

COUNCIL ASSESSMENT REPORT

SOUTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSTH-340 & DA.2023.0635
PROPOSAL	Construction Registered Club Premises
ADDRESS	Lot 6 DP 1246134 - 37 Tomsitt Drive Jerrabomberra
APPLICANT	Tuggeranong Valley Rugby Union & Sports Club / Knight Frank
OWNER	Poplars Development Pty Ltd
DA LODGEMENT DATE	25 January 2024 (Invoice paid 7 February 2024)
APPLICATION TYPE	Regionally significant
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development - with a CIV of more than \$30 million.
CIV	\$36,352,501 (excluding GST)
CLAUSE 4.6 REQUESTS	Clause 4.3(2) of <i>Queanbeyan-Palerang Regional Local Environmental Plan 2022</i> – height of buildings
LIST OF ALL RELEVANT PLANNING CONTROLS (\$4.15(1)(A) OF EP&A ACT)	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> (Planning Systems SEPP) • <i>State Environmental Planning Policy (Biodiversity & Conservation) 2021</i> • <i>State Environmental Planning Policy (Resilience & Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport & Infrastructure) 2021</i> • <i>Queanbeyan-Palerang Regional Local Environmental Plan 2022</i> (QPRLEP 2022) • <i>South Jerrabomberra Development Control Plan 2015</i>
AGENCY REFERRALS	NSW Police Force NSW Rural Fire Service Crown Lands Essential Energy
TOTAL & UNIQUE SUBMISSIONS	66 submissions (47 unique) received
KEY ISSUES	Non-compliance with statutory controls or not adequately addressed, Non-compliance with non-statutory guidelines, Building height and the Clause 4.6 request,

	<p>Site context and suitability,</p> <p>Operational impacts including from traffic on local roads, anti-social behaviour view and amenity impacts,</p> <p>Social Impact Assessment did not consult with most affected residents,</p> <p>Inconsistencies and errors in application material, and</p> <p>Acoustic Environmental & Impact Assessment by Acoustic Noise and Vibration Solutions has not adequately addressed impacts, according to the peer review by Day Designs, an independent acoustic expert engaged by Council.</p>
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>Statement of Environmental Effects & Clause 4.6 request</p> <p>Architectural Design Plans</p> <p>Civil engineering plans</p> <p>View Analysis</p> <p>Traffic Impact Assessment</p> <p>Acoustic Environmental & Impact Assessment</p> <p>Bushfire Report</p> <p>Plan of Management</p> <p>Waste Management Plan</p> <p>Landscape Plan</p> <p>BCA Design Assessment Report</p> <p>Design Report</p> <p>Social Impact Assessment</p> <p>Redacted submissions</p> <p>Referral Agency advice uploaded to the Planning Portal</p> <p>NSW Police Force letter 3 December</p>
PREVIOUS BRIEFINGS	17 July 2024 and 17 December 2024
PLAN VERSION	Revision 9 dated 13 August 2024
ASSESSMENT STATUS	Council can proceed to finalizing its assessment based on current information
PREPARED BY	Luceille Yeomans (Principal Planner – Council)
DATE OF REPORT	12 December 2024

SUMMARY

This report is provided as a status update on the assessment of this application for the Southern Region Planning Panel, to be discussed at their Briefing Meeting of 17 December 2024.

This report outlines several key issues of concern including non-compliance with statutory controls and non-statutory guidelines, building height and the Clause 4.6 request, site context and suitability, operational impacts including from traffic on local roads, anti-social behaviour, inconsistencies and errors in application material and, significantly, acoustic impacts.

Clause 4.6 Written Request Report– the proposal seeks a maximum 1.25m encroachment above the maximum height development control under the QPRLEP 2022 of 12m. The variation request has not demonstrated to Council's satisfaction that non-compliance is unreasonable. The site is vacant, relatively flat and unconstrained.

The argument in the variation request report that the additional height is warranted because of the 'sloping site' is unsubstantiated.

The proposal is considered to be generally inconsistent with the relevant planning controls and the site is not considered suitable for the development. There are likely to be significant adverse impacts arising from the proposal and therefore it is not considered to be in the public interest.

Minor changes in response to the Information Request has been shown on the plans including the removal of pedestrian and vehicle access to Esmond Avenue and a continuous acoustic wall. A reduction in trading hours from a 3am close to 2am, corresponding one hour reduction in alcohol sales and time limited outdoor dining has also been offered.

Summary of issues of non-compliance

- Inconsistent with relevant Aims of QPRLEP 2022,
- Inconsistent with the Objective of the B1 Neighbourhood Centre Zone under the QPRLEP 2022,
- Inconsistent with the development control for height under the QPRLEP and the Clause 4.6 variation is not justified,
- Relevant Environmental Planning Instruments have not been addressed for assessable development including Advertising Devices and Solar Works
- Inconsistent with the scale of development sought in the South Jerrabomberra DCP with no variation to the DCP sought,
- Inconsistent with the scale and amenity impacts sought for the Local Centre sub precinct in the draft South Jerrabomberra Regional Job Precinct master plan,
- The lot where the development is proposed has not been registered. Conditions relating to retiring Biodiversity credits under an existing Order and servicing requirements of the subdivision have not yet been met. Application is considered premature however if development was to be approved, a deferred commencement could be considered.
- Inconsistent with the Aims and Objectives of the Environmental Planning and Assessment Act in terms of site suitability, cumulative impacts and not being in the public interest,
- Errors and inconsistencies in application material,
- Amended Acoustic Environmental & Impact Assessment Report dated 15 August 2024 cannot be relied upon in the expert opinion of Council's independent external consultant.

1. THE SITE & LOCALITY

1.1 Site

The site is legally described as Lot 6 DP 1246134 and is known as 37 Tompsitt Drive Jerrabomberra (see Figure 1).

The site is located within the South Jerrabomberra urban release area, which is located south west of Queanbeyan between the existing suburb of Jerrabomberra and the Australian Capital Territory (ACT) border. The area is located in close proximity to existing industrial lands in the ACT (Hume industrial area) and under flight paths of Canberra Airport. The development of the area is to cater for the expected population growth given its strategic location adjacent to Canberra and the significant population growth in Queanbeyan.

