. Concrete pedestrian footpaths

Stage 5

- i. 2 rooms comprising of one 24 square metre cabin
- ii. Extension to the approved dining room facilities building, including an extension to the approved kitchen facility
- iii. 2 Gazebos
- iv. New Gym and multi-purpose room for recreational purposes. This facility will also include a reception, male and female amenities room and decking, kitchenette and plant and store room.
- v. The existing construction compound has been identified to remain until the demand exceeds the villages accommodation supply.
- vi. Required car parking provided in other stages;
- vii. Concrete footpaths

A Statement of Environmental Effects has been submitted in support of the application, it is has been included as an attachment of this report. This document identifies characteristics of the development including definition and also any environmental opportunities and constraints of the development and how it is likely that such constraints may be overcome.

A global information system (GIS) aerial map has been included for reference of the site location and can be seen highlighted in red below (please note the cadastre boundaries of the two allotments have been consolidated)³.

³ Lot 22 in Deposited Plan 583819 has been consolidated along with Lot 133 in Deposited Plan 664594 to create Lot 100 in Deposited Plan 1161867.



Figure 1.0 Lot 100 in Deposited Plan 1161967 cadastral boundary – The Mac Development Site.

Current Position

In light of the detail provided in the background of this report and all associated attachments, the application has been forwarded to Council and subsequently the Joint Regional Planning Panel Northern Region for determination. Council's Manager of Planning and Development Services has assessed the application in accordance with the requirements of section 79C of the *Environmental Planning and Assessment Act 1979* (hereafter the Act). This section of the Act details the minimum criteria under which a consent authority must assess a development application. It provides for a merit based assessment of individual applications under a number of heads of consideration as detailed below:

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) *the provisions of:*
 - (i) *any environmental planning instrument, and*
 - (ii) *any draft environmental planning instrument that is or has been placed on public exhibition and details of which have*

been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

(iii) any development control plan, and

(iii)(a) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

that apply to the land to which the development application relates,

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.

The assessment process and considerations are detailed in the commentary of this report.

While section 79C is used as the basis for assessment, it is also important for the Joint Regional Planning Panel members to understand that the JRPP as a consent authority is not limited to consideration of just the matters listed in this section. The Land and Environment Court has held that the scope of

development assessment is only limited by the objectives of the *Environmental Planning and Assessment Act 1979* and that section 79C is the minimum that is to be considered by a consent authority (*Carstens v Pittwater Council* (1999) NSWLEC 249).

The objectives of the *Environmental Planning and Assessment Act 1979* are detailed in section 5 of the Act and are as follows:

The objectives of this Act are:

(a) *to encourage:*

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) *the protection, provision and co-ordination of communication and utility services,*
- (iv) *the provision of land for public purposes,*
- (v) *the provision and co-ordination of community services and facilities, and*
- (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
- (vii) *ecologically sustainable development, and*

(viii) *the provision and maintenance of affordable housing, and*

(b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*

(c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

Definitions

There are some important land use terms that require definition when considering these activities within the context of the subject application. Definitions are derived from both the *Narrabri Local Environmental Plan 1992 (LEP 1992)* and *Narrabri Local Environmental Plan Number 2 (LEP Number 2)* which make reference to the *Environmental Planning and Assessment Model Provisions 1980 (Model Provisions)*. Although the model provisions have been repealed by legislation it is noted that by virtue of clause 6 they are retained by the savings and transitional provisions for use in the context of the *Narrabri Local Environment Plans 2 and 1992*.

1(a) General Rural - under **Narrabri Local Environment Plan Number 2**. The Objective of this zone are to promote the proper management and utilisation of resources by:

(a) *protecting, enhancing and conserving:*

(i) *agricultural land in a manner which sustains its efficient and effective agricultural production potential,*

(ii) *soil stability by controlling and locating development in accordance with soil capability,*

(iii) *forests of existing and potential commercial value for timber production,*

- (iv) *valuable deposits of minerals, coal, petroleum and extractive materials by controlling the location of development for other purposes in order to ensure the efficient extraction of those deposits,*
- (v) *trees and other vegetation in environmentally sensitive areas where the conservation of the vegetation is significant to scenic amenity or natural wildlife habitat or is likely to control land degradation,*
- (vi) *water resources for use in the public interest,*
- (vii) *areas of significance for nature conservation, including areas with rare plants, wetlands and significant habitats, and*
- (viii) *places and buildings of archaeological or heritage significance, including the protection of Aboriginal relics and places,*
- (b) *preventing the unjustified development of agricultural land for purposes other than agriculture,*
- (c) *preventing residential development of prime crop and pasture land, except where it is ancillary to agriculture or another use permissible in the zone,*
- (d) *facilitating farm adjustments,*
- (e) *ensuring that any allotment created for an intensive agricultural pursuit is potentially capable of sustaining a range of such purposes or other agricultural purposes,*
- (f) *minimising the cost to the community of:*
 - (i) *fragmented and isolated development of rural land, and*
 - (ii) *providing, extending and maintaining public amenities and services.*
- 2. *Development that may be carried out in the zone without consent includes; Agriculture (other than ancillary dwellings and intensive livestock keeping establishments); forestry (other than ancillary dwellings and pine plantations); rural levees.*
- 3 *Only with development consent; - Any purpose other than a purpose included in item 2 or 4.*
- 4 *Prohibited; -Motor showrooms; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area).*

1(a) General Rural under Narrabri Local Environment Plan Number 1992.

The objectives of the zone is to encourage agriculture and agriculture related land uses. No restrictions have been placed on agricultural enterprise except for the intensive keeping of animals which requires the Council's consent.

Most land uses are allowable in the zone with Council consent.

Consistent with the objective for the zone, it is intended that the Council should control speculation in non-agricultural purposes through the consent provisions required for most land uses.

- 2 *Without development consent -Agriculture (except feed lots, piggeries, poultry farming, stock homes or any other intensive keeping of animals); drainage; forestry; outbuildings or any building for a purpose incidental to the use of land for agriculture; stock and sale yards.*
- 3 *Only with development consent - Any purpose other than a purpose included in item 2 or 4.*
- 4 *Prohibited items include: Abattoirs; bulk stores; car repair stations; commercial premises; generating works; industries other than home industries; junk yards, residential buildings; road transport terminals; service stations; shops; warehouses.*

Commercial premises - Within the model provisions is defined as; *a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause.*

Dwelling – *means a room or suite of rooms occupied or used so constructed or adapted as to be capable of being occupied or used as a separate domicile.*

Dwelling House – *Means a building containing one but not more than one dwelling*

Motel – is defined as a building or buildings (other than a hotel, boarding-house or residential flat building) substantially used for the overnight accommodation of travellers and the vehicles used by them whether or not the building or buildings are also used in the provision of meals to those travellers or the general public

Residential Flat Building – *A residential flat building is defined as a building containing two or more dwellings.*

Section 79C Assessment

(a) Statutory Provisions

(i) Environmental Planning Instruments (Section 79c (1)(a)(i))

Narrabri Local Environmental Plan No. 2, and Narrabri Local Environmental Plan 1992.

The land is subject to the requirements of the *Narrabri Local Environmental Plan number 2 and 1992*. The land is zoned 1(a) General Rural under both Local Environmental Plans.

An application being presented for any other purpose other than items 2 or 4 (see definitions of 1(a) General Rural under *Narrabri local Environmental Plan Number 2 and 1992* is to be assessed upon its merits in accordance with *Environmental Planning and Assessment Act 1979*. In this case the relevant instruments are the Narrabri Local Environmental Plan *Number 2, and 1992* (the LEP's), Development Control Plans (DCP's) and State Environmental Planning Policies (SEPP) as discussed within this report.

It is necessary to consider all parts of the LEP that have relevance to the establishment of the proposal on the said land to provide the entire context. For this application the parts of the LEP considered to be specifically relevant are as follows:

1. Model Provisions.
2. Part 1: 1(a) General Rural Zoning Objectives under both LEP No2 and LEP 1992 plans.
3. Part 3; Purposes which are allowed with development consent.
4. Part 4; Prohibited purposes within the zoning.

Should the JRPP be concerned of any perceived uncertainties within the provisions of the LEP, then attention is drawn to section 25(3) of the *Environmental Planning and Assessment Act 1979*, which provides as follows:

'Where a provision of an environmental planning instrument is genuinely capable of different interpretations, that interpretation which best meets

the aims, objectives, policies and strategies in that instrument shall be preferred’.

For this development in accordance with the relevant Local Environment Plans 2 and 1992 the definition of a ‘Motel’ has been adopted as the most relevant definition for the mining accommodation village.

The development cannot be considered as a ‘residential flat building’ as defined within the Model Provisions. The model provisions states that a residential flat building is a building containing ‘two or more dwellings’.

(a) In accordance with the Building Code of Australia (Part 3.8.3.2 volume 2) a class 1 building (dwelling) must be provided with the following features;

- i) a kitchen sink and facilities for the preparation and cooking of food; and
- ii) a bath or shower; and
- iii) clothes washing facilities, comprising at least one washtub and a space in the same room for a washing machine; and
- iv) a closet pan and washbasin.

(b) If, any of the facilities in (a) are detached from the main building they must be set aside for the exclusive use of the of the occupants of the building.

