

JRPP No:	2011STH002
DA No:	DA Number T11-001
PROPOSED DEVELOPMENT:	Private Art Gallery & Art Storage Lot 29 DP753590 Back Jugiong Rd, Harden
APPLICANT:	Romani Pastoral Company Pty Ltd
REPORT BY:	Sharon Langman, Director Environmental Services, Harden Shire Council

Assessment Report and Recommendation

Proposal

The applicant, Romani Pastoral Company Pty Ltd, proposes to erect a private art gallery and art storage facility on Lot 29 DP753590 Back Jugiong Rd, Harden. The proposed building is approximately 75.2m in length x 22.4m in width and will be used to display and store the owner's art collection. The proposed facility is two storeys cut into the existing landscape so as to present a single storey when viewed from the north and west with a partial basement level visible from the south and east. The overall height of the building when viewed from the south is 11m at the highest point and 6m in height when viewed from the west. Entry to the facility is at ground level which has a floor area of 1,385m². The central floor area of the gallery will double as a dining area for evening events during polo tournaments. This level is to contain the main display areas, reception area, amenities and catering area.

The lower level of the facility has an internal flood area of 735m² and will contain plant, storage and smaller galleries.

The facility is to be constructed of Corten Steel, Form Concrete with Timber Façade Panels and is to be used in conjunction with existing private polo facility located on this portion of the larger holding. Corten Steel has the visual affect of pre rusted steel. The wall is to be constructed of class 2 form concrete which has a high quality smooth finish with crisp clean lines.

The applicant has indicated that the proposal has a capital investment value of \$18,000,000 and is therefore referred to the Joint Regional Planning Panel in accordance with provisions of the Environmental Planning and Assessment Act, 1979 and Regulation 2000.

Existing Development

The proposal is part of a larger development known as 'Garangula' which is a polo club which hosts two polo tournaments per year. Attendance at these events is by invitation only, with the exception of the last day of the tournament in October when the public may attend for a 'gold coin' donation. The proceeds of the public attendance are donated to a local charity.

Current development on the 'Garangula' site includes Garangula homestead, manager's office, six (6) residences, 2 accommodation blocks for visiting players, a chapel, three (3) stable blocks, indoor horse arena, clubhouse and associated recreation facilities (pool, tennis courts), three (3) polo fields, two (2) entertaining pavilions, helicopter hanger and helipad, two (2) machinery sheds/workshops and numerous sculptures. The development currently employs thirty (30) full time staff, of which fourteen (14) live on site, and a further fifteen (15) part time staff. There are approximately 200 polo ponies stabled on site. There is also a disused stone quarry situated on site.

Site

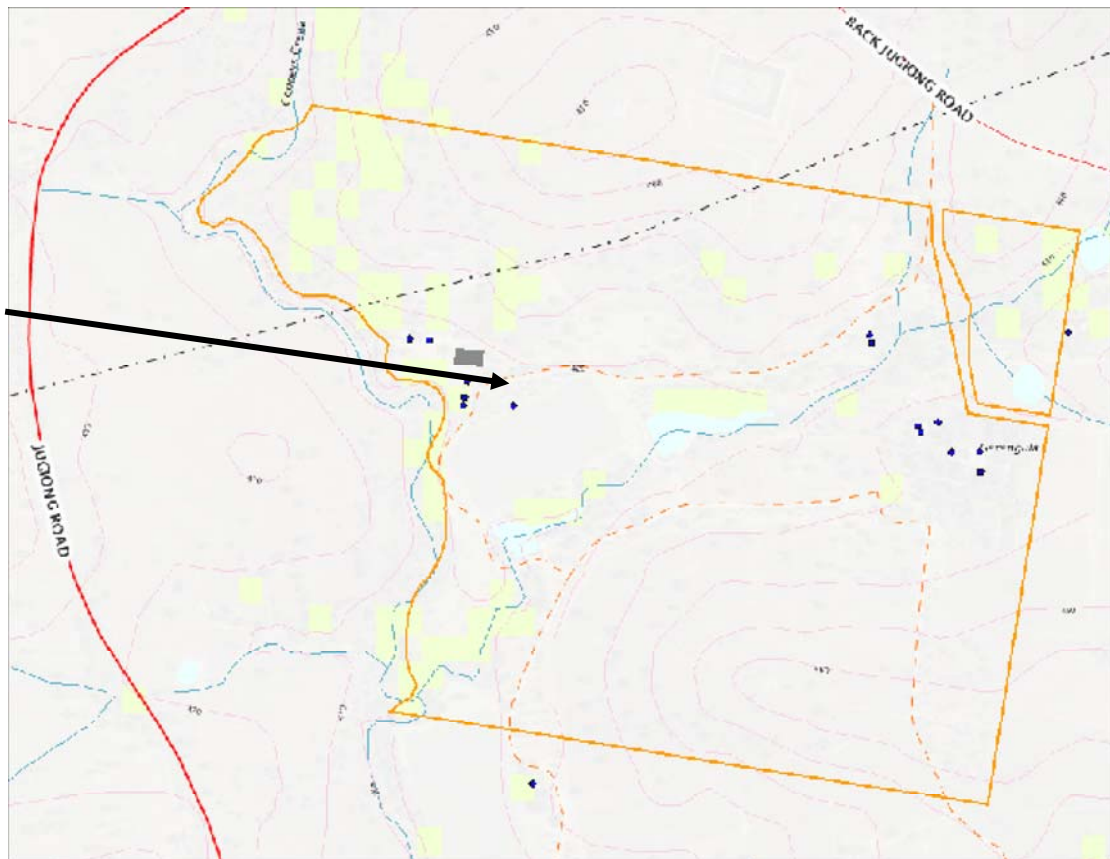
The site is situated approximately 20km southwest of Harden Township and is accessed from Back Jugiong Road via Harden-Jugiong Road. The site is part of a larger holding owned by Romani Pastoral Company Pty Ltd. The overall Romani holding has an area of approximately 8,464ha. The site the subject of this proposal is contained within Lot 29 DP 753590 which has an area of 76.44ha. Currently situated on Lot 29 is a number of outbuildings associated with the housing, breeding and training of polo ponies, a polo field as well as the original "Garangula" homestead and outbuildings. An unnamed watercourse transects approximately the middle of the allotment upon which several dams are located.

