

COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNH-287- Gwydir DA 48/2023
PROPOSAL	To construct a new Community Facility and Office Premises complex on the land, including part-retention of the former memorial hall facade. Demolition of the existing facilities is covered under PAN-409455
ADDRESS	33 to 35 Maitland Street Bingara being Lot 20, Section 38, DP758111, Lot 1 DP87721 and Lot B DP 156384. Access is through 39 and 37 Maitland Street Bingara being Lot 1 DP209422 and Lot A DP 152922 (BK 1566 No 614 and BK 1701 No 95 Right of Way and BK 1566 No 614 Right of Way)
APPLICANT	Gwydir Shire Council
OWNER	Gwydir Shire Council for Lot 20 Sect 38 DP 758111, Lot 1 DP87721 and Lot B DP 156384. The registered Right of Way is across two lots – one owned by Nancy Helen Macinnes (Lot 1 in DP 209422) and the other owned by Sylvia May Williams and Amy Louise Iris Evans (Lot A in DP 152922).
DA LODGEMENT DATE	22 February 2024
APPLICATION TYPE (DA, Concept DA, CROWN DA, INTEGRATED, DESIGNATED)	DA
REGIONALLY SIGNIFICANT CRITERIA	Clause 3A and 3B, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Council is the applicant and owns the land, and the capital value is above \$5,000,000.
CIV	\$5,050,000 (excluding GST)
CLAUSE 4.6 REQUESTS	Nil
KEY SEPP/LEP	SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land State Environmental Planning Policy (Sustainable Buildings) 2022 Gwydir Local Environmental Management Plan 2013
TOTAL & UNIQUE SUBMISSIONS & KEY ISSUES IN SUBMISSIONS	A single submission was received from the owner of 39 Maitland Street (Lot 1 in DP 209422). This concerned the proposed use of the laneway to the rear of her lot which she indicated she understood that she owns, and has future plans to use.
DOCUMENTS SUBMITTED FOR CONSIDERATION	Attachment A – Draft Conditions of Consent Attachment B – Amended SEE – 27 Nov 2023. Attachment C – Response to RFI – 5 Feb 2024.

	Attachment D – Plan Set for DA Approval. Contains the complete architectural plan set and landscaping plans.
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Nil
RECOMMENDATION	Approval with Conditions
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	21 May 2024
PLAN VERSION	31 January 2024 Issue B
PREPARED BY	Angus Witherby
DATE OF REPORT	7 May 2024

EXECUTIVE SUMMARY

The use consists of a combined *community facility* and *office premises* as defined in Gwydir Local Environmental Plan 2013 (the LEP). The site is zoned RU5 Village and both of the uses are permitted with consent in this zone.

The development site comprises the following land parcels:

Lot Descriptor	Area	Current Use / Future Use
Lot 1 in DP 87721	915m ²	Old buildings vacated due to rising damp problems, now demolished. Part of new building to be located here.
Lot 20 Section 38 DP 758111	2,034m ²	Old buildings vacated due to rising damp problems, now demolished. Part of new building to be located here, also new car parking and traffic circulation.
Lot B in DP156384	852m ²	Existing parking area to be incorporated into parking and circulation for the new development.
Right of Way to the eastern end of Lot 1 DP 209422 and Lot A DP 152922.	100m ²	Presently used informally by the owners of the respective lots. Would be used to provide access to the new parking area and traffic circulation.

The proposed development comprises:

- (Previous demolition of the existing buildings and ancillary infrastructure at 33-35 Maitland Street (subject to Development Consent DA24/2023 - PAN-409455), excluding the façade of the Soldiers Memorial Building which is to be retained)
- Community facility (~ 338m² GFA) comprising:
 - Community forecourt and greenspace;
 - Visitor information centre;
 - Public amenities;
 - Community/councillors meeting room;
 - Customer Service Centres;
 - Mayor's office and
 - Council Chambers.
- Office premises (~ 766m² GFA) comprising:
 - Centrelink office and quiet space;
 - Staff recreation and collaborative areas;
 - Offices and meeting rooms,
 - IT Hub;
 - Gwydir News Office; and
 - Breakout area.
- Landscaping;
- Twenty-two (22) carparking spaces including fifteen (15) which are being formalised in the Council depot;
- Delivery bay; and
- Vehicular access from Cunningham Street, including via a Right of Way.