Note: a kitchen sink or wash basin must not be counted as a laundry washtub.

A ‘dwelling’ as defined within the Model Provisions means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

If the development as proposed is not capable of being a dwelling it cannot be considered as a residential flat building. It is noted that The MAC group application proposes a central laundry facility not for the exclusive use of each room. A central dining facility will also be provided within the application, and no kitchen facilities in each room are proposed. It therefore can be determined that

the development is not a residential flat building within the definition of the Model Provisions.

The development could also be defined under the new *Standard Instrument Order 2006* as a 'tourist and visitor accommodation' although the *Narrabri LEP 2 and 1992* does not legally make reference to this order until a new Narrabri Local Environment Plan is gazetted. A tourist or visitor accommodation under the standard instrument is referred to as *a building or place that provides temporary or short term accommodation on a commercial basis and includes a hotel or motel accommodation, serviced apartments, bed and breakfast accommodation and back packers accommodation.*

It is noted that the 'motel' definition under the Model Provisions is permissible with consent of the consent authority being Council in the zone under both local environment plans (Number 2 and 1992). It is noted that the development will comply with the definition by virtue that the village will be used for the overnight accommodation of people travelling to the area (travellers) to work, also the village will be open to accept members of the public (whether or not related to the mines) for overnight accommodation.

If the 'motel' definition was not adopted, the development would be considered as an 'innominate use' which is permissible within the zone under both plans with consent of Council. An innominate use is a use in which cannot or is not defined within the Model Provisions.

Specific provisions under the Narrabri Local Environment Plan 1992

Clause 10 of the *Local Environmental Plan Number 1992* states that there are general considerations for development within the rural zones;

These have been itemised and addressed individually;

10 General considerations for development within rural zones

- (1) *The Council shall not consent to an application to carry out development on land within Zone No 1 (a) or 1 (c) unless it has taken into*

consideration, if relevant, the effect of the carrying out of that development on:

- (a) the present use of the land, the potential use of the land for the purposes of agriculture and the potential of that land for sustained agricultural production,*

The land currently supports stage 1 being 242 rooms and ancillary structures. The residual land is currently vacant of any buildings and is currently not used for any grazing, cropping or agricultural uses. It is noted that the subject residual land has been observed to be vacant for some time. The land has been used in the past at various times for minor grazing of stock and the land is considered not suitable for commercially sustainable cropping due to the size of the allotment, the current soil type and drainage. Cropping land uses would hinder the adjoining rural residential and residential land uses due to noise, dust and aerial spraying where used. The topography of the land would also make it difficult to produce irrigated crops as a drainage line currently exists and has been acknowledged in the centre of the allotment.

- (b) vegetation, timber production, land capability (including soil resources and soil stability) and water resources (including the quality and stability of water courses and ground water storage and riparian rights),*

There is currently no vegetation present on site with the exception for native grasses and a limited number of trees on the subject land. There is however a number of trees and shrubs which have been propagated as a result of the initial stage of the development. Landscaping has been featured throughout the development of the 242 room stage 1. There is a depression in the land which serves to drain both the allotment in question and neighbouring allotments which is distinguished on the location plan. The development as proposed will preserve natural drainage lines and will not impinge upon the water course or ground water storage. A detention basin

was created during stage 1 for the purposes of retention of stormwater from impervious surfaces of the improvements and water from the structure was to be recovered and used within the landscaping. Stages 2 to 5 will increase the size of the detention basin the accommodate additional storage capacity.

From a review of the Department of Environment and Climate Change and Water (DECCW) bore location database it appears that there is a bore licence and current bore within the allotment. This licence is for stock and domestic purposes. If a water yield was to be established for commercial purposes a variation of the licence would need to be sought from the issuing authority. The land capability is typically that of red podsolic clays are marginal for use for cropping purposes. The bore present on the land will be used for the purposes of fundamentally a water feature within the landscaping of stage 1.

(c) the future recovery of known or prospective areas of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials,

The land is considered not viable for the commercial recovery of minerals due to its area and location to both the urban centre of Narrabri and also surrounding residential and industrial land uses. The subject land is also within close proximity to the natural water course of the Narrabri Creek, a tributary to the Namoi River.

(d) the protection of areas of significance for nature conservation or of high scenic or recreational value, and places and buildings of archaeological or heritage significance, including Aboriginal relics and places,

A preliminary search conducted by Council of the DECCW website has revealed that the land is not subject to aboriginal heritage or relics. The land as it stands is within the rural landscape is not considered to be of high scenic or recreational value. The site is

surrounded by residential, rural residential and also industrial land uses.

(e) the cost of providing, extending and maintaining public amenities and services to the land, and

Public infrastructure, such as water and sewer services are provided within 100 metres of the land and subsequently were connected within stage 1 of the development. These services were provided to the limits of the town boundaries. In order to extend these services to the site, the developer was required to at their cost submit necessary engineering civil design plans for approval and construct the extension of both water and sewer facilities. It is also noted that prior to consent to additional stages an upgrade of the sewer pump station and augmentation of a new sewer line through to Doctors Creek was required to be completed. Design plans were required to be produced prior to issue of an occupation certificate for stage 1.

From review of Council's current infrastructure, the Regent Street sewerage pump station is often at capacity due to stormwater infiltration. The development would be required to upgrade the pump station to a suitable capacity to allow for the development as proposed and future expansion of stages 2 -5. The proponent is also required to provide 3.5km of infrastructure to the Doctor's Creek pump station where there is known capacity. This upgrade would be funded entirely by the developer to Council standards to ensure the provision of reliable sewerage disposal from the village.

An investigation of the water utilities in localised area has revealed that sufficient water resources exist in the public water storages to service the development. Water pressure has been identified as an issue and it is likely that the proponent will need to provide on site storage for a minimum of 2 days usage along with internal private pumps to increase the pressure. The additional water infrastructure will be provided by the proponent at their cost.

Head works charges will be levied in accordance management plan in the financial year in which the fees are paid (ie; 2011/2012 if paid prior to 30th June 2012) to maintain public infrastructure as a result of increased loads on both sewer and water infrastructure.

(f) future expansion of settlements in the locality.

The Growth Management Strategy (GMS) which has been adopted does not identify the land as for residential purposes or other uses other than rural land uses. It is noted that the motel development sought is permissible with development consent of Council. Future residential investigation areas have been identified to the South West of the town, and to the North East of Old Gunnedah Road, Narrabri. The development as proposed in considered compatible with such uses.

(2) As well as the matters referred to in subclause (1), the Council shall take into consideration the relationship of the development to development on adjoining land and on other land in the locality, including the effects of potential aerial spray drift.

The proposed development will be compatible subject to controls to the other land uses surrounding the development. Generally, the land uses are rural residential type uses and residential uses. Landscaping has been proposed along with high class new building materials to protect the amenity of the area. Vegetational buffers and setbacks have been considered by the proponent to ensure that the adjoining development is not compromised.

The industrial development to South East of the site shall be protected by requirements which specify a vegetation buffer by the proponent within the proposed village site and also a prescribed setback for all buildings and associated structures. Building design has also been considered with those buildings that are adjacent to

roadways and also industry are heavily insulated to protect the amenity of the occupants and offset potential issues.

Clause 21 (heights of buildings) of the Narrabri Local Environmental Plan 1992 states that;

‘A person shall not without the consent of Council, erect a building containing more than 2 stories above natural ground level’

The proposed development will consist of building modules that are single storey however as a risk management flood measure the buildings shall be erected above the natural ground level to allow for passage of flood waters. The buildings being elevated 2 metres above natural ground level shall not exceed 2 stories.

Clause 22 (Development of Flood liable land) of the Narrabri Local Environmental Plan 1992 states that;

- (1) This clause applies to land subject to inundation by floodwaters with an average recurrence interval of 1:100 years.*
- (2) In this clause, **landfilling** means the depositing of soil or like material to a depth of more than 225 mm above natural ground level.*
- (3) A person shall not erect a building or carry out a work for any purpose on flood liable land except with the consent of the Council.*
- (4) In considering an application for development consent in respect of land to which this clause applies, the Council shall take into account the following matters:*
 - (a) the floor height of any building comprised in the proposed development in relation to known flood levels,*
 - (b) landfilling,*
 - (c) drainage,*

- (d) *flood proofing measures,*
- (e) *access.*

From a review of Council's existing flood controls and also historic flood events, the land is known to be susceptible to inundation of flood waters in a 1% flood event (or 1:100 year flood). A report has been prepared by Max Winders and Associates who was the author of Council's existing flood management policy the '*Supplementary flood study 2001*'. This report will be further discussed under the natural hazards section of this report.

The proponents of the application have identified a 2 metre high floor level for its proposed modules and ancillary structures in order minimise damage in a likely flood event to property. Although minimum floor levels are only applicable to residential development such as dwelling houses, the proponent has identified the level to ensure flood proofing in particular passage of floodwater and secondly to ensure risk management to life and property.

Although the report prepared by Max Winders and Associates identifies that land filling may be carried out on the subject land, there is no landfill proposed as a result of this application. Current natural drainage flow paths have been retained and a stormwater detention pond has been proposed to assist in onsite retention of stormwater.