The lot has not yet been created. There are some slight variations in the topography which is anticipated to be future site levelling.

The site accommodates a few mature native trees and vegetation around an existing pond. The site is subject to Biodiversity Values Mapping and a Biodiversity Certification Agreement is in place. The area where disturbance and vegetation removal is proposed has been assessed and is anticipated.

The site adjoins Esmond Avenue to the east which accommodates low residential development. The site will be accessed from Gwendoline Place, as an extension from Henry Place.

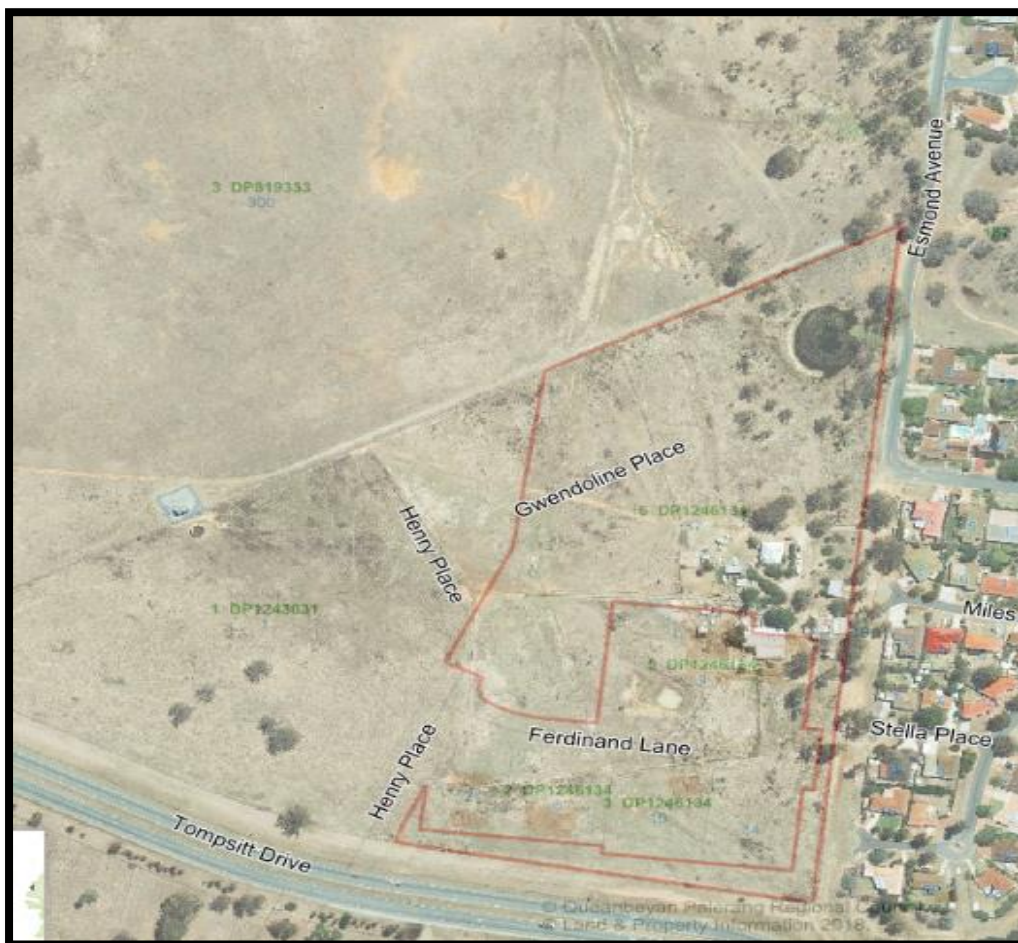


Figure 1 – Aerial image of site

1.1 The Locality

The South Jerrabomberra urban release area is expected to have 1,500 new dwellings, a local centre, green spaces (including conservation areas), a new high school, a Regional Sports Complex and an Innovation sub precinct.

The Master Plan outlines the general location of land uses, having regard to aircraft and industrial noise, bushfire, biodiversity and topography (**Figure 2**).

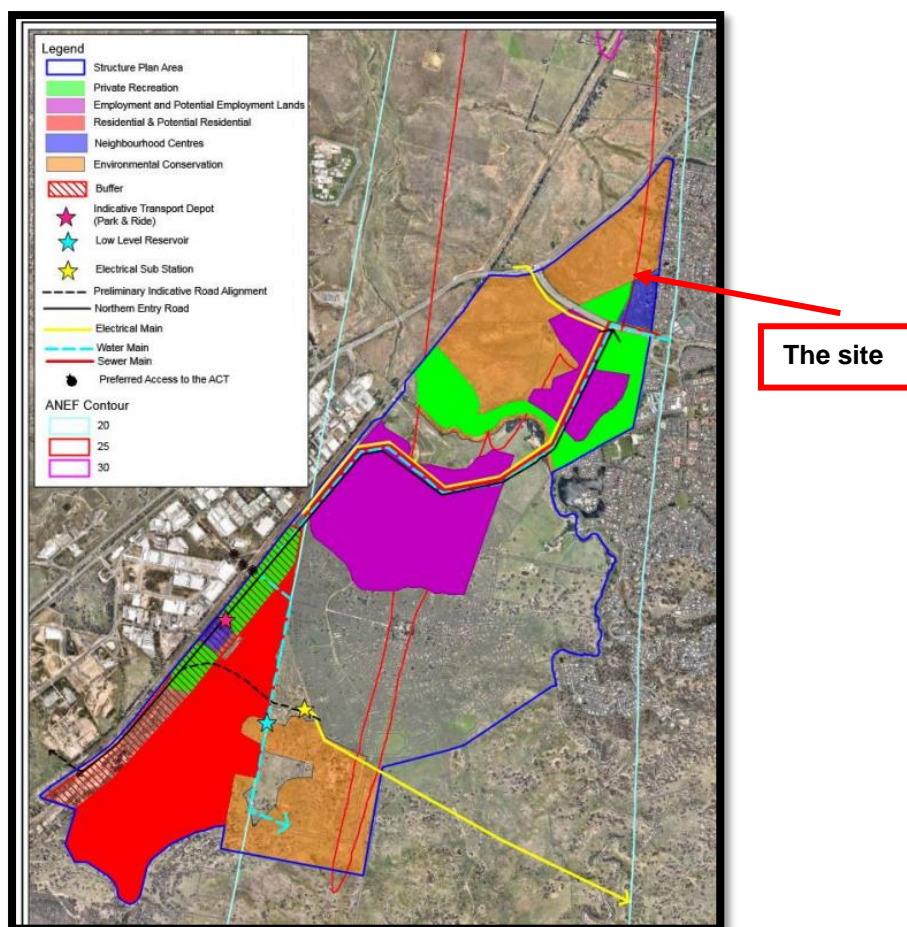


Figure 2: South Jerrabomberra Master Plan (Source: Map 1, SJDCP)