Key issue: to respect the streetscape character with the new design, and to retain indicative elements of the previous building frontage (not heritage listed but significant nonetheless).

Community concern: the owner of Lot 1 in DP 209422 raised concern with the proposed use of the land at the eastern end of that lot as part of the access for the new development. There is a Right of Way over this land which the proponents will rely upon to provide access for the development. It is proposed to establish a Section 88b instrument to bring this Right of Way into line with current practices.

Public Interest: The proposed facility will provide valuable infrastructure to enable enhanced service provision to the local community. No significant negative impacts have been identified, and it is considered that on balance the public interest will be well served by this development.

Recommendation: That the application be approved with conditions.

Section 4.15(1) Matters

One issue identified during the s4.15(1) review was that the site has contamination. This is presently undergoing remediation and provision of a site clearance certificate has been included as draft condition 8 to be satisfied prior to issue of construction certificate.

Clause 3.2(2) of State Environmental Planning Policy (Sustainable Buildings) 2022 requires that "Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified." At this stage, the emissions have not been quantified – this is addressed through draft condition 10 – "Before the issue of the relevant construction certificate, a suitably qualified person shall provide written evidence to the Principal Certifier of their satisfaction that the Embodied Emissions information provided is consistent with SEPP Sustainable Buildings 2022."

1. THE SITE AND LOCALITY

1.1 The Site

The site is located within the Bingara Town Centre as shown on the figure below.



Figure: Site location in context

The site previously contained two main buildings – a soldiers’ memorial hall and a Council administration building. Both of those buildings (and ancillary sheds on the site) have now been demolished pursuant to DA24/2023 (PAN-409455). The redevelopment site is shown on the Figure below:



Figure: Aerial View

The site has a total development area of 3901m². The land is flat, and located within the Bingara town centre. The site has been substantially developed in the past, but includes limited trees along the northern boundary.

The site is not of heritage significance, although the DA for demolition was conditioned to retain the bulk of the façade of the former memorial hall, as this was of value to the local community. The façade is to be incorporated into the new development.

The main development site has direct frontage to Maitland Street, which is a state significant road, with vehicular access being historically from the rear. A right of way exists to Cunningham Street and the site is linked to the Council depot.

The streetscape is typical of many small rural communities in NSW.

1.2 The Locality

The site is adjoined by commercial development to the north, an hotel, to the south by an existing commercial building, and by residential development to the west. The area is generally one and two storey development typical of a country town centre.



Figure: Streetscape prior to demolition of the Memorial Hall and the commercial building to the right



Figure: General streetscape view

Bingara does not have public transport, however the site is very well located with respect to existing services.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal is for the re-build of the former uses on the site.

Demolition of the council offices and hall has already occurred under a previous development application. There is a need to complete site demolition, remediation and decontamination prior to new construction occurring. Existing trees are to be retained. Consolidation of lots is recommended. Only incidental earthworks are anticipated, largely associated with new footings.

The proposed demolition plan is shown below:



Figure: Street View



Figure: Street View

The provision of public space is a key aspect of the development. This is shown in the following view:



Figure: Public space area

Table 1: Development Data

Control	Proposal
Site area	3091 m2 – No specific requirement
GFA	1307m2 – No specific requirement
FSR (retail/residential)	N/A
Clause 4.6 Requests	Nil
No of apartments	N/A
Max Height	6.45m (retained façade height) – No specific requirement.
Landscaped area	195m2 (not including paved courtyard areas) – No specific requirement.
Car Parking spaces	22 – determined on merit – No DCP applies
Setbacks	Variable – see site plans. Zero front setback is common in the town centre.