Access to the site will be via Arnold Street. It is acknowledged by the proponent that in significant flood events, access to the site may be restricted. During these events it is noted that other access corridors such as the Old Gunnedah Road and also the Turrawan Bridge would also be closed along with sections of the Newell Highway near the Namoi River bridge, Doctors Creek Bridge and also the Narrabri Creek bridge vicinity. General public, travellers and also mine employees would not be able to access Narrabri in such an event and mines would be closed for safety reasons. The development has the capacity to be a standalone development in terms of accommodation and supplies during a flood event. Given previous history, flood inundation usually is typical for 1-2 days prior to receding.

Clause 10 of the Narrabri Local Environmental Plan Number 2 states that;

- (1) *This clause applies to land subject to inundation by floodwaters with an average recurrence interval of 1:100 years.*
- (2) *In this clause, **landfilling** means the depositing of soil or like material to a depth of more than 225 mm above natural ground level.*
- (3) *A person shall not erect a building or carry out a work for any purpose on flood liable land except with the consent of the Council.*
- (4) *In considering an application for development consent in respect of land to which this clause applies, the Council shall take into account the following matters:*
- (a) the floor height of any building comprised in the proposed development in relation to known flood levels,*
 - (b) land filling,*
 - (c) drainage,*
 - (d) flood proofing measures,*
 - (e) access.*

Clause 10 (Narrabri Local Environmental Plan Number 2) From a review of both plans clause 10 (No. 2) is the same as clause 22 in the Narrabri Local Environmental Plan 1992 and has been discussed in response to clause 22 above.

Other Environmental Planning Instruments considerations (Section 79(c)(1)(a)(i))

SEPP 44 – Koala Habitat Protection.

State Environmental Planning Policy 44 is relevant to development carried out on lands listed within schedule 1 of the SEPP. The Narrabri Local Government Area has been prescribed within the SEPP as an area containing potential koala habitat. In accordance with clause 6(b) the policy applies to land in which a

development application is made and 6(c)(i) has one hectare or greater or 6(c)(ii) has together with the adjoining land in the same ownership an area of more than 1 hectare, whether or not the development application applies to the whole or any part of the land.

The development as proposed will require a SEPP 44 assessment to be carried out either by the applicant, Council or a qualified person. From a review of the development application submitted for a motel, under DA 97/2011, it has been revealed that the site is greater than the prescribed standard of 1 hectare.

Clause 7(1) stipulates that before council can grant consent to an application for consent to carry out development on land to which Part 2 of the SEPP applies, it must satisfy itself whether or not the land is a 'potential' koala habitat. Clause 7(2) further states that a council may satisfy itself 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. Clause 7(3) outlines that if the council is satisfied, (a) that the land is not a potential koala habitat, it is not prevented, because of the Policy, from granting consent to the development application, or (b) that the land is a potential koala habitat, it must comply with clause 8.

On the 22 September 2010, Council visited the site and observed that there was no evidence of vegetation on the land that would support koala habitat especially feed trees as listed within the Environmental Planning Instrument (Schedule 2) as being feed trees (koala or potential koala habitat). The site was observed to be generally cleared and appeared to be covered by native grasses.

Using the guidelines for koala habitat assessment (clause 10 of the policy), it has been determined that the site is not 'core koala habitat' as provided within clause 8 and no plan of management is necessary in accordance with clause 9 of the policy.

SEPP 55 – Remediation of Land.

State Environmental Planning Policy 55 – remediation of land requires the consent authority to consider whether the land is contaminated. If contamination

exists, Council must consider whether the site is suitable for the development as proposed in its current state or whether remediation is necessary.

In particular clause 7 of the policy states that;

(7)(1) A consent authority must not consent to the carrying out of any development on land unless:

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is 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, and,

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is:

(a) land that is within an investigation area,

- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

In consideration of both clauses 2 and 4 of the EPI; The land in question is not considered within an investigation area for the purposes of this policy, and further the development is not referred to in table 1 of the policy guidelines. The development as proposed will not be for residential, educational, recreational or child care purposes or for the purposes of a hospital in accordance with the policy definitions. It has therefore been concluded that scientific testing and an associated contamination / remediation report is not warranted for the purposes of this application.

It has been acknowledged that previous uses of the land include cattle grazing. The land has generally been vacant and has not been used for any other purpose. From an inspection of the site there is no evidence of contamination, sheep dips or chemical storages or associated chemical spills. From an inspection of Council's applications and approvals registry there is no evidence of previous uses of commercial or industrial uses or service stations or mechanical repair businesses on the subject land. It is considered that there is no evidence from a site inspection to denote the land as being contaminated as defined within SEPP 55.

SEPP Rural Lands 2008

Whilst this State Environmental Planning Policy has been considered in the assessment of this application, the SEPP refers primarily to the protection of prime agricultural land and the subdivision and erection of dwelling houses on such lands. Accordingly, the SEPP is not applicable to the development being considered under Development application 415/2011.

SEPP Infrastructure 2007

The SEPP under Part 3 division 17, subdivision 2, clause 104 requires certain types of development to be referred to the Roads and Traffic Authority as a traffic generating development. Further clause 104 applies where columns 1 of schedule 3 makes note of a defined development and a prescribed threshold of traffic generation.

Clause 104 states that;

(1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:

- (a) new premises of the relevant size or capacity, or*
- (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*

*(2) In this clause, **relevant size or capacity** means:*

- (a) in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*
- (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.*

(3) Before determining a development application for development to which this clause applies, the consent authority must:

(a) give written notice of the application to the RTA within 7 days after the application is made, and

(b) take into consideration:

(i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and

(ii) the accessibility of the site concerned, including:

(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and

(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and

(iii) any potential traffic safety, road congestion or parking implications of the development.

(4) The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made

The SEPP in schedule 3 makes reference to 'tourist facilities' which is noted within the definitions of the new standard instrument (New LEP; Standard Instrument Order 2006) under which this development could be classified. However, as a 'motel' definition adopted under the Model Provisions has not been listed as a category of development, the land use as proposed would be subject to the catch all definition of 'any other purpose'.

The any other purpose category prescribes a threshold of 200 vehicles as the trigger for referral to the Roads and Traffic Authority under Section 91 of the *Environmental Planning and Assessment Act 1979*. The development during stage 1 has accommodated for 121 car spaces (plus an additional 4 visitor car spaces) and a number of ancillary spaces for the provision of 3 mini buses and also 16 motorcycles.

The number of allocated car parking 'capacity' of within the village with the proposed stages 2-5 including stage 1 is 325 spaces and accordingly the development is required to be forwarded to the Roads and Traffic Authority under s91 for their assessment and concurrence.

Referral was made to the former Roads and Traffic Authority, now the Transport Roads and Maritime Services and their comments were provided to Council on the 16th November 2011. No formal submission was made pursuant to section 104 of the Infrastructure SEPP however, the RMS has provided that no alteration is to be made to the speed zone without consultation with the RMS and further the Speed Zone guidelines publication by the former RTA.

(ii) Draft Environmental Planning Instruments [section 79(c)(a)(ii)]

From a review of the Parliamentary Counsel's website and a review of the New South Wales Government Websites including planning circulars and guidelines there is no evidence of any draft SEPP's that are relevant to the proposal.

The New South Wales Government has recently repealed the majority of Regional Environmental Planning Policies (REP's) and has transferred such policies to state policies (SEPPs). Accordingly there is no evidence of any draft REP's for consideration.

No draft instruments are considered relevant in the assessment of this proposal. Whilst Council is undertaking a Draft Local Environment Plan 2012, it has not been approved by the Director General of the Department Of Planning (DOP) for exhibition (and a Section 65 Certificate has not been issued to date). The Draft Narrabri Local Environment Plan has therefore has not been considered during the assessment of this application.

Other Draft Environmental Planning Instruments

From a review of the legislation, there appears to be no additional draft State Environmental Planning Policies or draft Regional Environmental Plans that are relevant to the subject application.

(iii) Development Control Plan [Section 79C(i)(a)(iii)]

Development control plans that are relevant to this application are:

Building Line -

The standard prescribed by the development control plan is 6 metres from the front boundary alignment. Generally this standard is applied to residential development however the DCP does not specify the area or type of development to which the standard is to apply. The Motel development will adopt a 10 metre nominal setback from all boundaries to be heavily landscaped and a 40 metre setback from the South Eastern boundary where an industrial land use exists.

Building near Sewer and Stormwater Mains:

The objectives that are identified within the development control plan are to ensure that buildings (when erected) will not exert and load onto a Council sewer main; and to ensure that Council has reasonable access to the main for servicing and or replacement.

From a review of Council's current sewer and water including stormwater infrastructure database within the Global Information System (GIS) (MapInfo); it is evident that no sewer or water infrastructure exists on the premises apart from those installed under DA 97/2011. Once the location of the proposed new sewer and water infrastructure is designed, it will be lodged with Council for approval including installation of internal private sewer mains and also internal plumbing. Council will under section 68 of the *Local Government Act 1993*, be able to assess and provide consent on its proposed locations. This will be determined in conjunction with this development control plan.