The proposal is to be situated in the northern portion of Lot 29 approximately 50m from the northern boundary, approximately 470m south of Back Jugiong Road and approximately 1.2km from Harden-Jugiong Road. The site slopes from 470 AHD at the highest point in the north to 400 AHD at the unnamed watercourse. The unnamed watercourse flows into Cooneys Creek which forms the western boundary of Lot 29. There is a closed road dissecting the northeastern corner of the site from the remainder of Lot 29.

The proposal is to be located on the southern slope of the hill at approximately 460 AHD. The facility is to be located an area that is devoid of significant mature vegetation which exhibits highly modified forms of vegetation.

The proposal has been located to take advantage of the views of the property offered by the elevated position. The precise location of the facility has also been located to avoid impacting upon, and by, the 132KV power lines which are situated in a 45m easement just north of the allotment boundary.

Subject
Site
Lot 29



Type of Development

The proposal is not integrated or designated development and is therefore local development for which Council would be the determining authority where it not for the provisions of the Environmental Planning and Assessment Act, 1979 relating to Joint Regional Planning Panels. In this instance the capital investment is over \$10,000,000 therefore the Joint Regional Planning Panel assumes the determination role.

Notification

Four (4) adjoining and potentially impacted property owners were notified of the development proposal and given ten days in which to make submissions or comments. There were no submissions received as a result of this notification.

Referrals

There were no referrals required for this application. The proposal is located in excess of 40m from an identified watercourse, being approximately 350m north of the unnamed watercourse traversing Lot 29. The proposal, being a private art gallery not open to the public, was not referred to the NSW Roads and Traffic Authority it does not fall into any of the items identified in Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007 which require referral. Nor does the proposal front a road under the care and control of the NSW Roads and Traffic Authority. Additionally there are no licenses required for the construction or operation of the proposed art gallery and the site is not known to contain any relics or Aboriginal artefacts.

Zoning

The application was received by Council on 4 February 2011. At the time of receipt the site was zoned part 1(a) Non Urban "A" and part 1(b) Non Urban "B" pursuant to Harden Interim Development Order No 1. The portion of the site zoned 1(b) Non Urban "B" is that portion within 400m of the Harden-Jugiong Road. The proposal is situated approximately 1.2km from the Harden-Jugiong Road and is therefore within the portion of the site that is zoned 1(a) Non Urban "A". The proposal is not a prohibited use in either the 1(a) or 1(b) Non Urban zones. Clause 20 of Harden Interim Development Order No 1 provides the land use controls for land within zone number 1(b), specifically extractive industries and transport terminals.

Environmental Planning Instruments

There are no draft Regional Environmental Plans, nor are there any gazetted Regional Environmental Plans applicable to either the development or the subject site.

Harden Interim Development Order No 1 is the local environmental planning instrument applicable to this proposal. The proposal is permissible within the current zone with the consent of Council in that it is not included in the list of prohibited items. The publicly exhibited draft version of Harden Local Environmental Plan 2011 proposes to zone this site to RU1 Primary Production.

Harden Local Environmental Plan 2011 (LEP) was notified and published on the NSW legislation website on 18 February 2011. Within the LEP Clause 1.1AA – Commencement states "This Plan commences 7 days after the day on which it is published on the NSW legislation website". Therefore the LEP commences on 25 February 2011. However contained within the LEP is Clause 1.8A Savings provision relating to development applications states "If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced".