2.2 Background

The need for the development arose out of a series of problems with the existing buildings. This included rising damp, which, when the age and poor functionality of the existing building was considered, was both uneconomic and problematic to repair. Expert reports were obtained, and a decision was made to demolish the existing structures. This was the subject of a separate Development Application. A minor modification to this was required to align with the final design plans, and this is anticipated to be determined by way of approval prior to this DA being considered by the Panel.

The main issues arising are:

- Streetscape – Part retention of the memorial hall façade was considered essential in any site redevelopment. This has been achieved.
- Improved public and Council facilities – The provision of modern facilities will provide a community benefit as well as improved Council staff conditions.
- Right of Way access – This is proposed as a secondary access to allow seven car spaces to operate, as well as small service vehicles to service the building. Main access would be from the existing Council depot access in Cunningham Street.

The development application was submitted on 9 December 2023 following which a review was conducted. Further information was provided and it was then formally accepted for lodgement on **22 February 2024**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
9 November 2023	Pre DA Lodgement in Portal
28 November 2023	Request for Information from Council to applicant (this was prior to Lodgement)
31 January 2024	Amended plans lodged to address minor issues arising initial pre DA review dated 31 January 2024 accepted by Council under CI 38(1) of the <i>Environmental Planning and Assessment Regulation 2021</i> ('2021 EP&A Regulation') on Select Date.
5 February 2024	Receipt of additional information from pre-lodge review.
22 February 2024	DA lodged by Council
11 March 2024	Application was placed on Council's website and Facebook page, hard copies were available at the Bingara administration office, Bingara Library, Warialda Visitor Information Centre, Warialda administration office, a notice was placed on the site, and it was advertised in the Northern Daily Leader

	and neighbours were notified in writing. Neighbour notification consisted of notification of main street businesses/residences as well as the area surrounding the site (17 properties).
10 April 2024	End of notification period.
Select Date	No referrals to external agencies

2.3 Site History

The site has been the subject of a previous development application for demolition of the hall and council offices. A concurrent modification to the demolition consent is being considered, and is expected to be determined prior to the Panel meeting. The façade of the memorial hall is the most significant aspect of public interest. No approvals or applications are affecting immediately adjoining sites.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, 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.*

These matters are further considered below.

It is noted that the proposal is not considered to be:

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Requiring concurrence/referral (s4.13)
- Crown DA (s4.33) - written agreement from the Crown to the proposed conditions of consent must be provided

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are considered specifically relevant to this application:

- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments
(put Preconditions in **bold**)

EPI	Summary of Issues (Brief summary)	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	No matters arising. The land does not contain any native vegetation that is affected by the proposal	N/A
State Environmental Planning Policy (Sustainable Buildings) 2022	Addressed in conditions of consent prior to CC issue	Y
State Environmental Planning Policy (Housing) 2021	No matters arising	N/A
State Environmental Planning Policy (Industry and Employment) 2021	No matters arising	N/A
SEPP 65	No matters arising	N/A
State Environmental Planning Policy	Chapter 2: State and Regional Development	Y/N

EPI	Summary of Issues (Brief summary)	Comply (Y/N)
(Planning Systems) 2021	<ul style="list-style-type: none"> Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 3A and 3B of Schedule 6 as it comprises Council proposed development with a capital value of more than \$5 million. 	
State Environmental Planning Policy (Precincts—Central River City) 2021 or State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021 or State Environmental Planning Policy (Precincts—Regional) 2021 or State Environmental Planning Policy (Precincts—Western Parkland City) 2021	No matters arising	N/A
State Environmental Planning Policy (Primary Production) 2021	No matters arising	N/A
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land <ul style="list-style-type: none"> Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to a site clearance certificate issuing prior to issue of a CC. This has been addressed in conditions. 	Y
State Environmental Planning Policy (Resources and Energy) 2021	No matters arising	N/A
State Environmental Planning Policy (Transport and Infrastructure) 2021	No matters arising	N/A
Proposed Instruments	No proposed instruments apply.	N/A
LEP	<ul style="list-style-type: none"> Clause 2.3 – Permissibility and zone objectives 	Y
DCP	No DCP applies – Consistent with Bingara town plan	Y

Gwydir Local Environmental Plan 2013

The relevant local environmental plan applying to the site is the *Gwydir Local Environmental Plan 2013* ('the LEP'). The site is located within the RU5 Zone pursuant to Clause 2.2 of the LEP.



