

21 June 2024

Community Infrastructure Depot at 252 Coal Road, Muswellbrook Detailed Consideration of Permissibility

Following the pre-lodgement meeting with Council development assessment staff, it has been identified that a more detailed consideration of permissibility of the development needs to be undertaken. In particular, the view was expressed that the development may be characterised as a depot with an ancillary administration function rather than a public administration building with an ancillary depot function.

Scope of Potential Legal Advice

Rather than pursuing legal advice in respect to determining dominant and subordinate uses within the proposed development, it will be more efficient to demonstrate that all components of the development are permissible irrespective of the consideration of dominant and ancillary uses.

Summary of Attached Analysis

Proposed Uses

The proposed development contains the following uses that are addressed in SEPP(TI):

1. Public administration building.
2. Permanent road maintenance depot and associated infrastructure.
3. Parks maintenance depot.
4. Sewerage system depot.
5. Water supply system depot.

Permissibility under SEPP(IT)

Based on the attached Summary of Permissibility table:

- (a) Public administration buildings are permissible with consent.
- (b) Permanent road maintenance depots are permissible both with consent and without consent.
- (c) A Public administration building erected as ancillary to a permanent road maintenance depot is permissible with consent if carried out at the same time.
- (d) Maintenance depots for parks, sewerage systems and water supply systems are permissible without consent.

Proportional Use: Building

- (a) Public Administration -34%.
- (b) Permanent Roads Maintenance Depot – 49%.
- (c) Other Maintenance Depot – 17%.

Proportional Use: Truck/Machinery Depot (Western) Parking Area

(a) Permanent Roads Maintenance - 100%.

(b) Shared Use: Roads, Parks and Water/Sewer Maintenance – 14%.

Recommended Characterisation and Approval Pathway

It is demonstrated that the proposed development all components of the development are permissible.

One component is only permissible with consent, and other components are permissible without consent.

Development that is permissible without consent require assessment as an Activity under Part 5 of the Act.

Due to the Public administration building component requiring development consent, the whole development cannot be undertaken using Part 5 the Act.

To provide a single assessment process, it is recommended that approval be sought through the Development Application process under Part 4 of the Act as follows:

1. Permanent road maintenance depot and associated infrastructure (such as garages, sheds, tool houses, storage yards, training facilities and workers' amenities), in accordance with clause 2.112 of SEPP(IT), and
2. Public administration building which may be considered as a co-dominant use and permissible under clause 2.88(1) of EPP(IT), or as ancillary to the permanent road maintenance depot under clause 2.88(2)(a) of SEPP(IT), and
3. Ancillary maintenance depot for parks maintenance, sewerage systems maintenance and water supply systems maintenance, noting these are permissible without consent under clauses 2.73, 2.126 and 2.159 of SEPP(IT), and that these form only a minor component of the overall development.

Please advise if you consider this to be adequate or if you still consider a legal opinion is required.

Yours faithfully



Tony Blue for
BLUEPRINT PLANNING CONSULTANTS

Description of Development

1. Staff Numbers, Roles and Categories

Work Category	Administration Staff	Supervisors	Operators, Drivers & Field Staff	Total
Roadworks	9	6	22	37
Parks & Gardens	1	2	7	10
Water And Sewer Networks	1	2	7	10
Building Maintenance	8	3	0	11
Water & Wastewater	6	3	0	9
Waste Management	2	1	0	3
Project Coordinator & Surveillance Officer	1	1	0	2
Total	28	18	36	82

2. Building Floor Areas

	Floor Areas m ²
Lower Ground	
Administration	345
Workshop	146
Storeroom	410
Meals	100
Amenities	80
Delivery Office	35
Reception	48
Meeting rooms	29
First Aid	9
Upper Ground	
Mowers and Tractors	190
Store room	265
Total	1657

3. Plant and Machinery, and Parking Arrangements

Vehicle / Plant	Number	Used by
Excavator	2	Roads
Grader	2	Roads
Roller (Multi Tyre)	1	Roads
Loader Rubber Tyre	2	Roads
Loader Skid Steer	1	Roads
Forklift	1	Stores
Mower / Slasher	11	Parks
Slasher Tractor Mounted	1	Roads/Parks
Tractor	2	Roads/Parks/Water-Sewer
Trailer (HD)	9	Roads
Trailer (MD)	17	Roads
Truck (HR/HC)	5	Roads
Truck (LR)	8	Roads/Parks/Water-Sewer
Truck (MR)	10	Roads
Total	72	

State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP(TI))

1. Division 14 Public administration buildings and buildings of the Crown

2.85 Definitions

prescribed zone means any of the following land use zones

- (h) SP2 Infrastructure

2.88 Development permitted with consent

- (1) Development for the purpose of public administration buildings may be carried out by or on behalf of a public authority with consent on land in a prescribed zone.
- (2) Development for the purpose of public administration buildings that are ancillary to and located on the same land as another infrastructure facility may be carried out by or on behalf of a public authority with consent if—
 - (a) the development application for the public administration building is determined at the same time as the development application for the infrastructure facility, and development for the public administration building is to be carried out at the same time as development for the infrastructure facility

2. Division 17 Roads and traffic

2.108 Definitions

prescribed zone means any of the following land use zones

- (h) SP2 Infrastructure

2.109 Development permitted without consent—general

- (2) Development for any of the following purposes may be carried out by or on behalf of a public authority without consent on land in a prescribed zone—
 - (b) permanent road maintenance depots and associated infrastructure (such as garages, sheds, tool houses, storage yards, training facilities and workers' amenities).