Harden LEP 2011 identifies the within Zone RU1 Primary Production. The land use table to the RU1 Primary Production Zone is a closed table where only permissible uses are listed

with all other uses being prohibited and as such all undefined or unnamed uses are automatically prohibited. This situation is in direct contrast to Harden Interim Development Order No 1 where the land use table is open with only prohibited uses being listed with undefined or unnamed uses capable of being considered by a merit's based assessment. Harden LEP 2011 is drafted in accordance with the Standard Instrument (Local Environmental Plans) Order 2006 whereby the definitions for inclusion in Local Environmental Plans are set. This proposal does not appear to fall into any of the definitions within the Standard Instrument in that it is a private art gallery. Nonetheless the proposal is not within the list of permissible uses and would therefore be prohibited were the application to be made after the commencement of Harden LEP 2011. Notwithstanding the land use table the proposal is not inconsistent with either the objectives of the RU1 Primary Production Zone or the aims of the Plan.

Council does not have a contributions plan under Section 94 or 94A of the Environmental Planning and Assessment Act, 1979 that is applicable to either the site or the proposed development.

State Environmental Planning Policies (SEPPs)

There are no State Environmental Planning Policies (SEPPs) applicable to either the site or this type of development. Similarly there are no draft SEPPs applicable to this proposal or site. This proposal falls outside State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Development Control Plans

There are no development control plans applicable to either the site or development type the subject of this proposal. The proposal falls outside the provisions of Harden Development Control Plan No 1, Exempt and Complying Development, with regard to overall height and floor area.

Impact of the Development – Section 79C Considerations

Context and Setting

The issue of context and setting deals predominantly with the areas of the landscape, streetscape, scale, form, character, etc of the development, and the relationship of the development with the other land uses in the area. It also examines the potential impacts of the development in terms of overshadowing, visual and acoustic privacy, etc.

The site is located on rural land on a significantly large holding. The land immediately to the north, south and east of the site is part of the wider Romani holding. This land is used in conjunction with the polo facility for training, spelling and grazing spelling purposes. The land immediately to the south of the site is also part of the Romani holding. Land further afield to the north, south and east, being part of the larger Romani holding is used for cropping and grazing. Land immediately to the east of the site, across Cooneys Creek is contained in a separate ownership and is not part of the larger Romani holding. This land is used for broadacre farming including cropping and grazing.

The land within the immediate vicinity of the site is used as part of a polo facility and includes polo grounds, horse housing and training outbuildings, grooms' quarters, meals room, private recreation facilities/clubhouse as well as the original "Garangula" homestead. The polo facility is operated for only a few times per year with participation in the events by invitation only. Similarly, this facility is a private art gallery with area available for private function, as is accessed by invitation only on an irregular basis.

It is proposed to set this facility into the side of the hill to reduce its bulk and visibility within the landscape. Similarly the materials chosen for the exterior to the building are designed to complement the rural setting in which it is located. The exterior materials are corten steel,

form concrete and timber façade panels. It is also proposed to plant additional trees around the building to soften the appearance.

The site is not highly visible from the main Harden-Jugiong Road; nonetheless by setting the proposal into the landscape through the use of cut and construction materials it is possible to limit the visual intrusion of the proposal. The roof is obscured by a parapet type structure and is not at all visible.

Photomontage 1



Photomontage 2



Photomontage 3



Photomontage Locations



Access, Traffic and Transport

The property is accessed via Back Jugiong Road which is tar sealed to a point just west of the existing property access. Access to the property also tar sealed as is the main thoroughfare within this portion of the property. For invited visitors to access the front of the site it will be necessary to upgrade an existing farm track. It is proposed to use “spray seal” crushed granite which would be sourced locally. Given the slopes of the site it will be necessary for some type of seal and/or contour of the roadway to prevent erosion of the roadway.

The service access will be via an existing farm service track to the western portion of the building. Service vehicles include garbage disposal vehicles, catering, delivery and staff vehicles. This track is currently constructed of gravel and is beginning to show signs of erosion. Onsite farm roads have generally not been subject to development consent in the past. Harden LEP 2011 also allows roads in RU1 to be undertaken without consent. Nonetheless the applicant will be required to implement measure to avoid erosion from the roads.

The facility will be open to guests by invitation only; there is no public access to the existing site or to the proposed facility. The facility however does contain areas for display and storage of art works as well as function facilities. Accordingly the applicant has proposed a carpark area suitable for thirty six (36) cars on the north eastern side of the building.

The site has been functioning as a polo facility for over ten (10) years. The site is used for polo functions on two occasions through the year, being a weekend event in April and a ten (10) day event in October. Participation for both events is by invitation only with public being granted only for the final day in October for spectators. During the period that the polo facility has been operating Council has received no reports of traffic congestion, accidents or incidents from Romani, NSW Police, NSW Roads and Traffic Authority or the local community. The proposed facility will not generate additional traffic as the facility will only be used for functions during the described polo events. At present meals for the polo participants are provided at various locations elsewhere on site. This facility simply collects the participants into one location. The displayed art is not for public exhibition and viewing is by invited guests only.

There are no public transport services in the area of the proposed facility. Transport to the site is by private vehicle. For the majority of times during the year this facility is visited by staff and vehicles associated with maintaining the polo facility. It is not anticipated that this proposed will have a detrimental impact upon access to the property, traffic or transport facilities in the area.