Drainage to Buildings:

The objective of this proposal is to ensure that there is adequate provision for the control and disposal of roof waters; to specify the method of disposal of wastes from sanitary fittings and to ensure that trade wastes are adequately treated and to specify the methods of disposal.

Stormwater generated from the development will be retained onsite in a static water storage for re-use on non potable application such as landscaping and also cleaning within the development. Stormwater will be captured on roofs and impervious surfaces by gutters and drains and will be directed to tanks and also a detention basin proposed to be expanded on the development to cope with additional loading. The detention basin has been appropriately sized by a hydraulic engineer in order to cater for the prescribed runoff of stormwater from the development.

All building modules as part of the development will have sanitary drainage for sewer connected to the Council sewer infrastructure in accordance with clause 2.2.1. These connections have been designed by a hydraulic engineer GHD and have been included as part of the development application.

Trade waste generated in accordance with clause 2.4 of the DCP, will be subject to pre-treatment prior to the release into Council's sewer system and will generally consist of waste generated from the kitchen and laundry in the preparation of foods and laundering of clothes and linen. A liquid trade waste agreement and payment of the prescribed fee, will be required if the development application is approved, in accordance with Council's liquid trade waste policy. It is noted that a trade waste agreement was entered into under stage 1 and this would need to be altered to reflect the applicable new discharge rates.

Water Supply to buildings:

The objectives of this DCP is to ensure that there is adequate supply of water for domestic purposes and to ensure that there is adequate provisions in place to prevent contamination of Council's water supplies.

Reticulated water supply connections to the site were connected to the development and Council's water main was extended at the developers cost and in accordance with Council design specifications from its previous location of 100m North from the site to the allotment boundary. At the boundary connection to the village, backflow devices will be provided to ensure that the public water supply is not contaminated.

Notification Policy 2005:

The development application 415/2011 was advertised in accordance with *Council's Notification Policy 2005* and sections 72(1) (b) and (c) of the *Environmental Planning and Assessment Act 1979*.

Table 2 within the policy provides for development that requires notification. As the proposal has been defined as a 'Motel', the development has been listed as Category 'A'.

Table 1 outlines the type of notification required for each category of development. The policy identifies that Category A; requires a letter to the adjoining property owners, a notice published in the local newspaper and a notice displayed on the land.

The application was placed upon public exhibition from 21st June 2011 until 27th July 2011

The application was advertised in the local Courier newspaper on four separate occasions during the exhibition period.

A total of 5 A3 clear and legible signs were affixed to the land upon each perimeter fence to each road frontage in accordance with the policy. Two signs were placed upon Old Gunnedah Road, two signs placed upon Arnold Street, Narrabri and one on O'Connor's Lane adjacent to the sealed section where the

majority of residential dwellings were located. All signs were photographed that were attached to the land.

A total of 14 adjoining allotment owners were notified in writing of the development application being lodged and provided with a site plan and also schematic diagram of the sides of the village buildings. The generic letter was provided as prescribed by the notification policy.

All submissions received by Council during the exhibition period have been formally acknowledged in writing to the relevant parties making the submission.

Outdoor Advertising:

A 12 x 2 metre stone wall was erected on the subject land with a corporate logo facing the corner of Arnold Street and also Old Gunnedah Road Narrabri. The corporate signage of the MAC was affixed to a rock infill gabion wall. The signage was consistent with the Council's outdoor advertising policy.

Whilst the development control plan does not provide specific guidance or standards for signage the assessment criteria; SEPP 64 – Advertising Structures has been used as a guide in the assessment of the application, in particular Schedule 1, termed assessment criteria. It is further noted that the signage as proposed is not of a significant nature and further in terms of its size, could be considered minor in terms of internal directional signage and room identification.

Parking Code:

The objectives of the parking development control plan is to provide a consistent guide for Council and also for developers; to provide adequate parking for people using and employed by developments within the shire; and to provide an acceptable quality of parking areas within the shire.

The proponent has identified and made allocation for a minimum of 325 car spaces in terms of a combination of the already constructed car parks in stage 1 and also the proposed under stages 2-5.

The construction of the car parking will be asphalt seal in accordance with the construction requirements and from a review of the plans the car park shall be landscaped.

Annexure 1 prescribes the standard for the number of cars spaces for each classification of development; As the village has been defined as a 'motel' the following provisions apply;

Motels; One space per unit, plus an additional one car space for each two employees. If a public restaurant or function room is included an additional 15 spaces per 100 square metres of customer area or 1 space per three seats whichever is greater.

As the application provides for 325 car, bus and motorcycle spaces this is inadequate in terms of consideration of the standards imposed by the plan. Based on the calculations listed for motel developments 650 plus one space for each staff member would need to be provided. This appears to be overly onerous based on the scale of the village and the expected type of persons to be using the facility.

An appropriate justification has been made by the proponent that the majority of mine workers to use the village will be classed as 'itinerant workers' and generally operate on 'a fly in fly out' arrangement. The Statement of Environmental Effects outlines that a number of mini buses are proposed to shuttle workers to public transport including airport and train services where necessary. The buses will also operate to commute miners to work each day. Estimates based on the mine employees indicate that over 50% of the workforce would travel to Narrabri from Sydney, Brisbane and the Hunter by public transport such as airlines. Additional occupants such as the general public that are accommodated within the MAC village would be generally people arriving by car and adequate provision of car parking spaces would be required to be made for such persons which could be provided for in the 325 allocated spaces. It is also noted that of the current stage 1 development the allocated 50% of the required car spaces in terms of the policy appears to be more than sufficient based upon the proponents justification.

The area of the land lends itself to the provision of additional parking if and when required. Although the dining facility has been included in the car parking calculations as it is open to the general public, it is likely that it will be predominantly used by the occupants of the MAC village.

All internal car parking will be required to be designed in accordance with AS2890 off street parking including aisle widths and also individual car park dimensions.

(iiia) Planning Agreements or draft Planning Agreement [Section 79c (a)(iv)]

No planning agreements or draft planning agreements are relevant to this application in accordance with section 93F of the *Environmental Planning and Assessment Act 1979*.

(iv) The Regulations

The application has been considered against the *Environmental Planning and Assessment Regulation 2000*. Its consideration is required in this instance.

Matters as prescribed by the regulations (*Environmental Planning and Assessment Regulation 2000*). [Section 79C(1)(a)(iv)]

Clause 92, 93, 94 and 94A of the Environmental Planning and Assessment Regulation 2000 prescribes certain matters that must be considered by Council in determination of a development application:

1. (Clause 92) Demolition – The land is considered vacant for the purposes of this development. From a review of the site it is noted that there are a number of minor ancillary rural structures such as a windmill and also tanks on the site. If they are to be demolished prior to construction, conditions shall be placed on the consent if approved that the demolition shall be carried out in accordance with AS 2601- demolition of structures.

2. (Clause 93) Fire Safety considerations - The proposed structure shall be a minimum of 10 metres from any side, rear or front boundary to the property. As part of the construction certificate, an assessment shall be made of the classification of the structure in accordance with the Building Code of Australia. It is likely that the development will be classified as a class 3 development. The fire safety measures to be imposed will be in accordance with the fire safety schedule issued for the BCA or NCC class.
3. (Clause 94) Buildings to be upgraded - there are no buildings on the land to be upgraded as a result of this application. This clause essentially relates to existing buildings that shall be upgraded for fire safety purposes.
4. (Clause 94A) Fire Safety and other considerations applying to erection of temporary structures; Fire safety has been reviewed as part of the assessment of this application. Conditions of consent will be provided if the application is approved, to ensure that appropriate documentation is provided with the construction certificate in accordance with the Building Code of Australia (BCA) or National Construction Code (NCC) for provision of fire safety measures. Geotechnical reports (soil tests) shall also be requested at the construction certificate stage of the application to ensure that the ground is sufficiently firm and level to be able to sustain the structure while in use. It is noted however that the structures will be placed upon concrete piers and shall have footings designed and certified by a structural engineer.

(b) Likely Impacts of the Development – Environmental (natural & built), social and economic [Section 79c (1)(b)]

1. Context and Setting;

The development as proposed will be sympathetic to the character and amenity of the area. Following a detailed review of the statement

of environmental effects and also the site and landscaping plan a number of features have been included in the design to preserve amenity.

Such features include;

- Comprehensive landscaping of the development to ensure that the proposal is not visually intrusive;
- Nominal setbacks from all boundaries (10 and 40m);
- New and innovative building materials and designs in keeping with the rural setting;
- Corporate signage in keeping with the rural landscape (Natural materials).

The proposal appears to be appropriate in terms of its character with the inclusion of arched roofed walkways, gazebos and timber features to complement the localised setting. The bulk scale and density of the development will be offset by dense mature landscaping and also setbacks from property boundaries.

It is not expected that there shall be any overshadowing issues generated by this development. From a review of the surrounding land uses there are no residential properties within close proximity which would be subject to shadowing of yard or living areas of their dwellings. Increased setbacks imposed by the proponent will also generally offset any exposure to overshadowing.

Privacy issues of the development will be mitigated by the cluster of buildings in modules and implementation of landscaping. It is not envisaged that any of the buildings shall overlook private open space of any adjoining land uses.