Figure: Zoning of the land

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of *community facility* and *office premises* which is a permissible use with consent in the Land Use Table in Clause 2.3.

Community facilities are permissible under Item 3, where Community Facilities are specifically listed, and where Office Premises fall under “any other development not specified in item 2 or 4”.

General Controls and Development Standards (Part 2, 4, 5 and 6)

No relevant LEP controls or development standards apply.

The proposal is considered to be generally consistent/ inconsistent with the LEP.

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no proposed instruments.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

No DCP applies. Consideration has instead been given to the Bingara Town Plan.

Gwydir Shire does not have a DCP. Instead, there are town plans for Wyallda and Bingara. Set out below are some key aspects from the Bingara Town Plan which are of relevance to the site.

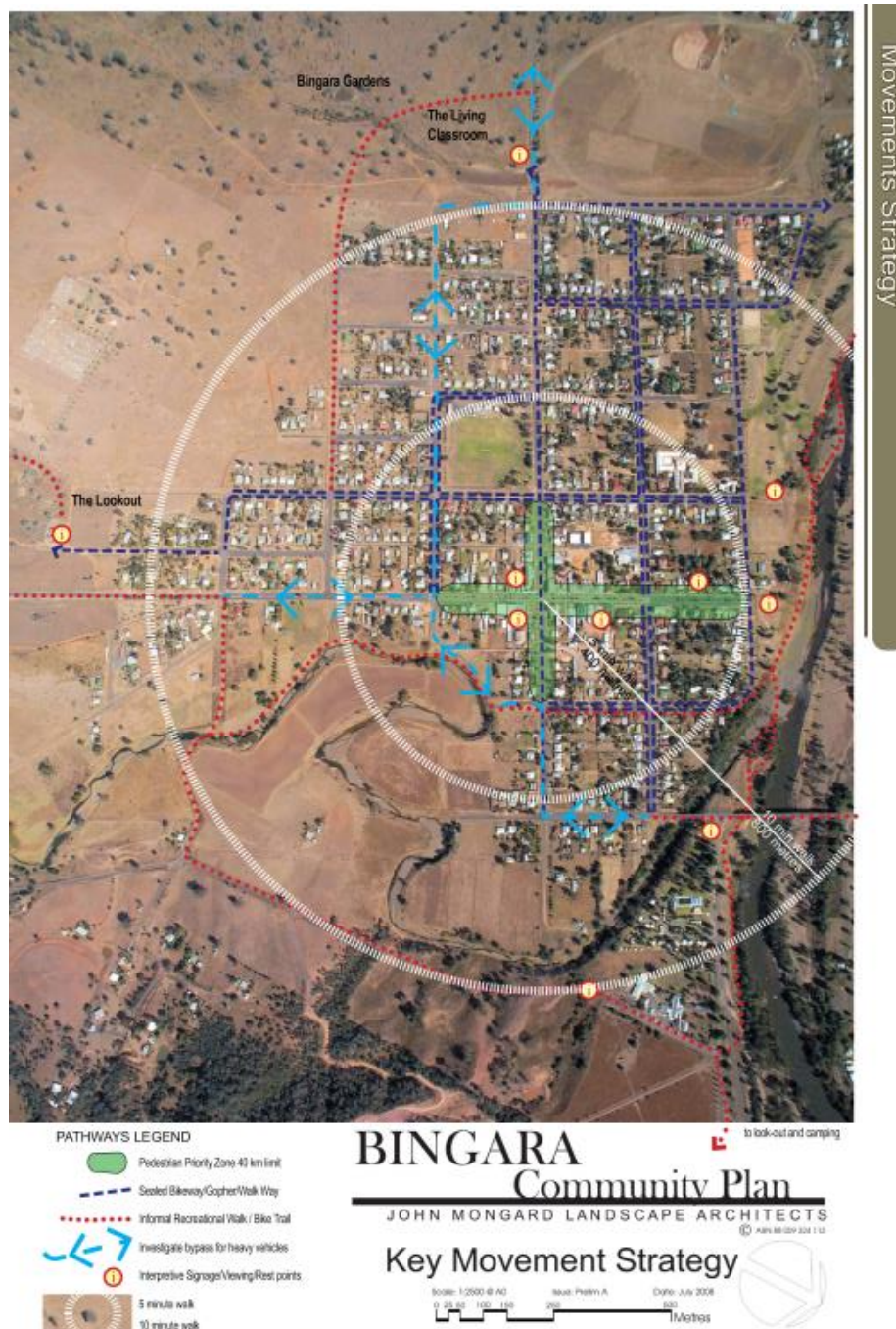


Figure: Bingara Community Plan Strategy

The Community Plan Strategy reinforces the key role of Maitland Street in the town, as the key “axis”.



Figure: Bingara Key Infill Sites

The site is known as “Key site 3” and shown in light blue in the diagram.

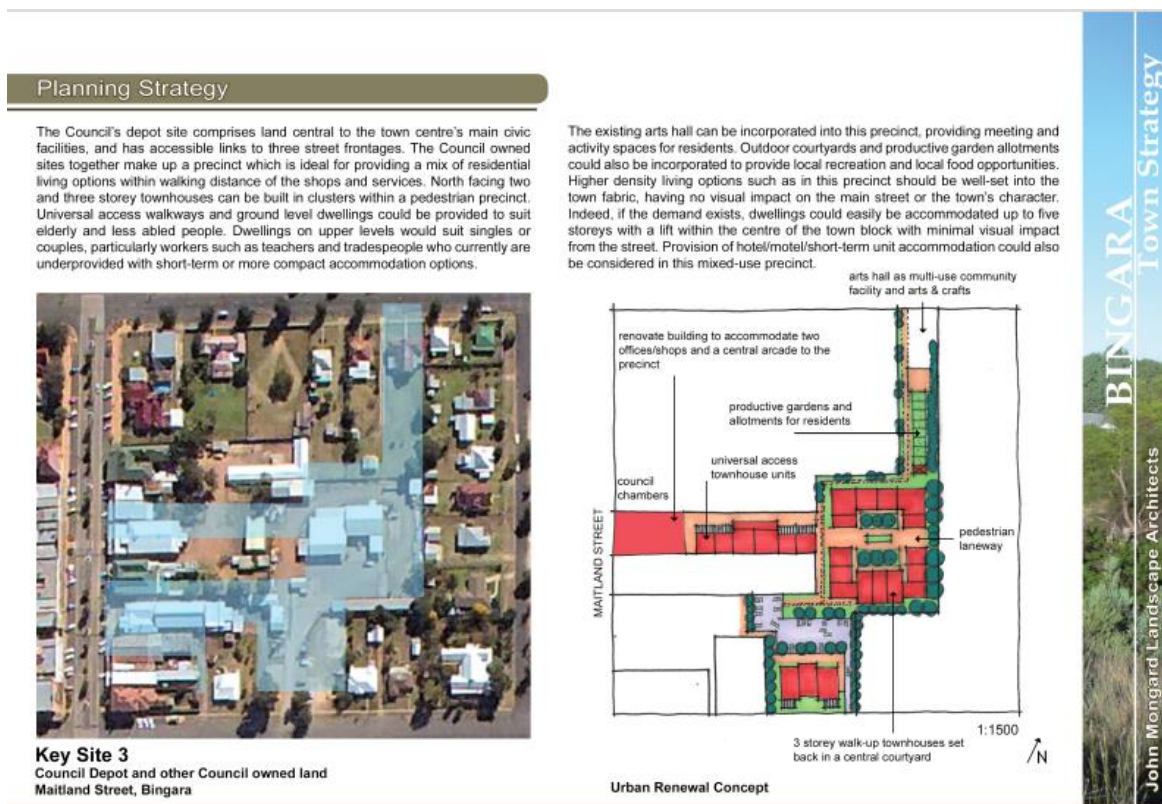


Figure: Bingara Town Strategy

The town strategy includes site of No. 33 as a “key site” in the town. The overall Council owned site is identified as forming a key precinct, with potential for a variety of uses, including town centre residential.