Public Domain

It is not envisaged that this development will adversely impact on public recreational activities in the locality as there is no areas of public recreation within this area. Neither will it impact in terms of the amount, location, design, use and management of public spaces in and around the development. The proposal will be visible from Back Jugiong Road and the Harden-Jugiong Road; however it is not considered that it will negatively impact upon the use of these areas by the public.

Utilities

The property has a private reticulated water system which provides sufficient water pressure and quantity for everyday use as well as for fire fighting measures such as hydrants and hose reels. In addition to the reticulated water there are numerous dams and tanks scattered throughout the vicinity of this proposal that have sufficient storage to meet all expected water requirements.

There is power available to and within the site. There is a high voltage power line that exists in an easement to the rear of the proposed facility. The facility is located outside the easement.

The applicant has indicated that the stormwater from this proposal will be collected into rainwater tanks in the lower floor level of the building. The tanks have a combined capacity of 20,000 litres. The water will then be filtered and used to supplement water in the turkey's nest dam at the top of the hill which will provide water for the water feature identified on the plans as part of this proposal. The overflow from the stormwater tanks will be directed to the existing piped stormwater system on site.

Onsite effluent disposal is required as there is no reticulated sewer system in this locality. It is proposed to install a convention septic system with an underground absorption trench similar to that existing at other buildings throughout the facility. The applicant will be required to obtain separate approval for an onsite effluent disposal system pursuant to Section 68 of the Local Government Act, 1993 prior to the release of a Construction Certificate.

Heritage

At present the site is not listed as an item of environmental heritage in Council's Environmental Planning Instrument or State Heritage Office inventory. The item is however listed by the National Trust of Australia (NSW) National Trust Country Register (item number 3643). Additionally Council is currently finalizing a community based heritage study. This study has identified the Garangula Homestead complex as an item worthy of listing as an item of environmental heritage in Schedule 5 of Harden Local Environmental Plan. The study identifies the buildings as significant pise buildings constructed in the nineteenth century.

It is the Garangula Homestead complex that is the subject of heritage interest rather than the Romani holding overall. The homestead complex whilst situated on the same allotment as this proposal is situated approximately 600m south west of the proposed facility. Furthermore the homestead complex is clearly defined by existing mature trees and gardens that make it immediately obvious to its age and status within the locality. This proposal is not likely to detract from the heritage significance or alter the heritage status of the Garangula Homestead complex.

It is unlikely that the site will be impacted by the development in terms of scientific, social, anthropological, cultural, spiritual or archaeological significance, and the site is not known to be a site of Aboriginal significance.

Other Land Resources

The proposal will not impact upon any mineral resources or impact upon ground water reserves. Similarly the proposal is unlikely to impact soil resources in terms of structure, stability, capability or erosion. The applicant will be required to place sediment control barriers during construction to ensure that no erosion of exposed areas of soil occurs.

Water

The land slopes to the south from the site of the proposed facility to an unnamed watercourse. The watercourse is in excess of 40m from the building. Stormwater from the proposed facility is to be collected initially into stormwater tanks for reuse with the excess being diverted into the existing piped stormwater system existing onsite.

The unnamed watercourse flows west into Cooneys Creek in the upper reaches of Jugiong Creek which then flows into the Murrumbidgee River. The unnamed watercourse has several existing dams located upon it, as does Cooneys Creek. Whilst the construction of the facility will divert natural ground overflow of water from the unnamed watercourse it is unlikely that the facility will ultimately have an impact on the water quality or quantity in the unnamed watercourse or other watercourses of which it is a tributary.

The proposal does not rely on groundwater for water supply. The Garangula complex has a private reticulated water supply that is drawn from, and metered through, Council's reticulated water supply. Additionally there are several storage tanks and dams that provide gravity reticulated water through the site. This system provides water for fire fighting infrastructure such as hydrants, hose reels and filling tanks.

The water to be used in this proposal will be drawn from the reticulated town supply which is kept separate to the collected roof water and stormwater at all times. Note: where potable water is available, stormwater is capable of being connected to laundry and toilet facilities only – this is capable of being addressed prior to the issue of a Construction Certificate when drainage and servicing plans are finalised.

Soils

The soil is made of decomposed sedimentary granite over a granite base. The facility will involve cutting into the hillside to set the building into the ground to allow entry level at grade. The lower level will be partially constructed within the ground. The excavated material will be used as fill to create a zero net loss of soil from the site. Prior to issuing a Construction Certificate the applicant will need to provide to the Principal Certifying Authority engineering details in relation to the retaining structure proposed as part of the facility. During construction and until ground cover is re-established the applicant will be required to install and maintain suitable sedimentation and erosion control measures to ensure that there is no negative impact upon the soil on site.

Being on a slope the site of the proposed facility will be subject to erosion. The applicant has indicated that the internal road to the entry of the facility will be spray sealed crushed granite. The existing farm road that is to be upgraded to a service road is showing signs of erosion commencing. During the upgrading of this road the applicant will be required to shape the road, provide mitre drains and grassed swales to limit the capacity of increased water velocity to instigate erosion.