Due to the location of the village and the surrounding development there is no expected or perceived interruption of significant views or vistas. Views and vistas experienced within the general area tend to be that of a natural agricultural landscape with intermittent rural residential and industrial development.

2. Access Transport and Traffic

Both Council Engineers and the proponent at a pre-lodgement development application meeting identified the design of the entrance to the site should be retained to a local street such as Arnold Street rather than local collector road such as the Old Gunnedah Road. This would allow the current use of the intersection of Arnold and Old Gunnedah Road opposed to traffic entering and egressing from the site onto a collector road. The entrance to the site has been designed in accordance with Council's Rural Access Policy under the supervision of Council's Design Engineers.

Traffic generation to the site will be sporadic in nature. It is expected that there will be three periods when traffic movements will be greatest – these shall be determined by the start and end of 8 hour rostered shifts. Further, the general public who seek accommodation will generally be entering the site after 12pm, and shall exit the site early the following morning (<10am).

In the MAC model as outlined in the Traffic Overview Report prepared by TPK and Associates, a large percentage of the workers will be flown in and out of Narrabri, such that the majority will not have access to vehicles. These workers will be reliant upon transport arrangements provided by the proponent such as mini buses.

With the transport arrangements in place the traffic generated by the facility will be substantially reduced in terms of vehicle trips, having higher passenger occupancy levels per vehicle.

Trip generation to the site has been calculated on the basis of an assumption of 80% mine related workers and 20% being the general public. Of this 80% of mine workers it is expected that

20% will use private transport with the remainder using the bus service provided by the MAC group.

The general public will not have access to public transport to the site and it has been considered during the assessment process that this 20% of occupants will require their own personal vehicle unless taxis were used which has not been assumed.

Car parking has been discussed in this report under the car parking Development Control Plan assessment. It is noted that the design concept as proposed by the proponent has been considered to significantly reduce the need for car parking spaces and appears to be adequately justified in the application under DA 415/2011.

The assessment officer confirms the consultant's report that intersectional upgrades will be required on the Old Gunnedah Road and also Arnold Street intersection. The timing for the works to occur should be prior to the issue of an occupation certificate for stages 2.

Arnold Street from the site entrance through to the Old Gunnedah Road intersection will also require street widening to accommodate increases in traffic flow and accordingly, should be widened to 7 metres with a centre line to delineate traffic flows.

The intersection of Old Gunnedah Road and Arnold Street will require turning lanes to be provided upon Old Gunnedah Road to enable effective unimpeded traffic flow on Old Gunnedah Road South bound. Also this should be carried out prior to issue of an occupation certificate for stage 2 should the development be approved.

Prior to the commencement of stage 3 the developer will be required to make separate application to the Roads and Traffic Committee to have the speed limit reduced from 80km/h to 50 km/h commencing 200m south of the current speed limit signage on Old Gunnedah Road.

3. Public Domain

The motel accommodation will provide open space landscaped areas for recreational opportunities within the development boundaries. It is noted that the proponent shall be encouraged to use local facilities within Narrabri rather than duplication of community owned and operated infrastructure such as parks, pools and other sporting facilities.

4. Utilities

It has been acknowledged that reticulated town water supplies and also sewerage facilities were available prior to stage 1 within 100 metres of the subject land. The extension of these services has been designed and installed. Appropriate easements will need to be sourced under section 88B of the *Conveyancing Act* and compensation will need to be provided to any lands which are burdened by the restriction on the respective property title.

The disposal of sewerage into the Council's sewer infrastructure will place additional demands on the system in the order of 83.84 KL/ day. From discussions with Council's Engineering Services it has been confirmed that a bypass of the Regent Street pump station will be required and a separate sewerage infrastructure line constructed to the Doctors Creek pump station where there is known capacity for acceptance of the sewerage. The design and construction of the additional infrastructure will be at the cost of the proponent. This extension or augmentation of the sewer infrastructure to the Doctors Creek pump station will be required to be completed prior to the issue of an occupation certificate for stage 2 of the development.

5. Heritage

The land is not identified as a heritage item in schedule 1 of the *Local Environment Plan Number 2* or schedule 2 of the *Narrabri Local Environment Plan 1992*. Accordingly the application has not been forwarded to Council's Heritage consultant for review.

Within the respective schedules 1 and 2 of both Local Environment Plans 2 and 1992, a review of the heritage items reveals that adjoining allotments are not classed as items of heritage value. Therefore it is considered that the proposal will not impact on any adjoining heritage items.

According to the Department of Environment and Climate Changes Website there does not appear to be any aboriginal relics or aboriginal heritage items located on the property. Conditions If any items are found in construction, construction works shall cease and the Department of Environment and Climate Change and Water shall be notified.

As the development is not listed as a heritage item no specific heritage study is required to be submitted as part of this development application.

6. Other Land resources

The land is observed to be vacant and is considered to be of marginal agricultural value in particular with cropping due to both the soil type and also adjacent rural and residential land uses which would have the potential to create land use conflict from noise dust and aerial spraying. The area of the land being 34 hectares is not considered to be of a size to support sustainable agriculture. The land is currently vacant and has not been used for agricultural purposes in recent times. Therefore the proposal is not considered to negatively impact on productive agricultural land.

The subject allotment does not support a size to enable productive and viable mineral and extraction industries. As the land is located within close proximity to residential dwellings, industry and also the urban fringe the site is considered unsuitable for mineral extraction or extractive industries.

The nature of the development proposed is not expected to impact upon water supply catchments either via pollution or reduction in net water resources. Impervious surfaces created by the development shall generally be collected for re-use in the facility.

7. Water

Council's Engineers have advised that there is sufficient water storage available to supply the development in accordance with the calculations provided by the hydraulic design Engineers GHD.

Water pressure has been identified as an issue and the proponent will be required to provide onsite storage and pumps to enable sufficient and acceptable standards of reliable water pressure.

From a review of the hydraulic calculations the facility will require 104.8 Kilo Litres of potable water per day in order to supply the facility operational needs. Static water sources such as stormwater detention ponds and also stormwater storage tanks shall be used to supplement reticulated water supplies on landscaping proposed for the site.

In regards to Council's existing water supplies the daily average consumption of the combined stages 1-5 of 104.8 KL is considered negligible when contrasted against the overall infrastructure reserves.

Surface water generated from impervious surfaces such as paths, roads and hardstand areas and also proposed building improvements and ancillary structures shall be harvested and stored within static water sources. A detention pond has been identified adjacent to Arnold Street, Narrabri to retain stormwater onsite for reuse along with additional storage tanks to retain roof storm water.

8. Soils

Earthworks including excavation for the roads and also footings for proposal could cause soil erosion following a likely rainfall event. Disturbance of the soil and removal of grass vegetation allows soils to be exposed and eroded. Sedimentation and erosion control plan will be required to be submitted at the time of a construction certificate for the development application. The plan will outline mechanisms and also structures to be erected to reduce the likely hood or erosion on the land.

During an inspection of the site there was no evidence found to suggest that there was any salinity or salinity issues present on the site.

All sewerage waste and other wastes generated by the development will be disposed of either via Council's sewer or a commercial contractor (ie for the disposal of solid wastes). It is not expected that the development will have the potential to pollute any water bodies in the vicinity of the site.

Soil contamination has been discussed within the statutory considerations of this report under state environmental planning policy 55 – remediation of land. In summary there is no evidence to suggest that the land is contaminated from both a review of the site and also previous land uses associated with the allotments.

9. Air and Microclimate

During the assessment of the application it was noted that operational trafficable areas of the development will be sealed to prevent the generation of dust and other air impurities. The development shall be conditioned if approved to use water carts on road surfaces during times of construction and excavation where dust may become an issue.

The operational use of the facility will not generate any odour, fumes or pollutants. Any commercial waste bins will be separated from the main buildings and shall be regularly cleaned, screened and covered to prevent emission of odour.

The nature of the project is not considered to affect air quality or microclimate conditions.

10. Flora and Fauna

A Koala Habitat assessment has been carried out and has been addressed in the statutory considerations for State Environmental Planning Policies of this report in particular SEPP44. The development site has not been considered as potential koala habitat for the purposes of the EPI.

Following a review of the Department of Climate Change and Water's website of endangered species it has been considered that no critical habitats exist on the subject land that require further consideration and no endangered species have been identified either on the site or adjacent to the site.

11. Waste

There will be two types of waste generated as a result of the construction and operational phases of the development; putrescible and non putrescible wastes. Solid waste generated by the development will be either commercially recycled or transported to the Narrabri Landfill by commercial contractor for disposal. Landfill waste disposal will be minimised through onsite management practices to promote recycling including recycling collection stations being provided around the site.

Commercial bins will be required to be screened from the view of the public and shall be regularly cleaned to prevent odour. The location of the bins shall also enable easy access by contractors and be located in order to minimise noise issues to both the occupants of the development and also adjoining land uses.

A waste management plan has been provided as part of the application for stages 2-5. The plan outlines that approximately 16 Cubic metres of waste will be generated during the operational phase of the development and this will be appropriately managed under contract to a local waste disposal provider. Within the 16 cubic metres of waste it is expected that 14 cubic metres of this will be recycled with the remainder being transferred to landfill. Waste generated as part of the construction phase will be minimal in terms of the majority of the construction will take place off site at a construction plant in Adelaide.