2.112 Development permitted with consent

- (2) Development for any of the following purposes may be carried out by any person with consent on land in a prescribed zone—
 - (c) permanent road maintenance depots and associated infrastructure (such as garages, sheds, tool houses, storage yards, training facilities and workers' amenities),

3. Division 12 Parks and other public reserves

2.73 Development permitted without consent

- (3) Any of the following development may be carried out by or on behalf of a public authority without consent on land owned or controlled by the public authority—
 - (a) development for any of the following purposes—
 - (viii) maintenance depots,

4. Division 18 Sewerage systems

2.125 Definitions

prescribed zone means any of the following land use zones

- (g) SP2 Infrastructure

2.126 Development permitted with or without consent

(10) A reference in this Division to development for the purpose of a sewerage system of any kind includes a reference to development for any of the following purposes if the development is in connection with the sewerage system—

(j) maintenance depots.

5. Division 24 Water supply systems

2.158 Definitions

prescribed zone means any of the following land use zones

(g) SP2 Infrastructure

2.159 Development permitted without consent

(1) Development for the purpose of water reticulation systems may be carried out by or on behalf of a public authority without consent on any land.

(6) In this Division, a reference to development for the purpose of a water supply system of any kind includes a reference to development for any of the following purposes if the development is in connection with the water supply system—

(m) maintenance depots.

6. Summary of Permissibility under SEPP(IT)

	Permissible with consent	permissible without consent
Public administration building	clause 2.88(1)	
Public administration building ancillary to another infrastructure facility if determined at same time and carried out at same time	clause 2.88(2)(a)	
Permanent road maintenance depots and associated infrastructure (such as garages, sheds, tool houses, storage yards, training facilities and workers' amenities)	clause 2.1112(2)(c)	clause 2.109(2)(b)
Maintenance depots - parks		clause 2.73(3)(a)(viii)
Maintenance depots - sewerage systems		clause 2.126(10)(j)
Maintenance depots - water supply systems		clause 2.159(6)(m)

Analysis of Uses

1. Proportions by Staff Numbers

	Public Administration Building	Permanent road maintenance depot			Maintenance depot			Total
Work Category	Administration Staff	Supervisors	Operators, Drivers & Field Staff	Total	Parks	Water/ Sewer	Total Other	
Roadworks	9	6	22	28				37
Parks & Gardens	1	2		2	7		7	10
Water And Sewer Networks	1	2		2		7	7	10
Building Maintenance	8	3	0	3				11
Water & Wastewater	6	3	0	3				9
Waste Management	2	1	0	1				3
Project Coordinator & Surveillance Officer	1	1	0	1				2
Total	28	18	22	40	7	7	14	82
	34%			49%			17%	

2. Summary of Development by Floor Area

Floor Areas	m ²	Category
Lower Ground		
Administration	345	Public Administration
Workshop	146	Roads, parks, water/sewer
Storeroom	410	Roads, parks, water/sewer
Meals	100	All
Amenities	80	All
Delivery Office	35	Roads, parks, water/sewer
Reception	48	All
Meeting rooms	29	All
First Aid	9	All
Upper Ground		
Mowers and Tractors	190	Parks
Store room	265	All
Total	1657	

Allocation of Proportional Floor Area based on staff numbers:

Single Category			100%
Shared - Roads, parks, water/sewer			
	Roads		74%
	Parks		13%
	Water/Sewer		13%
All shared			
	Administration		34%
	Roads		49%
	Parks		9%
	Water/Sewer		9%

Applying proportions according to staff numbers:

	m ²		Public Administration	Roads	Parks	Water/ Sewer
Administration	345	Public Administration	345			
Workshop	146	Roads, parks, water/sewer		108	19	19
Storeroom	410	Roads, parks, water/sewer		200	35	35
Meals	100	All	34	49	9	9
Amenities	80	All	27	39	7	7
Delivery Office	35	Roads, parks, water/sewer		17	3	3
Reception	48	All	16	23	4	4
Meeting rooms	29	All	10	14	2	2
First Aid	9	All	3	4	1	1
Upper Ground						
Mowers and Tractors	190	Parks			190	
Store room	265	All	90	129	23	23
Total	1657		526	584	292	102
Proportions			32%	35%	18%	6%

3. Summary of Use of Truck/Machinery Depot (Western) Parking Area

Vehicle / Plant	Truck/Machinery Depot (Western) Parking Area	Roads only	Shared with all
Excavator	2	2	
Grader	2	2	
Roller (Multi Tyre)	1	1	
Loader Rubber Tyre	2	2	
Loader Skid Steer	1	1	
Trailer (HD)	9	9	
Trailer (MD)	17	17	
Truck (HR/HC)	5	5	
Truck (LR)	8		8
Truck (MR)	10	10	
Total	57	49	8
Proportion		86%	14%