The site is included in the South Jerrabomberra Master Plan area. The Master Plan identifies five key development areas in South Jerrabomberra being The Poplars, Environa, North Tralee, South Tralee and an area of land beyond South Tralee to the south.

The subject site is included in the Poplars Development with a *desired future character of a mix of office, light industrial, small scale retail, business and community uses that serve the needs of the people who live or work in the locality.*

The scale of the proposed development is inconsistent with the desired future character in this part of the Poplars Development as it is not considered to be a small scale retail, business or community use designed to serve the needs to the people who live or work in the locality.

The site is further recognised as being within a Neighbourhood Centre Precinct (**Figure 3**).

The Department of Regional NSW has prepared a draft master plan for the *South Jerrabomberra Regional Job Precinct* created under the NSW Government's Regional Job Precincts program, an extension of the Special Activation Precinct program.

The Draft master plan sets out the strategic merit of South Jerrabomberra as an employment precinct and summarises the key development opportunities. The draft master plan is focused on driving long-term economic prosperity through the generation of up to 4,000 jobs in a variety of industries including advanced manufacturing, defence, aerospace, cyber security, and light industrial, as well as jobs and services that support these industries and their workers. The precinct can contribute to and leverage from the existing and growing clusters of defence, space and cyber security industries given the proximity to Canberra.

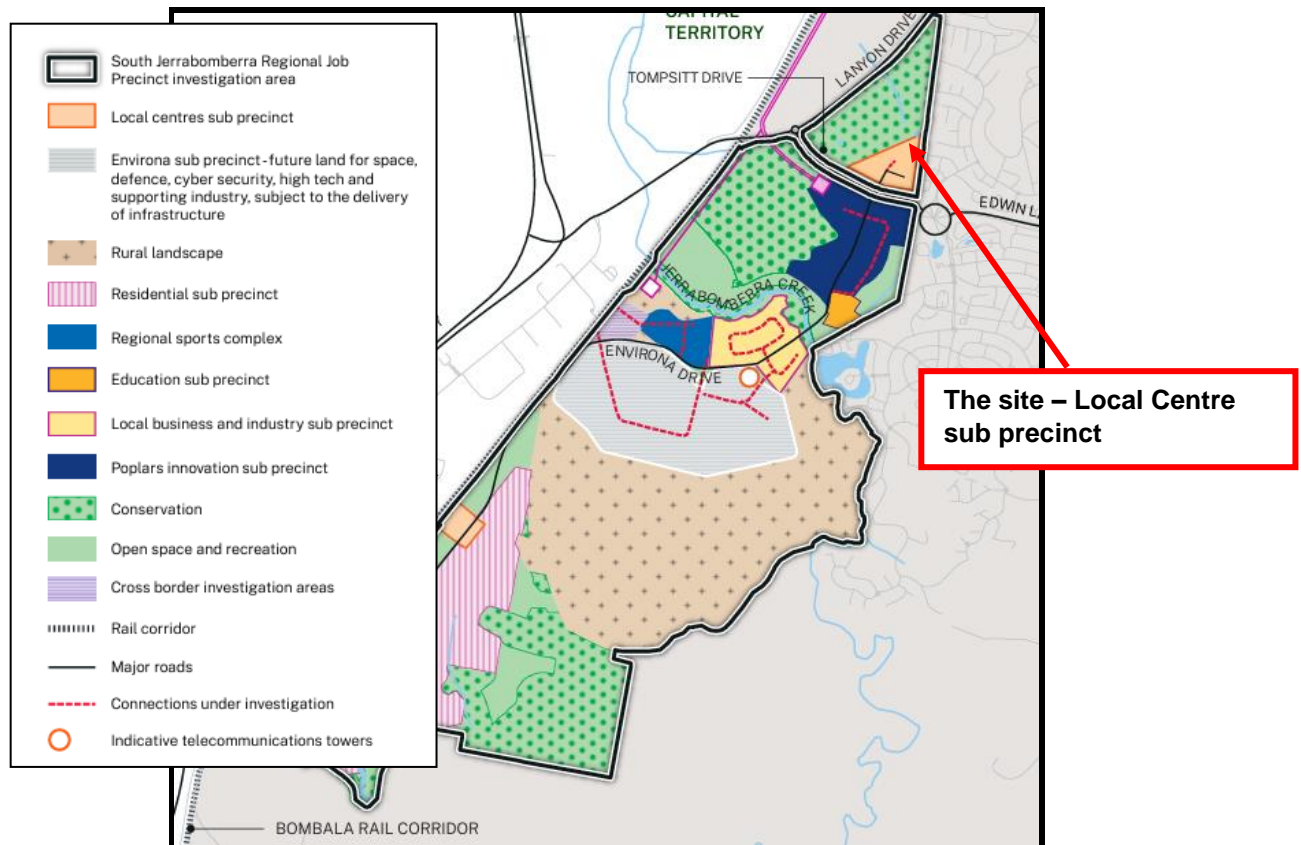


Figure 3: South Jerrabomberra Regional Job Precinct (Source: Draft Master Plan, Department of Regional NSW, September 2023)

This site is included in the draft master plan as the North Poplars Local Centre sub precinct. The intent is to serve the needs of local residents and employees in the area. The draft master plan suggest these *local centres will provide for the everyday needs of residents, improve walkability and liveability and will provide the amenity required to support successful innovation precincts.*

The use of the land for a Club is not inconsistent with the intent of the Local Centre sub precinct however the scale, connection to local community need and its ability to manage amenity impacts is not able to be reconciled.