12. Energy

The development shall conserve energy through planned location of the building modules to maximise light infiltration in winter and reduce heat in summer. From a review of the site plan it appears that the modules are aligned in a Northerly direction to allow for solar infiltration. The proponent has advised that the modules will be insulated to reduce energy consumption associated with air conditioning due to the climate of Narrabri. The proposal also

includes energy efficient lighting, water efficient tap fittings and energy efficient appliances.

It is expected that the application will also comply with section J of the Building Code of Australia (BCA) which shall form a condition of consent if the application is approved and will be required to be presented in the construction certificate application.

13. Noise and Vibration

During the construction phase of the development, it is expected that machinery and plant will be operated which will generate noise. Should the application be approved conditions will be imposed on the development to minimise or control construction noise in accordance with the New South Wales Industrial Noise Policy (INP) produced by the Department of Environment and Climate Change and water (DECCW). The proximity of the site will by default reduce the impact of noise on adjoining residential properties. Likely conditions will also outline a time restriction for works on a weekdays and also weekends. These time restrictions will prevent works from being carried out outside these hours in order to protect the amenity of the area and adjoining properties.

Vibration may occur from the operation of plant and also excavation of ground materials however due to the size of the allotment it is not expected that vibration transpire onto adjoining lands.

Operational noise shall be limited through two separate means; Firstly the imposition of the Industrial Noise Policy (INP) and secondly through the use of on site noise management plans imposed by the proponent and also the design and layout of the operation. Noise screening has been imposed through landscaping and also location of building modules. The setbacks adopted shall also aid in the restriction of noise emissions. Car

parks and trafficable areas will also be heavily landscaped to prevent the intrusion of noise associated with vehicles and entrance and egress of the occupants of the facility.

14. Natural Hazards

Following a review of the Rural Fire Service (RFS) Bushfire Prone Land Map, the site has not been identified as bushfire prone land in accordance with the statutory provisions of the *Rural Fires Act 1997*.

It has been acknowledged that the land is subject to flood inundation at times of prolonged rainfall events. A flooding report has been prepared in support of the application and has been assessed in accordance with Section 79(c) of the *Environmental Planning and Assessment Act 1979*, and the Supplementary Flood Study 2001 prepared by Max Winders and Associates. The flood plain development manual has also been used in the assessment of the application, produced by the New South Wales State Government.

The land is subject to flooding from the adjacent Narrabri Creek and Namoi River. The land has a natural drainage depression which runs parallel to Old Gunnedah Road and this drainage line shall be retained and will not be altered as part of this development. A detention basin shall be further expanded at the Arnold Street end to mitigate any likely additional stormwater generation from imperious surfaces of the site reducing small recurrent overland flooding. This detention basin has been appropriately sized by a hydraulic engineer.

Proposed improvements have been aligned in a manner which promotes flood passage through the development allowing a line of least resistance for flooding. It is expected that to ensure that

risk management of the development a Minimum Floor Level shall be imposed of approximately 2 metres. The MFL being 216.25 + 300 mm freeboard (216.55 AHD) will also aid in passage of water under buildings. Any landscaping and also timber battens erected under and around the buildings whilst recognising that a minor restriction to flow may be caused in a major flood event, is necessary to ensure safety from access and also to maintain a balance of amenity. Landscaping is not expected to be mass planted in order to prevent total blockage of water.

Access to the site may be restricted in times of major flooding. In any case roads to mines and other developments would also be closed. There are two possible scenarios that could be considered. Firstly, an evacuation plan for the whole site to enable occupants to vacate the area or a plan to enable the site to be self sufficient until flood water passes and subsides. Internal elevated walkways to kitchen areas and laundries with suitable supplies would aid in such an event.

The location of the road access and also car parking and accommodation units on marginally higher ground as oppose to other significantly lower areas of the site contributes to the flood immunity of the development.

The flood report prepared for the land by Max Winders and Associated acknowledges that of the 34 hectare site, some 4.8 hectares could be directly filled above the 1% flood event level without any additional impacts on floodplain storage or behaviour. The development as proposed including buildings is significantly less than the 4.8 hectares foot print as prescribed by the report.

It is acknowledged that different flood events act or behave differently and generally no two events will be similar in nature.

Appropriate hazard management plans need to be established which may be imposed through conditions of consent, should the application be determined by way of approval.

Protection of adjacent property and protection from cumulative effects of flooding should be maintained through compliance with the Narrabri Supplementary Flood Study 2001 which provides guidance to specific areas within Narrabri. Compliance should be sought with this policy through prescribed conditions of consent.

15. Technological Hazards

Consideration to the statutory provisions of land contamination of the site has been provided under the heading of State Environmental Planning Policy 55 – remediation of land in this report. In summary, there has been no evidence found of land contamination and the previous uses of the land have not indicated any use which would cause land contamination.

16. Safety, Security and Crime Prevention

Surveillance cameras will be utilised throughout the development for protection to property and further for the safety of the occupants and employees of the Motel. Surveillance cameras shall be used in all common areas including car parks, recreational grounds and public buildings such as the laundry facilities, and central dining areas.

Access control to the site shall be provided by appropriate fencing to the boundaries of the allotment. Territorial reinforcement has been incorporated to the village via the location of corporate signage to the front entrance of the site.

The application makes provision for management of space appropriately by inclusion of illuminated walkways from car parks to central facilities and also the motel rooms. It has been considered that the proposed improvements on the land have

been laid out to promote crime prevention and security of occupants.

17. Economic Impact in the locality

The development as proposed is aimed at increasing immediate supply of accommodation to the Narrabri market. Although a contract shall be in place with Whitehaven Coal Mine (Narrabri Coal Project) and Aston Resources initially for accommodation services to their employees, it is also noted that rooms shall be available for use by the general public should they wish to use the facility. From a review of the accommodation industry within Narrabri it appears that from discussions with a number of motel owners that there is currently not the supply available to be able to adequately accept an additional 650 plus people in the first instance being introduced to the area.

Quite often it is difficult to obtain accommodation in Narrabri and it can be observed that the majority of Motels within Narrabri have no vacancies during the working week and high occupancy levels are also experienced on weekends.

The rental market in Narrabri is also quite competitive with little stock either on or entering the market. New stock appears to be expensive with some rental expectations being comparatively similar or in excess of those of coastal regions.

Serviced apartments such as Executive Oasis development in Riverbend Estate have reportedly being solid booked (100% occupancy rate) for at least nine months by mining officials seeking guaranteed accommodation, which demonstrates the strength of demand currently being experienced.

In 2012 Aston Coal Resources will be commencing its coal mine in addition to Narrabri Coal Operations (White Haven), Turrawonga Coal (White haven) and also Boggabri Coal

(Idemitsu) expansions and will have an expected combined workforce in excess of 1500 people. These mining operations along with service industries and also contractors will come with substantial immediate housing requirements that will outstrip local supply of motel and serviced apartment accommodation, rental accommodation and new housing stock supplies. In effect, if supply is not increased the demand will significantly drive housing and accommodation to unaffordable levels. Unaffordability is becoming an increasing issue as a result of lack of supply and increasing demands. From a review of local real estate data, some two bedroom units are being rented in excess of \$600 per week.

Without the provision of localised accommodation mining operations will not be able to operate and also the general public will continue to be turned away to other local centres such as Gunnedah and Moree.

The proponent, The MAC group have publically advised that their operation will provide additional accommodation to the expected influx of people and are not looking to directly compete with existing motel operators. It is expected that there will be a multiplier effect generated attracting additional staff from the construction and operational phases of all mines with support industries and also contractors requiring significant accommodation needs.

Local trades will be sourced for the erection of the village and service connections such as plumbers, fitters, electricians and also general labourers. The application identifies that local landscaping supplies will be used for sourcing of plant and other landscaping materials for use in the development that shall have a multiplier effect on the local economy.

The application outlines the employment of local staff for the management, maintenance, cleaning, cooking and washing,

creating additional fulltime, part time and casual employment opportunities in the Narrabri district.

The supply of materials and also food products shall be sourced locally through a tender process including but not limited to meats, vegetables, and fruit. Other consumables shall be procured through local suppliers to ensure that economic stimulus is provided directly to the local economy.

Council will impose conditions of consent should the development be approved to use local facilities such as public pools and also recreational facilities such as gyms and sporting fields. Council should also consider the provision of funding by contribution by the proponent toward the upgrade of the Narrabri pool for the benefit of the local community rather than providing a stand alone development within the complex. This will also assist in integration to the community of both the public staying in the accommodation and also the mine employees.

The application will also allow for the introduction of new business opportunities into the Narrabri business portfolio. The growth in demand for accommodation products within Narrabri has acted as a catalyst for the proponent to introduce its brand to the town and establish a new facility to service these increasing demands.

A social and economic study has also been produced from Mitchell Hanlon in Tamworth in support of the application. It is noted that the application makes reference to the MAC Services group entering into an agreement with the local gym provider however, following discussions with the Narrabri Fitness Oasis Cooma Road, this has not been the case. Although the MAC Group has a non compete policy with local business, it would be encouraged for discussions to occur with any local gym providers to provide a facility on site for use by the MAC group or possibly manage or run the facility.