The proposed facility is located on an area of the Romani holding that is not currently used for agricultural production and is located on a hill. Accordingly there will not be any loss of productive agricultural land as a result of this proposal. Furthermore it is not envisaged that the development will have an impact on soil conservation in terms of soil qualities or instability, management of soils, sedimentation and pollution of water bodies, contamination, or acid sulphate soils.

Air and Microclimate

This proposal will result in soil being exposed during the construction phase; however ground cover and additional vegetation will be provided upon completion of the facility. The proposed facility has a kitchen to cater for functions during polo tournaments and is likely to generate vapour and odour commensurate with other commercial kitchen facilities. The facility however is located on the side of a hill and the kitchen exhaust will be vented directly to the exterior of the building where it will dissipate. There are no dwellings within close proximity that are likely to be impacted by the generation of gas, vapour and odours as a result of functions at this facility.

The applicant has situated the facility to take advantage of the rural vistas and views of the polo field and the valley beyond. Similarly the facility has been oriented to take advantage of the prevailing southwest winds and the creation of breezeways through the building. The orientation of the facility with the glass expanse facing south protected by opening shutters allows for views without impacting upon the thermal comfort of the building.

Flora and Fauna

At present the site exhibits a highly modified form of vegetation. There are some scattered gums, box and kurrajong trees in the immediate vicinity. There is no contiguous tree corridor along the ridgeline while the watercourses further to the south of the facility site exhibit some discontinuous corridors. The site is not known to be part of a wildlife corridor or to contain any endangered ecological communities. Similarly the site is not known to contain any habitat for any threatened species.

The applicant has identified that there are three (3) trees which required removal as part of the proposed facility, one of which is a dead tree. The applicant has also indicated that additional trees will be planted on the northern side of the building in the carpark area. The applicant has also indicated that indigenous white and yellow box will be planted to the northeast of the building to screen the power lines. The white and yellow box species form part of the endangered ecological community known as the 'Blakeley's Red Gum'

community. The planting of these trees, whilst not reinstating an endangered ecological community, is likely to provide habitat to species that previously visited the area. Similarly such plantings are likely to add to the vista of the ridgeline and assist in lessening the visual impact of the proposal when view from both Back Jugiong and Harden-Jugiong Roads.

Waste

The proposal will not generate any significant amounts liquid or gaseous waste. The waste generated as a result of this proposal is not likely to be beyond that currently generated on site during times of peak use and visitation. The existing waste management and minimization strategies will continue.

The design of the facility, both exterior and interior, has taken account of standard building material sizing to limit off cuts and waste. Where possible material capable of being recycled will be deposited to the appropriate facility. Builder's waste will need to be managed in accordance with any conditions imposed.

Energy

The applicant has not provided details of energy connection or energy use associated with the proposal. A Part J assessment of the building is not required pursuant to the provisions of the *Building Code of Australia*.

Noise and vibration

Noise is likely to be created during the course of construction, the impact of which is capable of being mitigated by a restriction on the times during which construction may take place.

Operational noise from the facility is likely to be generated by air conditioning units and extraction fans. Such noise is not likely to cause an impact on adjoining residences given the physical separation distances.

The use of the facility for functions is also likely to result in noise generation. The closest dwelling not on the same allotment as the proposed facility is that of the site manager approximately 1.2 km south of the site. Being down valley of the proposed facility it is possible that noise may impact upon this residence. The manager's residence has double glazed windows which will assist in the reduction of noise intrusion occurring during events.

Natural Hazards

There are no known risks to people, property or the biophysical environment from geologic or soil instability, flooding or bushfire. The bushfire prone land maps prepared by the NSW Rural Fire Service dated 16 February 2009 indicate that the site the subject of this proposal is not identified as bushfire prone. There is an area to the northwest of the site on an adjoining allotment that has been identified by the maps as being bushfire prone. The facility currently has adequate fire fighting facilities on site in that way of fire hydrants, hose reels, storage dams and filler points. It is possible to have the fire fighting services extended to services extended to cater for the needs of this facility. Similarly it is expected, that given the value of the art to be displayed in the facility, that the owner would provide internal and external fire fighting facilities.

The site of the proposed facility is approximately 35m higher than the unnamed watercourse on site, which is the lowest part of the allotment. The road into the property crosses an identified watercourse at its upper reaches and again at approximately 8m higher than the lowest point on site. Council does not hold any information to indicate that the unnamed creek floods or that the site is subject to flooding or inundation. Nonetheless, in an emergency the existing farm road, which is to act as a service road, would be capable of providing emergency egress from the site.

Technological Risks

There are no known risks to people, property or the biophysical environment from industrial and technological hazards, land contamination, remediation or building fire risk.

Safety, Security and Crime Prevention

It is not envisaged that this facility will impact upon the safety or security risks in the immediate vicinity. The facility is part of a larger holding, access to which is by invitation only. There is existing security on site and the presence of an on site manager and the design of the building are a deterrent to criminal activity. The location of the facility, approximately 20 kilometres from any township and access via a rural road, limits opportunistic crime possibilities.