Work on the final master plan is ongoing however the proposed development is considered inconsistent with the draft as currently available.

2. THE PROPOSAL & BACKGROUND

2.1 The Proposal

The proposal seeks consent for the construction of a Registered Club.

Specifically, the proposal involves:

- Construction of a Registered Club over 2 stages
- Tree removal, stormwater management, car parking, landscaping
- Signage and solar panels indicated on the plans and referenced in the application material however not sought in the development consent.

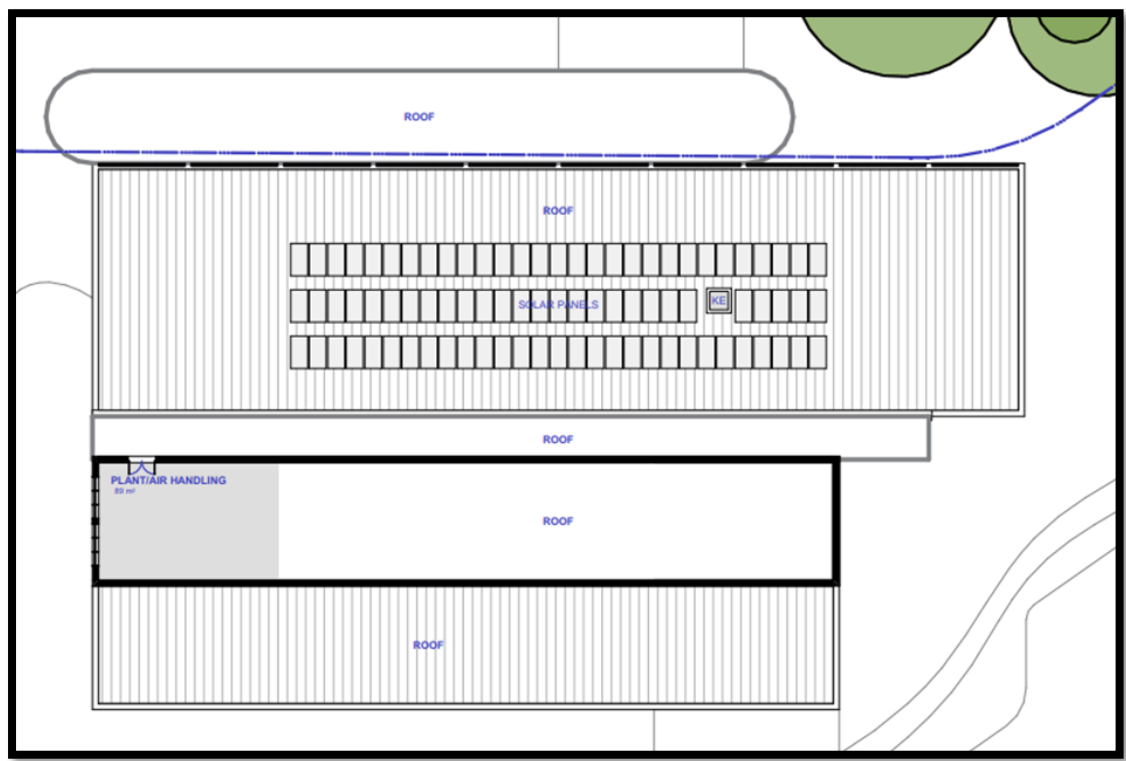


Table 1: Development Data

Control	Proposal
Site area	Approx. 4.5ha
GFA	Ground - 2,179.8 m ² Mezzanine - 146.0 m ² Level 1 - 1,236.1 m ² Total = 3,561.9 m ²
FSR	Proposed = 0.18:1 Maximum Permitted = 1:1
Height	LEP Max 12m

	Proposed 13.25m	
Car Parking spaces	Stage 1 - 153 Stage 2 - 119 Total = 272	
Patrons and Employees	1320 maximum <ul style="list-style-type: none">• 700 patrons within the gaming lounge, foyer, lounge/bar and restaurant;• 500 patrons within the first floor function space;• 20 persons within the office; and• 100 patrons within the alfresco dining area.	
Hours of operation		
Area	Hours of Operation	Close
Poker Machine Lounge	Monday to Sunday 9:00am — 1:00am (liquor service)	2:00am
Lounge I Bar	Monday to Sunday 9:00am — 1:00am (liquor service)	2:00am
Bistro	Monday to Sunday 11:00am — 10:00pm	10:00pm
Cafe	Monday to Sunday 9:00am — 2:00am	2:00am
Alfresco area outdoor	Monday to Sunday 9:00am —10:00pm	10:00pm
Smoking Areas outdoor	Monday to Sunday 9:00am — 2:00am	2:00am
Function Rooms	Monday to Sunday 9:00am — 2:00am (subject to reservations)	2:00am

Stage 1

Construction of the Pavilion building including:

- Reception, lounge and office area
- Construction of the main building comprising,
- Ground level with restaurant, bar areas, gaming areas, and amenities,
- Mezzanine level containing building plant equipment for main buildings,
- Construction of the eastern car park and part of the western car park for a total of 153 parking spaces

- Landscaping for the development including the construction of paths and refurbishment of the pond area.