The report further outlines that the facility will generally not impact on other motel and accommodation businesses which currently exist within Narrabri on the basis that although the facility is open to all types of travellers in the general public, the majority of the users of the facility will be persons associated with the mines. Given the current occupancy levels of the established motels, the MAC facility will only be providing accommodation supply to additional demands created by an influx of mining and associated industries in the area, in addition to existing current demands. The report also outlines the current and proposed local expenditure within Narrabri Shire for both construction and also operational expenditure.

Further economic discussion, in summary;

- i) The employment of locals promotes both a positive image for the township and also allows funds to be retained within Narrabri.
- ii) The imposition of such a facility, re-enforces that businesses are optimistic in outlaying substantial investments in small communities located within the Narrabri Shire.
- iii) Investments of this magnitude within the shire instigate a positive 'flow on effect' in both construction costs and also on-going employment of staff and sourcing of local materials.
- iv) The proposal may instigate the use of subsidiary employment upon a contractual arrangement of local business to cover any localised demands and corporate business contracts for materials.
- v) Local demand pressures currently being experienced needs to be stemmed to ensure housing, rental and accommodation affordability.

- vi) Accommodation supplies need to be further increased to ensure retention of current and proposed mining operations and also to ensure that members of the public are assured of a place of accommodation.

18. Social Impacts in the locality

Negative stigma attached to the concentration of a large number of people concentrated in one area (for instance mine workers and also the general public) may be overcome by the breaking down of the social isolation of the development. The reliance of the facility on local public amenities such as pools and sporting infrastructure will create resilience to localised social isolation and create and encourage better relationships with the local community.

The provision of employment opportunities allows for both social cohesion and the discouraging of unemployment benefit reliance. It is noted that the development as proposed will employ a number of full time and part time local employees including skilled staff and also general labourers. It is noted that this is in addition to initial employment generated within the construction workforce.

The proposed development has been located strategically on the fringe of the urban centre to engage further business opportunity from both mine generated accommodation requirements and also that of the general public. The development lends itself by virtue of its location to both the mining operations and also travelling public, being in close proximity to the town.

Further business opportunities may also be created from other industries requiring accommodation including the local agricultural, scientific and manufacturing base in Narrabri creating social opportunities for employment.

The establishment of such a facility may promote the development of other subsidiary businesses within the township creating further positive employment social opportunities for local constituents.

Counselling services should be made available by the proponent to ensure welfare of all occupants whether mining related or the travelling public.

19. Site Design and Internal Design

The proponent has provided an internal layout which is supportive of a number of features;

1. Firstly, the plan is sympathetic of local topography ensuring that natural drainage lines are maintained and that structures are erected on land which supports the highest (Australian Height Datum) AHD levels. Generally, from a review of the plan this appears to be the boundary of the allotment.
2. Improvements on the site such as accommodation modules and also the main dining and laundry facilities will be located approximately 2 metres above natural ground level to ensure asset protection from flooding. This will further ensure free passage of water without reducing floodplain storage, behaviour or velocity.
3. The development layout recognises possible future expansion beyond stage 5 (subject to development consent of Council) and buildings have been concentrated to allow for maximisation and best use of remaining residual land.
4. Central dining and laundry facilities have been located within close proximity of both proposed and future accommodation modules to enable central access to both mining employees and members of the general public.

5. Internal road infrastructure and access appears to be designed in order to promote traffic flow and efficiency in enabling vehicles to enter and egress the site via a local feeder road.
6. Nominal setbacks have been utilised in the application to promote amenity, both visual and acoustic and also on the South Eastern boundaries of the allotment to protect the adjacent industry land use.
7. The development as proposed recognises that buildings are to be aligned in the direction of floodwater to provide a line of least resistance and also to prevent blockages and restrictions in flow.
8. If the development is determined by way of approval conditions will be imposed for the sealing of internal trafficable areas to ensure dust suppression and kerb and gutter will be required for stormwater disposal.

In summary, the site has been designed in order to maximise natural features of the land whilst also taking into account the built form and preservation of existing environmental amenity.

20. Construction

The construction of the motel accommodation shall be of a transportable nature. Individual rooms shall be prefabricated and consist of materials conforming to the requirements of the former Building Code of Australia and the National Construction Code. Generally, the external walls of the motel rooms will be colourbond type steel, pre-coloured and the roof construction will be zincalume.

The development to alleviate flooding issues shall be erected approximately 2 metres above the natural ground level. Concrete columns shall be used to elevate the buildings and timber formwork shall be used to prevent entry under the buildings and also provide amenity. The columns shall be required to be engineered by a structural engineer to

be able to cope with any hydraulic force presented in times of a flood event.

Timber elevated platforms have also been proposed to enable pedestrian access between the accommodation buildings and also the central dining areas and laundry. This would also enable access to the shared facilities in times of a flood event where access may be hampered.

It is not expected that the proposal will create environmental or safety issues within the construction phase of the development. Temporary fencing shall be erected around the development in accordance with Work-cover safety guidelines and appropriate construction site signage will form conditions of development consent should the application be approved. Traffic signage shall be also erected for heavy plant, machinery and also transportation vehicles entering and egressing the development.

21. Cumulative impacts

There are a number of cumulative impacts that have been considered as a result of this application. The impacts include;

1. Increase and concentration of traffic onto old Gunnedah Road and also Arnold Street intersection. This has been discussed earlier in this report under the statutory considerations of both traffic and also parking. It is noted that however as there will be an increase in local traffic it has been identified in the application that the proponent shall provided buses in order to pool predominantly mining employees to the mine sites. Whilst it is noted that the general public using the facility would usually provide their own means of private transport, an increase in traffic associated with the site will be offset through local road and intersectional upgrades.

2. Concentration of mining employees and related social issues. The application has stated that the MAC group provides strict management protocols for its occupants including drug screening, alcohol screening and behaviour management. It is expected that the management task of the group should ensure that negative behaviours are not concentrated in the area or spill over into the local community.
3. Sewer and Water cumulative impacts. The demands placed upon existing pressure shall require the component to provide additional infrastructure at their cost. 3.5km of sewerage lines to the Doctors Creek Pump station shall be necessary to alleviate pressure on capacity on the Regent Street pump station. The development shall place additional demands upon water pressures in the general area and it is likely that the current pressures shall not adequately service the motel. Tanks and also pumps shall be required to be installed in order to overcome the lack of water pressure currently being experienced in the general vicinity.
4. Cumulative impacts on flooding have been considered in the technological hazards statutory considerations of this report. Given that a flood study has been conducted on this site by Max Winders and Associates in accordance with the Supplementary flood study 2001, it is likely that the proposed structures will not have a cumulative impact on the local flooding characteristics of the site or adjoining properties.
5. Protection in the form of landscaping and also setbacks shall be provided from the concentration of accommodation modules to adjoining residential, rural residential and also industries.

22. Suitability of the Site for Development (section 79(c)(1)(c))

1. The development site has been chosen as it possesses a number of qualities that are beneficial to both the mines and also the local community. These include ;
 - a) The site is less than 30 minutes by road from the Narrabri Coal Project Whitehaven Coal Mine which will reduce driver fatigue following completion of shift work;
 - b) The site is located within close proximity (1km) of the Narrabri CBD and will provide additional supply to the accommodation industry in Narrabri for member of the general public.
 - c) The site has good access to transport. The site is located within close proximity to the Narrabri Airport which shall allow for both members of the public and also miners to access commercial airline transport.
 - d) The site is located on the fringe of the urbanised area of Narrabri providing good access to local facilities within Narrabri including retail, community amenities such as pools, parks etc. The site is also within walking distance of local eateries and also pubs and clubs.
 - e) The site will require minor extension of infrastructure such as water and sewerage facilities. This infrastructure will be extended and upgraded at the cost of the developer. Council will either carry out the works under a Private Works Agreement (PWA) or a contractor will be engaged under the supervision of Council at the cost of the developer.
 - f) The development area of 34 hectares is of sufficient size to allow for future expansion beyond stage 5 should it be necessary and further should demand exceed supplies and also to allow for buffering of adjacent development.

2. The adjoining land uses are rural residential, residential and also industrial. It is noted that the development as proposed is considered compatible with these uses providing that controls are in place. Such controls include landscaping to be maintained within the interface from the site to the rural / rural residential land uses and minimum setbacks and heavy mature planting is imposed adjacent to the industrial land uses to the South East. The screening of the industry will counteract any likely issues in relation to noise, dust and visual amenity issues.
3. It is noted that the site is subject to flood inundation. The flood report prepared by Max Winders and Associates has not indicated that the development of the site would, using available data, cause any restriction of flood water, reduce floodplain storage or change the behaviour of a flood event. The Narrabri Supplementary flood study 2001 makes note that flood mounds (landfill) could be placed upon the land in 6000sqm lots without significant effect. From a review of the application it has been found that the development will be constructed upon concrete piers which will allow for passage of flood water. Local internal roads will be constructed upon natural ground level and localised drainage will be maintained. It is possible that a detention pond may be created on site however this will provide additional (but negligible) floodplain storage.
4. The development site was considered due to the nature of the development requiring a significant portion of land in order to accommodate the development. The site also posed an opportunity with services being in close proximity to the land requiring little extension to services.
5. Due to the nature of the development requiring a large tracks of land to support the proposal, it is not possible to locate the motel within the urban area as such supply of land within the market does not currently exist.