Social Impact in the Locality

Council, when considering the social impacts, must examine the social benefit or cost in terms of the health and safety of the community, social cohesion, community structure, character, values or beliefs, social equity, socio-economic groups or the disadvantaged, and social displacement. This proposal is a private facility constructed on a large rural holding. The operation of the holding and the polo tournaments held on site provide employment opportunities that would otherwise not exist in the immediately locality. It is not considered that the proposal will have a negative social impact.

Economic Impact in the Locality

It is not considered that there will be an overall detriment to the community in terms of economic impact as a result of this development.

Site Design and Internal Design

This proposed facility is to be located on a large rural holding and is to occupied part of an allotment that forms a small part of this holding. The allotment on which this proposal is located forms part of the Garangula Polo Facility. The proposed building is to be used in conjunction with the operation and polo tournaments at that Garangula Polo Facility. The proposal takes advantage of the natural topography of the site to provide a two storey development which will not be visually intrusive when viewing the ridgeline beyond. The proposal also takes advantage of the rural vistas and views from the site location. Additionally the location of the proposed facility is such that it does not create visual congestion through its separation from other buildings on the site. The capacity for landscaping and walking paths improves visitor appreciation of the site. The internal layout of the proposed building is suitable for its purpose as an art display and storage facility and function centre.

The facility will house the owner's extensive indigenous art and artefact collection. The design of the facility is such that light can be restricted to avoid damage to sensitive works of art. Additionally the facility has been separated into separated viewing gallery spaces which have been designed to replicate the interior light conditions and feel of a cave in order that the viewers may obtain a true representation of the impact of the art. This feature of the building is integral to the design and function of the building.

Construction

The building is to be a two storey construction with only part of the lower façade visible. The lower portion of the building is to contain storage, plant and smaller galleries. The use of timber, form concrete and corten steel as exterior building materials are designed to weather and blend into the rural landscape. The applicant has addressed the visual and acoustic amenity of the facility, the utilities required for the facility and the landscape values of the vicinity in the design and construction of the proposed facility.

This application is for development consent only. The applicant will be required to obtain a Construction Certificate from an accredited certifier (either Council or private) prior to commencing construction works.

Cumulative Impacts

The cumulative impacts associated with this development involve increase in impervious area and increase in ground water overflow diversion. The increase in impervious area is capable of being managed through adequate stormwater controls. The increase in diversion of ground water overflow is expected to be minimal in the scheme of the catchment of the unnamed watercourse, Cooneys Creek, Jugiong Creek and ultimately the Murrumbidgee River.

Does the Proposal Fit the Locality?

The proposal is for the construction of a private art gallery and art storage facility capable of holding private dinner functions. The site, and the immediately surrounding land, is currently used for the Garangula Polo Facility with the land further afield being used for agricultural purposes. The proposed facility is to be used in conjunction with the polo facility for private viewings and functions during polo tournaments it is not open to the general public and access is by invitation only. The proposed building is an ancillary use to the function of the polo facility existing on site. The polo facility has been operating in this vicinity for over a decade. During that time the facility has expanded to include player accommodation, recreation and clubhouse facilities as well as a chapel. This proposal is a further enhancement of the polo facilities at the site.

The construction of the facility into the side of the hill will limit visual impact and not be intrusive against either the ridgeline or the skyline. The construction materials and colours will also assist in minimising the visual impact of the proposed facility.

The facility is located within an area that is separated by topography and physical from agricultural activities on adjacent land. The facility is therefore unlikely to impact upon the agricultural activities on neighbouring land and is not inconsistent with the use of land as such.

Are the Site Attributes Conducive to the Development?

The site is not known to be subject to natural hazards including flooding, subsidence, slip, mass movement or bushfire. The soil characteristics are appropriate for the development and there are no critical habitats or threatened species, populations, ecological communities or habitats on the site. The development will not prejudice future agricultural production in the area.

Submissions made in Accordance with the Act and Regulations

Adjoining and potentially impacted property owners were notified of the development proposal and given ten days in which to make submissions or comments. No submissions were received as a result of this notification.

The Public Interest

Staff are not aware of any policy statements from either Federal or State Government that are relevant to this proposal, nor any planning studies or strategies or management plans.

Conclusion

There are no covenants, easements, or agreements that affect the proposal. The proposed development is permissible pursuant to Harden IDO No 1 and also complies with the relevant State Regulations.

The issues of safety and security, traffic and neighbourhood amenity have been addressed throughout this report, and the identified impacts have been discussed.

The application has been assessed in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 and Council's Interim Development Order. The assessment has revealed that the site is suitable for the proposal and it is considered that the proposal will not adversely impact upon the use of the surrounding land.

RECOMMENDATION

That approval be granted to development application T11-001 to construct a private art gallery and storage facility on Lot 29, DP 753590, Back Jugiong Road, Harden subject to the following conditions:

PRESCRIBED CONDITIONS

The following conditions labelled 'prescribed conditions' are those which shall apply to the development as set out under clauses 80A (11) of the Environmental Planning and Assessment Act, 1979, and also Part 6 of the Environmental Planning and Assessment Regulation, 2000.

1 Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989

- 1.1 For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
 - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
 - (b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 1.2 This clause does not apply:
 - (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187(6) or 188 (4), or
 - (b) To the erection of a temporary building.