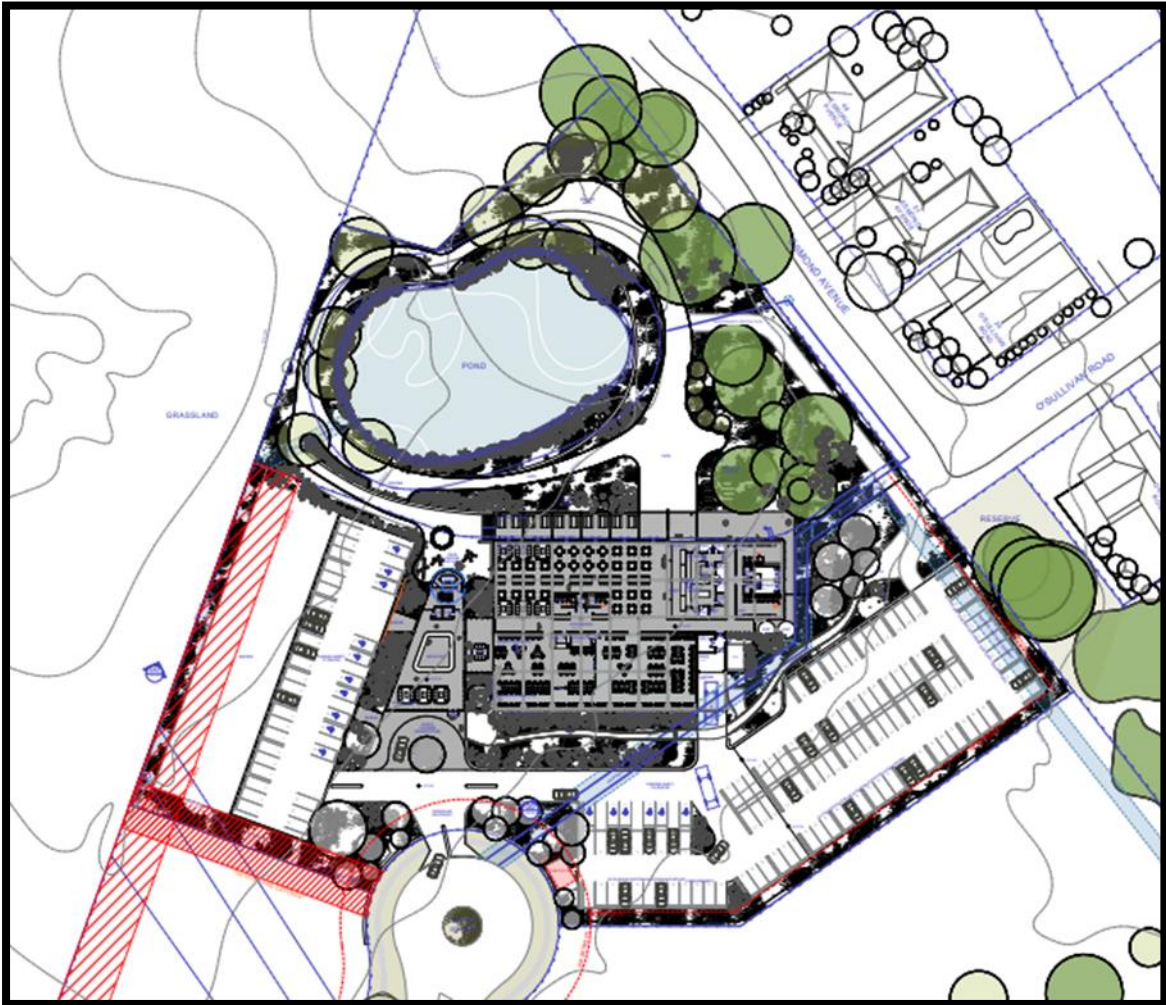


Figure 4 - Stage 1 - Ground Floor Plan



Figure 5 - Stage 1 - Mezzanine

Stage 2

Expansion of the registered club premises including:

- Alterations to the Pavilion building comprising
- Ground floor alteration including the construction of a stairwell, lift and remove offices
- Mezzanine floor with office and meeting rooms;
- Internal construction of level 1 with function room and reception area;

Alterations and additions to the main building including:

- Demolition works comprising the removal of the roof,
- Construction of level 1 to provide for two (2) function rooms, bar, amenities and plant equipment,
- Construction of an alfresco dining area to the east of the pond including a bar,
- Construction of a viewing platform to the north of the pond,
- Extension to the western car park to provide for a further 119 parking spaces (for a total of 272 car spaces).