Figure: Bingara Key Infill Sites

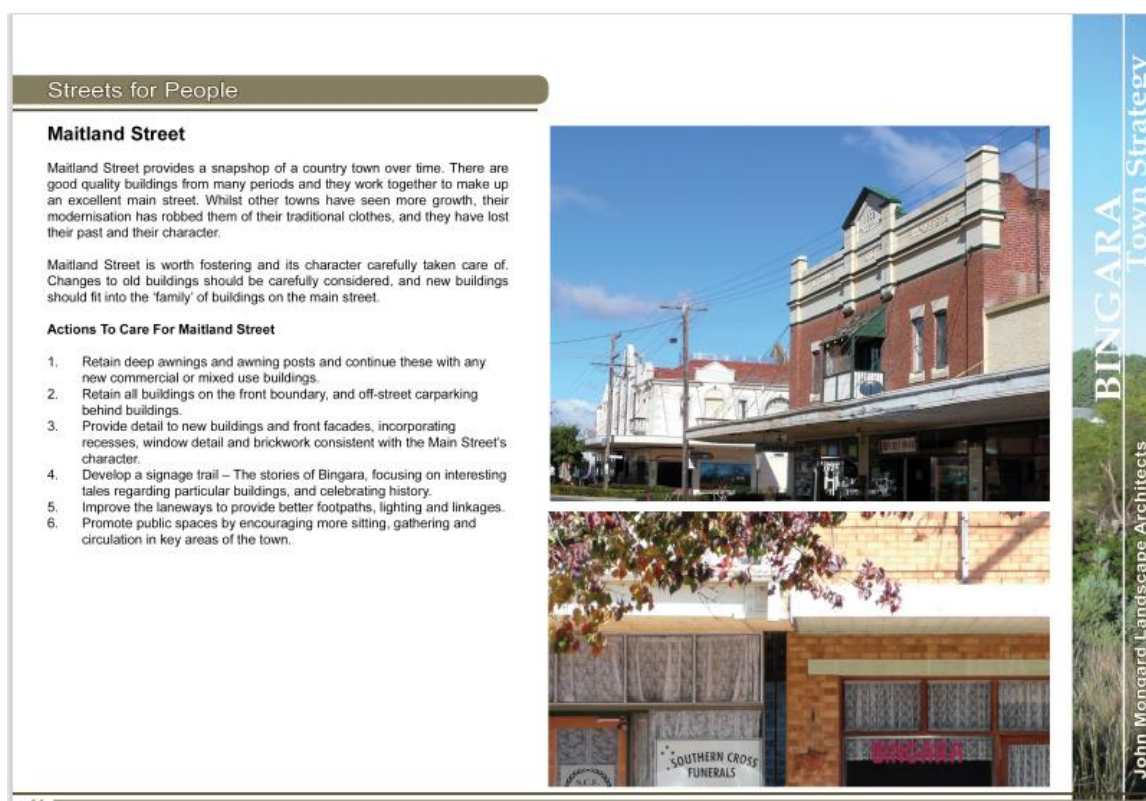


Figure: Actions to care for Maitland Street

The proposed development is fully in alignment with the intended purposes of Key Site 3 and identified above.

(d) S7.11 Development Contributions Plan

No Contributions Plan is relevant to the development.

(e) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(f) Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

(g) If demolition of a building proposed - provisions of AS 2601;

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are not relevant to the proposal.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to the planning controls outlined above and the Key Issues section below.

Use of the Site

The development consists of a “like for like” development when compared with the previous uses of the site. Accordingly it is not anticipated that the uses would increase noise and traffic to any significant level when compared to the previous site uses.