Advice

In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application for the relevant development consent or a construction certificate is made.

2 Erection of signs

- 2.1 For the purposes of section 80A (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.

- 2.2 A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) Showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) Stating that unauthorised entry to the work site is prohibited.
- 2.3 Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Advice

This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.

This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

3 Notification of Home Building Act 1989 requirements

- 3.1 For the purposes of section 80A (11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
- 3.2 Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- (a) In the case of work for which a principal contractor is required to be appointed:
 - (i) The name and licence number of the principal contractor, and
 - (ii) The name of the insurer by which the work is insured under Part 6 of that Act,
 - (b) In the case of work to be done by an owner-builder:
 - (i) The name of the owner-builder, and
 - (ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

- 3.3 If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under Subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

Advice

This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.

4 Conditions relating to entertainment venues.

- 4.1 For the purpose of section 80A (11) of the act, the requirements set out in the Schedule 3A are prescribed as conditions of development consent for the use of a building as an entertainment venue.

5 Condition relating to maximum capacity signage

- 5.1 For the purposes of section 80A (11) of the act, the requirement set out in subclause (2) is prescribed as a condition of development consent (including an existing development consent) for the following uses of a building, if the development consent for the use contains a condition specifying the maximum number of persons permitted in the building;
- (a) Entertainment venue,
 - (b) Function centre,
 - (c) Pub,
 - (d) Registered club,
 - (e) Restaurant
- 5.2 From 26 January 2010, a sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in the development consent, that are permitted in the building.
- 5.3 Words and expressions used in this clause have the same meanings as they have in the standard instrument set out in the Standard instrument (local environmental plans) order 2006.

6 Conditions relating to shoring and adequacy of adjoining property.

- 6.1 For the purposes of section 80A (11) of the act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the persons own expense.
- (a) Protect and support the adjoining premises from possible damage from the excavation and.
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage.
- 6.2 The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

GENERAL CONDITIONS

- 7 Development being carried out in accordance with the plans, statement of environmental effects and supporting documentation submitted with the application except as modified by any condition in this consent.

Notes:

- *Any alteration to the drawings and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgment of an application to amend the consent under Section 96 of the Act, or a fresh development application. No works, **other than those approved under this consent**, shall be carried out without the prior approval of Council.*
- *Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions shall prevail to the extent of the inconsistency.*

INSPECTION/CERTIFICATION

- 8 Prior to commencement of work, the person having the benefit of the Development Consent shall obtain a Construction Certificate and shall:

- (a) appoint a Principal Certifying Authority and notify Council of the appointment (if Council is not appointed), and
- (b) notify Council of their intention to commence the site works (at least 2 days notice is required).

- 9 The Principal Certifying Authority (PCA) must determine when inspections and compliance certificates are required. Where Harden Shire Council is nominated as the PCA, the following stages must be inspected and passed prior to the subsequent stages of construction. **Twenty-four (24) hours'** notice shall be given to Council to allow scheduling of the inspection. **All required plumbing and drainage inspections are to be carried out by Council.**

NOTE: Where inspections are requested and the work is either incomplete or not started, or unsatisfactory thus requiring an additional inspection, such reinspections will be charged to the applicant at the rate as outlined in the *Fees and Charges* section of Council's current *Management Plan* per additional inspection. This will be paid prior to the inspection being carried out.

- Site inspection when all sediment and erosion controls are in place ready to commence work. At this time the condition of Council's footpath, kerb and gutter, nature strip, road reserve will be assessed;
- After excavation for, and prior to the placement of, any footings, and prior to pouring any in-situ reinforced concrete building element;
- When internal sanitary drainage is laid ready for test. All drainage must be under water test at the time of the inspection. A Works As Executed diagram is to be supplied to Council prior to the inspection;
- When external sanitary drainage is laid ready for test. All drainage must be under water test at the time of the inspection. A Works As Executed diagram is to be submitted to Council prior to the inspection;

- The framework for any floor, wall, roof, or other building element prior to covering with any external element (including sarking, brickwork or cladding).
 - A wind classification for the site in accordance with *Australian Standard 4055 Wind Loads for Housing* and *Australian Standard 1170.2 Structural Design Actions – Wind Actions* shall be submitted to Council prior to the inspection.
- Pre-sheet inspection of the framework upon completion of hot and cold plumbing, electrical work and insulation.

NOTE: Hot and cold water should be under pressure test at the time of inspection.
- Prior to the frame/presheet inspection the applicant shall submit a plan showing the number, type and location of bracing units in the building, as calculated in accordance with *Australian Standard 1684.2 Residential Timber Framed Construction – Non Cyclonic Areas* and *NSW Timber Framing Manual*.

NOTE: Structural timber used externally shall be of a durability class 2 or better. Durability class 3 and 4 may only be used where they have acceptable preservative treatment. Douglas Fir (Oregon) is unacceptable for external structural use in a situation where it may weather.
- Prior to covering waterproofing in any wet areas;
- Prior to backfilling or covering any stormwater drainage and connections to point of discharge. A Works As Executed plan shall be submitted to Council prior to the inspection.
- After all building work has been completed and prior to any occupation certificate being issued in relation to the building.