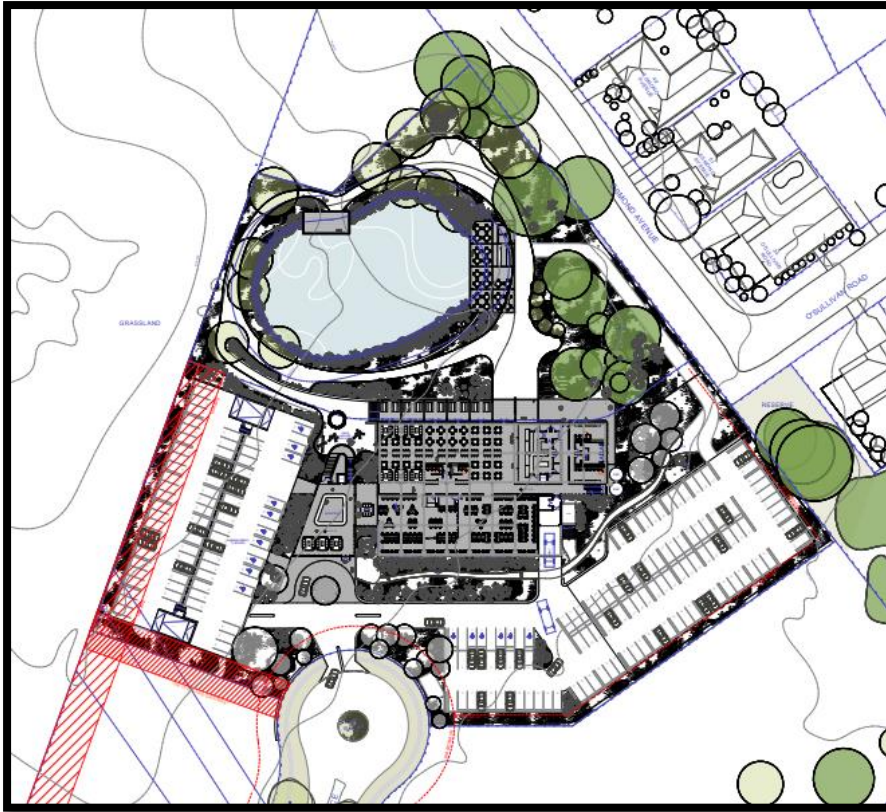


Figure 6 - Stage 2 – Ground

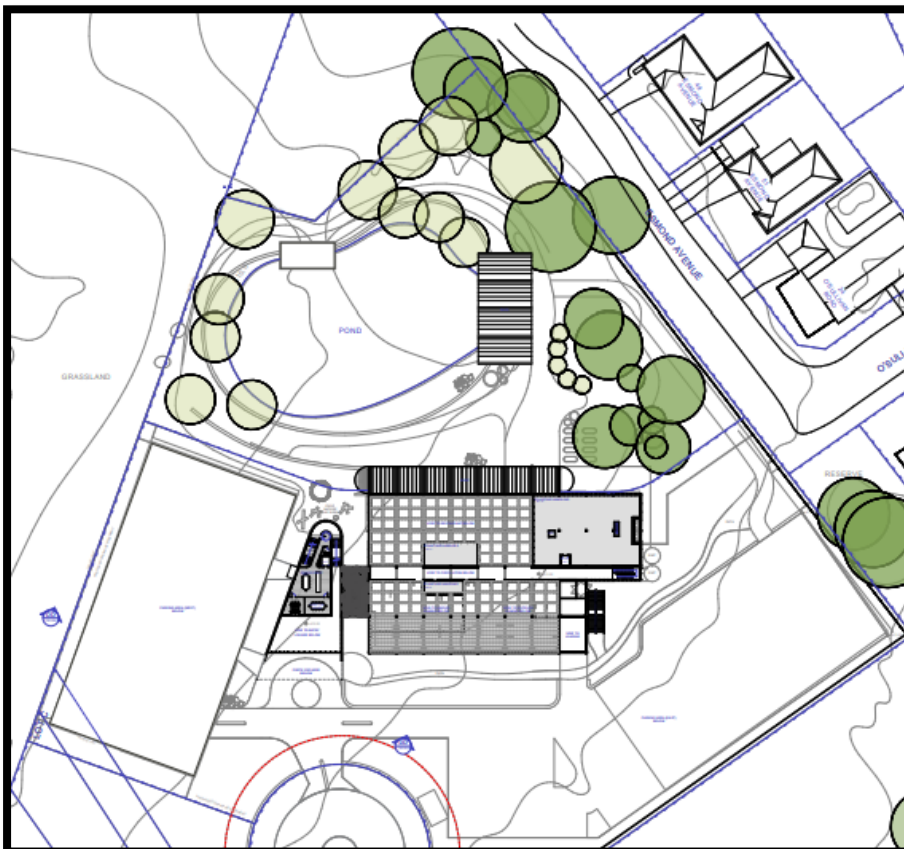


Figure 7 - Stage 2 – Mezzanine

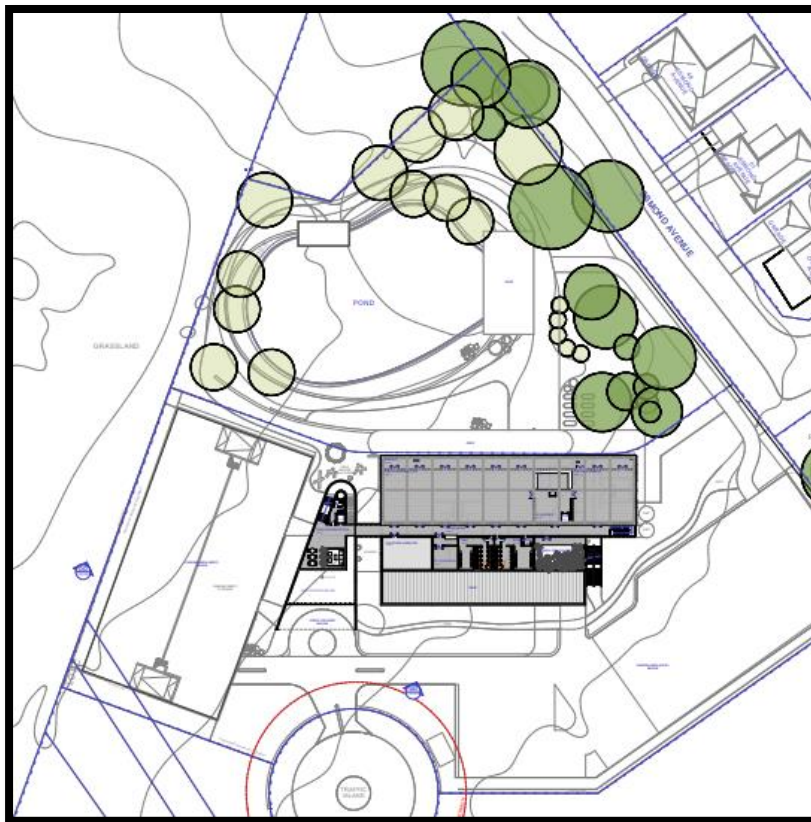


Figure 8 - Stage 2 – Level 1

2.2 Background

The development application was lodged on **25 January 2024**. A chronology of the development application since lodgement is outlined in **Table 2**.

Table 2: Chronology of the DA

Date	Event
7 February 2024	Invoice Paid
6/03/2024 to 22/03/2024	Proposal first notified
3/04/2024 to 19/04/2024	Extension to notification period following issues raised by the public regarding description of site and access to DA material
8 March 2024	DA referred to external agencies & internal officers
27 June 2024	Request for Information from Council to applicant
17 July 2024	Site inspection & Panel briefing

6 September 2024	Response to Information Request received mainly including: Reduction in trading hours from 3am to 2am including no liquor sales hours after 1am for the lounge / bar and poker machine lounge. Function rooms appear to have no specific limitation to liquor sales (however that could be conditioned to be consistent with the lounge / bar of 2am) Removal of pedestrian access and vehicular access to Esmond Ave and corresponding connection of acoustic wall.
26 September – 15 October 2024	Renotification of the application to adjoining owners and submitters following receipt of information request response.
26 November 2024	Meeting with Officers from NSW Police Force Monaro District. Written advice received following that meeting dated 3 December 2024.
10 December 2024	Applicant provided a response to the second round of submissions received.

2.3 Site History

The development of the larger Poplars Development area (North and South) was referred to the Commonwealth Department of Agriculture, Water and the Environment under the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**).

The Poplars Development was determined to be a controlled action on 20 November 2020 and on 13 September 2021, the Poplars Development received EPBC approval to implement the staged development of the project, subject to conditions (EPBC 2020/8801).