Noise

Noise would be managed during construction according to EPA Guidelines. Operational noise (e.g. of plant and equipment) has been conditioned to minimise impacts at nearby residential premises.

Visual Impact

A partial retention of the façade of the previous building, which was a war memorial hall, ensures that there is continuity in the streetscape, noting that a modern building is being erected on the lot adjoining the former hall. In general, the building “reads” in a way that is consistent with the streetscape.

Access

Access is partially via a right of way over two adjoining allotments. The right of way serves each of the allotments through which it passes, as well as the Council development. The majority of traffic would be created by the Council development. Accordingly, an S.88B Instrument should be created which confirms the access of all lots fronting the right of way, and which places the maintenance obligation on the Council. See also submissions made, below.

Summary

It is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

3.3 Section 4.15(1)(c) - Suitability of the site

The site is suited for the development, noting that it was previously used for a similar purpose. It is well provided with services, is free from natural hazards and is compatible with adjoining and adjacent developments.

3.4 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 4.3 of this report.

3.5 Section 4.15(1)(e) - Public interest

The development is considered to be in the public interest. Acoustic impacts are able to be mitigated through conditions of consent, and the proposal is consistent with planning controls, including the relevant SEPPs, the Regional Plan, the LEP and the Bingara Town Plan.

It will enable additional staff to be located in Bingara, and will contribute to community well-being. Consideration has been given to public safety in the design of the facility.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has no requirements to be referred to agencies, and no concurrence requirements apply.

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 4: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Engineering Officer reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions.	Y

Building and Environment	The imposition of conditions relating to a waste management plan was recommended.	
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The issues raised by Council officers are addressed in conditions.

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 11 March 2024 until 10 April 2024. The notification included the following:

- An advertisement in the local newspaper – Northern Daily Leader
- A sign placed on the site;
- Notification on Council's website and Facebook page;
- Notification letters sent to adjoining and adjacent properties (17 letters sent);
- Notification at Council venues being the Bingara Admin Centre, Bingara Library, Warialda Admin Centre, Warialda Tourist Information Centre.

The Council received a total of one unique submission, comprising 1 objection. The issues raised in these submissions are considered in **Table 7**. A submitter list is attached.

Table 5: Community Submissions

Issue	No of submissions	Council Comments
Use of Right of Way Owner of the right of way expressed concern about lack of consultation and indicated future intentions to use the land.	1	<p>The status of the right-of-way is under Old System title converted to Torrens Title. There is no 88B Instrument. The right of way serves the rear of the two lots to the south, and also the Council owned land.</p> <p>Council would assume responsibility for construction and maintenance of the right of way access, and would negotiate with the adjoining owners regarding formalisation of an 88B or other solution acceptable to the owners.</p> <p>Outcome: This issue has been satisfactorily addressed subject to the imposition of relevant recommended conditions of consent (Schedule 1).</p>

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1 Contamination

This was considered as part of the demolition of the previous buildings, and site remediation has been occurring as part of the demolition process. A site clearance certificate is being

sought once clean-up is completed. A condition is recommended to require this prior to issue of a construction certificate.

5.2 Acoustics

The response to the RFI for the development provided a desk-top study which identified that the likely acoustic impacts of the proposal would be within the 5dbA criterion at the nearest sensitive receiver, in particular as a result of a proposed acoustic control wall.

5.3 Traffic

The majority of traffic would enter and leave the formalised parking area at the Council depot. This would minimise the number of vehicles utilising the access via the right of way.

5.4 Urban Design

The proposed building form presents sympathetically to the streetscape and is similar bulk and scale to existing development.

It is considered that it positively contributes to the character of the area.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

7. RECOMMENDATION

That the Development Application DA No 48/2023 for a community facility and office development at 33-35 Maitland Street Bingara be APPROVED pursuant to Section 4.16(1)(a) or (b) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A – Draft Conditions of Consent
- Attachment B – Amended SEE – 27 Nov 2023.
- Attachment C – Response to RFI – 5 Feb 2024.
- Attachment D – Plan Set for DA Approval. Contains the complete architectural plan set and landscaping plans.