23. Submissions (section 79(c)(1)(d))

The development application has been assessed in accordance with the Narrabri Notification Policy under the definition of a 'motel' and has been categorically classed as an 'A' type development requiring advertisement in the newspaper, notification placed upon the land and also neighbouring properties notified in writing. The policy also provides for the assessment officers discretion in determining the type of notification to be provided.

In accordance with the policy the development application was publically exhibited from the 21st June 2011 until the 27th July 2011

The application was placed on exhibition in the Courier on four separate occasions during the exhibition period and a notice was placed on land (in four locations and photographed) and all adjoining neighbours were notified in writing and were provided a site plan and also a schematic of the proposed village cabins.

The application attracted 2 submissions during the submission period. Each submission has been evaluated and summarised and has been included in the table below: Please note that all submissions have been included as an appendix to this report for the Joint Regional Planning Panel Member's reference (See Annexure B).

The main topics that are distilled from the submissions have been addressed in this report collectively under grouped headings.

Sub. No.	Name of objector	Summarised reasons for objection:	Assessment
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1.	Carrigan ⁴	<ul style="list-style-type: none"> • Use of the land is inconsistent with the zone objectives within the LEP Number 2 Zone 1(a) • The development is not permissible without consent • The development is not defined as a motel in accordance with the Model Provisions • The development will accommodate mining workers on a rostered cycle • Predominate use of the motel is for mining workers on a rostered cycle for periods of days at a time. • Model provisions makes note of definition of a motel as accommodation for travellers on an overnight basis • The use of the village is not for general public, not for travellers and not on the basis of overnight use. • Developers note that the motel is available for the general public however the predominant use is that it will not be used by travellers. • Should be defined as a 'residential flat building' as defined in the model provisions. • The proposal is a suite of rooms for accommodation of mine workers for extended periods. • In accordance with the Narrabri Local Environment Plan Number 2 the development is prohibited. • Objectives of Narrabri Local Environment Plan Number 1992 does not support the construction of a motel. • The proposed development is not permitted without consent • The development is a residential flat building and is prohibited under the 1992 plan. 	<ul style="list-style-type: none"> • Development is permissible within the zone • Noted it is not permissible without consent of Council. • The development is classified as a motel as explained in the definitions of this report. • The development shall support travellers on an overnight basis including the public and miners • Motel is for accommodation. • Noted – Model provisions • The development is for the general public, travellers including miners and is for overnight use. • The development is made available for the general public • Not residential flat building as it is not one building and doesn't include separate domiciles as per the LEP. • The accommodation is for both general public and also mining personnel for any length of time as with any other motel. • Development is permissible with consent of Council • Development is permissible with consent of Council. • Noted. The proposal is not permitted without consent. • Not residential flat building as it is not one building and doesn't include separate domiciles as
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⁴ This submission was provided under DA 97/2011 (Stage 1 of the development) in its entirety.

		<ul style="list-style-type: none"> • Land is not zoned floodway however has a major flood runner passing through it. • Unknown why the land is not zoned 1(d) floodzone • GMS provides evidence of flooding of land in 1998. • 1998 flood was a 1:20year floor considered to be minor • Flood height during a 1:20 year flood being 2m deep to some areas being flood free • 1:50year flood event the land would be subject to 3.5metres deep at the lowest point and 1.2m at the highest point – no part of the land not subject to inundation • 1:100 year flood would be 4 metres deep at the lowest area and 1.6m at the highest point with no part of the land not subject to inundation • Estimations have been taken on calculations of known and marked flood data during various flood events • Photos provided of the flood inundation of the area in 1998. • Proposed development is land which is seriously flood affected and should be left free of significant development. • Development should be refused on the basis of the land being unsuitable by virtue of flood liability • Land has already been purchased by the developer • What guarantees have been given in relation to the proposal – developer wouldn't pay a significant sum of money on spec. • Proposal being promoted in the paper as a done deal; short period of time for 	<p>per the LEP.</p> <ul style="list-style-type: none"> • Land is not zoned floodway and the natural water course has been protected. • Land is zoned 1(a) general rural under LEP Number 2 and 1992. • Noted. Land is subject to floods • Noted. Flood study provided and development to be raised 2 metres. • Noted – hypothetical depths not actually shown in a model or historical literature. • Noted – hypothetical depths not actually shown in a model or historical literature. • Noted as estimations. Flood study presented. • Noted • Development is not located on land which is zoned flood way. It is noted that the land is flood prone. • Flood liability shall not prevent development if in accordance with adopted flood study. • Noted. Land has been purchased. • No guarantees have been provided – allegation of corruption that has no substance (not relevant) • Exhibition in accordance with Notification Policy. Development is under assessment. No 'rubber stamping as suggested –
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		<p>submissions, rush to finalise the matter suggestive of the development being rubber stamped</p> <ul style="list-style-type: none"> • Proposal is ill considered and rushed and residents should be provided more time to consider the proposal. • Proposal not permissible on the location which has been overlooked in the rush. 	<p>allegation of corruption that has no substance. (not relevant)</p> <ul style="list-style-type: none"> • Notification in accordance with policy. Extension of time also granted. • Proposal is permissible with consent of Council in accordance with LEP
2	Dunstan	<ul style="list-style-type: none"> • Stand alone development – there will be no interaction with the local community • No social or economic impact assessment has been investigated. • Operation of the village will be segregated from the local community as the development will not use local facilities 	<ul style="list-style-type: none"> • The development will be integrated through community partnerships. • A social and economic assessment has been submitted by Mitchell Hanlon Consulting Tamworth in support of the application. The report details economic benefits of the proposal. • The village will make use of local community facilities including pools and also recreational space.

2. The Public Interest (Section 79(c))

Considerations under this heading relate more specifically to various policies and guidelines by the various government agencies that reflect what is considered to be public interest in a corporate sense.

It is however within the public interest to have an available supply of accommodation in support of both mining operations and also the general public. The additional supply of accommodation will enable housing and rental costs to be alleviated promoting housing affordability within the shire. The development will also enable employment opportunities in the area and support local business through local supplies procurement.

Policy Implications

There are no expected policy implications as a result of this application however, any perceived policy implications have been included as part of the section 79C assessment detailed in the commentary.

Legal Implications

The assessment of the subject development application has been made in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*. Recommendation for determination of the application is made in good faith with appropriate regard to the legislation.

There are avenues of appeal for an applicant that is not satisfied with a decision of Council with regard to its determination of a development application. This is provided for by section 97 (1) of the Act as follows:

- (i) *An applicant who is dissatisfied with the determination of a consent authority with respect to the applicant's development application (including a determination on a review under section 82A) may appeal to the Court within 12 months after:*
 - (a) *the date on which the applicant received notice, given in accordance with the regulations, of the determination of that application, or*
 - (b) *the date on which that application is taken to have been determined under section 82 (1).*

The Land and Environment Court under Class 1 of its jurisdiction would hear such an appeal (s 17, *Land and Environment Court Act 1979*).

While appeals by objectors against a determination by Council are not possible unless in the case of designated development, proceedings may be brought by any person to remedy or restrain a breach of the Act. Section 123 of the Act provides that:

- (1) *Any person may bring proceedings in the Court for an order to remedy or restrain a breach of this Act, whether or not any right of that person has been or may be infringed by or as a consequence of that breach.*
- (2) *Proceedings under this section may be brought by a person on his or her own behalf or on behalf of himself or herself and on behalf of other persons (with their consent), or a body corporate or unincorporated (with the consent of its committee or other controlling or governing body), having like or common interests in those proceedings.*
- (3) *Any person on whose behalf proceedings are brought is entitled to contribute or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.*
- (4) *(repealed)*

It is important to further note that under section 122 of the Act, a reference to the Act includes a reference to an Environmental Planning Instrument.

The Land and Environment Court under Class 4 of its jurisdiction would hear such proceedings (s 20, Land and Environment Court Act 1979). These proceedings do not constitute an appeal per se as new facts can be introduced, as the case need not be restricted to points of law. The outcome of such proceedings is that the Court may issue Orders if it is satisfied that a breach of the Act has been committed (s 124 Environmental Planning and Assessment Act 1979).

Financial Implications

The financial implication of Council's decision in this matter is directly related to the legal implications. The possibilities are detailed as follows:

- 1) Should the proponent choose to appeal an refusal by Council through the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would still be a matter for the Court to determine.
- 2) Should the proponent choose to appeal a refusal by Council through the Land and Environment Court and win, the question of cost would still be a matter for the Court to determine.
- 3) Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and lose, the question of cost with regard to Council's legal representation would still be a matter for the Court to determine.
- 4) Should any person choose to take out Class 4 proceedings against Council to the Land and Environment Court and win, the question of cost would still be a matter for the Court to determine.
- 5) Should the applicant make no appeal, or proceedings not be taken out by another party, to the Land and Environment Court regardless of the determination, will result in no further financial implication to Council.

RECOMMENDATION That the Joint Regional Planning Panel APPROVE development application 415/2011 being stages 2 to 5 subject to development consent conditions.