Development of the land has also been considered under the *Biodiversity Conservation Act 2016* (**BC Act**). A biodiversity assessment was undertaken for development of the parent lot and Biodiversity Certification has been granted. This proposal does not require any further assessment in terms of biodiversity.

The site does adjoin land to the North that is outside the development footprint. That area will be fenced off from the development site and, if approved, any Plan of Management would need to ensure waste is contained within the site and it remains undisturbed by any operation of the land.

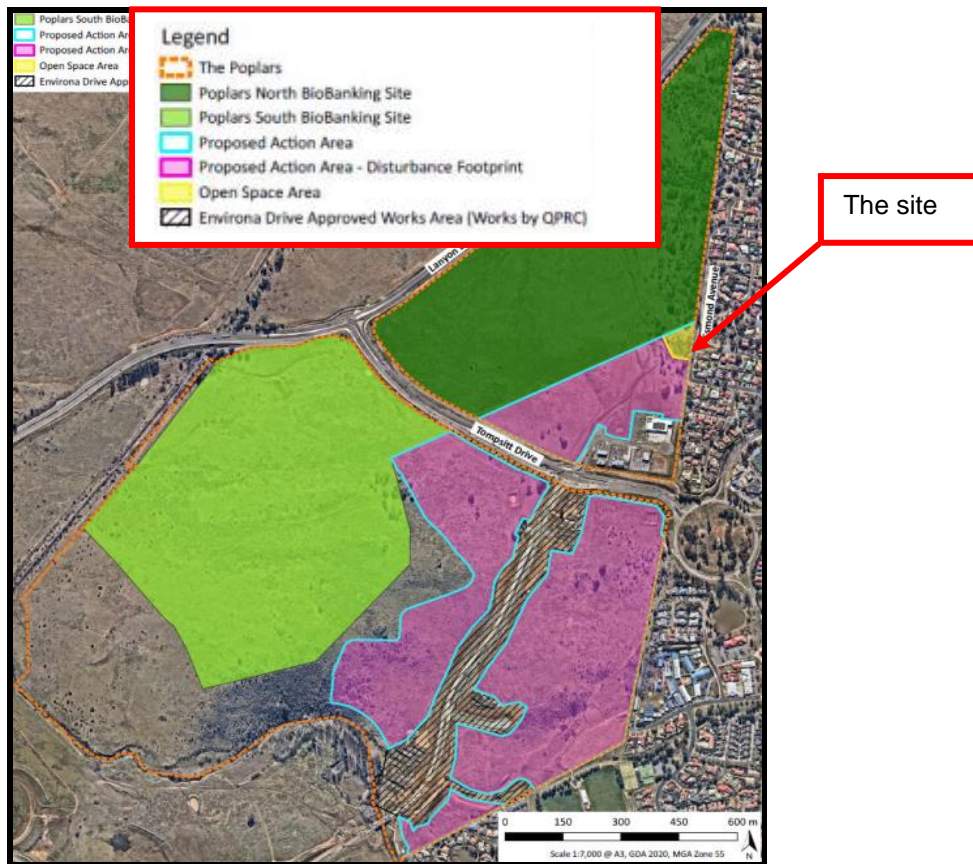


Figure 9 – BCAR mapping

The site is located on a large parent lot that has recently been granted consent for subdivision - application (DA.2023.0348). The development is proposed to be located on future Lot 11.

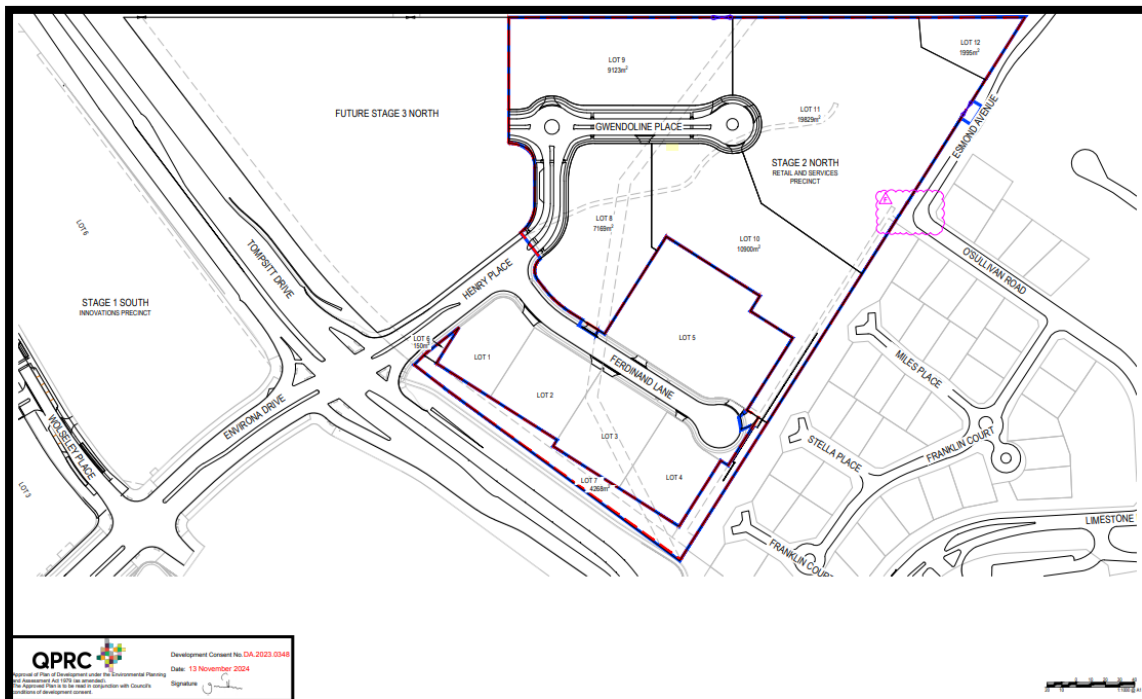


Figure 10 – Approved subdivision of parent Lot (Lot 6 DP1246134 and Lot 1 DP1243031)

3. PLANNING CONTROLS

The site was included in the B1 Neighbourhood Centre Zone pursuant to Clause 2.3 of the Queanbeyan Palerang Regional Local Environmental Plan 2022 when the application was lodged.