Where Council is not the Principal Certifying Authority, the applicant shall ensure that a Compliance Certificate is submitted to Council on completion of the building. Such Certificate is to certify that all required inspections have been completed, compliance with approved plans, development consent conditions, *Building Code of Australia* and relevant Australian Standard requirements.

OCCUPATION CERTIFICATE

- 10 A final Occupation (Completion) Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an occupation certificate, the Principle Certifying Authority must be satisfied that the requirements of section 109H of the *Environmental Planning and Assessment Act 1979* have been satisfied.

SITE PREPARATION

11 Cut and Fill

The applicant shall ensure that any cut or fill on site is appropriately graded, drained or retained and drained as necessary.

NOTE: Any graded land that slopes toward a neighbouring property shall incorporate dish or surface drains to divert water to a sump and then be piped to the existing stormwater system.

Retaining walls greater than 1 metre in height shall be designed by a suitably qualified practising and insured Structural Engineer. The design shall be submitted to and permission to proceed granted by Council prior to work commencing.

12 Erosion Control

- 12.1 Erosion and sedimentation control measures shall be implemented prior to work commencing and maintained in a functional condition throughout the duration of the project. The erosion and sedimentation control measures shall not be removed until such time as the ground cover has been re-established.
- 12.2 A plan for the adequate control of erosion and sedimentation during the construction phase, shall be submitted to, and approved by Council, prior to work commencing.
- 12.3 In upgrading the existing farm road to the service road indicated on the plans, the applicant shall shape to roadway, install mitre drains and provide grassed swales to limited erosion of the road.

13 Builders' Toilet

The applicant shall ensure that a suitable builders' toilet is situated on the property prior to commencing construction.

14 Builder's Sign

A suitable sign is to be provided on the building site in a prominent location, indicating the builder's name, licence number and contact telephone numbers (including after hours numbers).

15 Building Waste Containment

A suitable waster container capable of holding blowable type building waste must be made available on the building site during the course of construction. Building waste such as paper, plastic, cardboard, sarking, etc. must be regularly cleaned up and placed in the waste container so that it cannot be blown off the building site and litter the locality.

16 Trees

Any trees not approved for removal shall be protected from damage during construction. This includes protection from compaction of the ground within the root zone, damage to the trunk or crown of the tree.

CONSTRUCTION

17 Health and Amenity

- 17.1 Kitchen exhaust shall not discharge into the roof space. Any ductwork through roof space is to be of non-combustible material.
- 17.2 Roof waters shall be conveyed from appropriate areas of the roof to the designated rainwater tank. The Rainwater tank shall be plumbed to the applicable fixtures within the facility in strict accordance with the National Plumbing and Drainage Australian Standard *AS3500 Plumbing and Drainage*.

Advice to Applicant: It is strongly recommended that a first flush diversion system be also installed to eliminate impurities from roof and gutters such as leaves, dust and tannins. A low-level inspection

opening or flushing access is also recommended for clean out of the whole system as a maintenance assistance.

- 17.3 Where town reticulated water is available, and the Rainwater Tank is an augmentation of that supply, strict compliance with Australia Standard *AS3500 Plumbing and Drainage* is required having regard to cross connection prevention. In this regard, an approved backflow prevention device **AND** an air gap will be required at the connection cross over point.

FIRE SERVICES

- 18 Prior to issuing a Construction Certificate the applicant shall be required to furnish a diagram detailing all essential and fire safety services to the whole of the building.

STORMWATER DRAINAGE

- 19 Stormwater from the roof of the facility shall be conveyed to rainwater tanks installed in the lower floor area. The overflow shall be conveyed to the existing piped stormwater system.
- 20 Stormwater from hardstand areas shall be conveyed away from the building and disposed of without causing erosion.
- 21 Areas shall be shaped to ensure that the ground slopes away from the building.
- 22 The drainage details for developments other than single houses shall be included in the plans when applying for a Construction Certificate. The design plan shall address hydraulic requirements, discharge details, pipe sizes, pit details and major flow escape paths and WAE details and shall be designed in accordance with *Australian Standard 3500.3*.

SEPTIC

- 23 An on site sewer management system (septic tank) application and design shall be submitted to and approved by Council **prior to the issue of a Construction Certificate**.

CHANGE OF USE

- 24 The building shall not be used for Commercial or Industrial purposes, nor shall it be used for human habitation without the prior approval of Council in writing. Should the owner wish to convert this building to a facility open to the public prior approval of Council is required.

NUISANCE & AMENITY

- 25 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises.
- 26 Work on the project shall be limited to the following hours:
- (i) Monday to Friday - 7:00 am to 6:00 pm
 - (ii) Saturday - 8:00 am to 1:00 pm
 - (iii) No work to be carried out on Sunday/Public Holidays, without the prior consent of Council.
- 27 The roof material and external cladding of the proposed development shall have low reflective index characteristics when visible from a public space and the colour shall not be prominent against the background. As far as practicable, finishes should comprise earthy or subdued tones.