Note 2 to the Land Use Table applies to the site being 'Land subject to South Jerrabomberra Regional Jobs Precinct Process'. The effect being that the land use table prior to the commencement of amendments on 26 April 2023 do not apply. The references to business and industrial zones are applicable to this application despite the land being currently identified as being in the E1 Local Centre Zone.



Figure 11 – QPRLEP 2022 Zoning Map (site currently described as E1 however application B1 Neighbourhood Centre Zone controls continue to apply)

A summary of the key matters for consideration and non-compliances arising from the relevant EPIs are outlined in **Table 3**.

Table 3: Summary of Key Matters in the Relevant EPIs

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy	<u>Chapter 2: State and Regional Development</u>	Y

<i>(Planning Systems) 2021</i>	<ul style="list-style-type: none"> • Section 2.19(1) declares the proposal regionally significant development. 	
<i>State Environmental Planning Policy (Biodiversity & Conservation) 2021</i>	<u>Chapter 4: Koala Habitat Protection 2021</u> <ul style="list-style-type: none"> • Section 4.4(1) - Land to which Chapter applies. Section 4.9 — no approved koala plan of management for land, not required. 	Y
<i>State Environmental Planning Policy (Resilience & Hazards)</i>	<u>Chapter 4: Remediation of Land</u> <p>Section 4.6(1) - Contamination of land – addressed in recent subdivision application (DA.2023.0348)</p>	Y
<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	<u>Chapter 2: Infrastructure</u> <ul style="list-style-type: none"> • Section 2.48(2) (Determination of development applications—other development) – electricity transmission. Essential Energy confirmed the proposal is satisfactory subject to conditions. 	Y
	<u>Chapter 2 Infrastructure</u> <p>Section 2.122 (Traffic Generating Development) applies to the proposed development. Transport for NSW were referred the application and was able to support the proposal in terms of impacts on State Controlled Roads however highlighted a concern regarding the queuing of vehicles impacting local roads.</p>	Partial compliance
	<u>Chapter 2 - Infrastructure</u> <p>Division 4 Electricity generating works or solar energy systems require consent.</p> <p>The application shows a solar array on the roof which may have the capacity to meet the threshold for assessable development. This part of the proposed development has not been addressed and solar panels could not be included on any plan should the use be approved.</p>	N
	<u>Chapter 3 - Advertising Devices</u> <p>Council sought the applicant address compliance with Chapter 3 of this Environmental Planning Instrument given signage was indicated.</p> <p>In the response to the Information Request, the Applicant confirmed signage is proposed noted that:</p> <p><i>“This will be considered in a Section 4.55 once the club receives its gaming license and progresses the CC documentation. The club will ensure the community has input as to where signage will be placed however initial advice is that it will not face</i></p>	N

	<p><i>any residences.”</i></p> <p>Chapter 3 of the SEPP aims to ensure signage;</p> <p><i>(i) is compatible with the desired amenity and visual character of an area, and</i></p> <p><i>(ii) provides effective communication in suitable locations, and</i></p> <p><i>(iii) is of high quality design and finish.</i></p> <p>The Applicant has confirmed signage is proposed, however has not demonstrated compliance with the SEPP at this stage, suggesting this could be managed through a Modification to Development Consent once one is issued by the Panel.</p>	
<p><i>State Environmental Planning Policy (Sustainable Buildings) 2022</i></p>	<p><u>Chapter 3 Standards for non-residential development</u></p> <p>3.2 Development consent for non-residential development</p> <p>(1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—</p> <p>(a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,</p> <p>(b) a reduction in peak demand for electricity, including through the use of energy efficient technology,</p> <p>(c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,</p> <p>(d) the generation and storage of renewable energy,</p> <p>(e) the metering and monitoring of energy consumption,</p> <p>(f) the minimisation of the consumption of potable water.</p> <p>(2) 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.</p>	Y

	Embodied Emissions Materials Form which has been completed by the consultant Quantity Surveyor.	
QPRLEP 2022 – see below	<ul style="list-style-type: none"> • Clause 1.2 – Aims of the Plan • Clause 1.4 – Definition • Clause 2.3 – Zone Objectives & Land Use Table • Clause 4.3(2) – Height of Buildings • Clause 4.4(2) – FSR • Clause 5.10 - Heritage • Clause 5.21 - Flood Planning • Clause 6.2(1) - Public utility Infrastructure • Clause 6.3(2) - DCP preparation • Clause 7.1 – Earthworks • Clause 7.8(2) – Airspace operations • Clause 7.9(3) - Aircraft Noise • Clause 7.10(3) - Aircraft Noise – South Jerrabomberra • Clause 7.12 - Essential Services 	<p>No</p> <p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p>
South Jerrabomberra DCP	<p>Part 3 - The Master Plan</p> <p>Part 8 – Environmental Management</p> <p>Part 10 – Neighbourhood Centre including Mixed Use Controls and Principles</p>	No
Queanbeyan Development Control Plan	Part 2 Sections 2.2 to 2.9 of the Queanbeyan Development Control Plan 2012 are also relevant to the application.	No

QPRLEP 2022 Summary

Clause 1.2 outlines the aims of the LEP, addressed below:

(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts

Comment – not applicable.

(a) to protect and improve the economic, environmental, social and cultural resources and prospects of the community,

Comment – Partial compliance. The proposal is anticipated to have social and economic benefits to some, however the environmental and social resources and prospects of the community will be impacted.

(b) to facilitate the orderly and economic use and development of land having regard to ecological sustainability principles,

Comment – Not considered to comply. The proposal does not demonstrate it will operate in a way that will promote economic development, social development and environmental protection.

(c) to provide for a diversity of housing to meet the needs of the community into the future,

Comment – not applicable.

(d) to provide for a hierarchy of retail, commercial and industrial land uses that encourage economic and business development that caters for the retail, commercial and service needs of the community,

Comment – Not considered to comply. The site is on the western edge of the Queanbeyan Palerang Council area and is of a scale that is not commensurate with a suburban location. The proposal is not designed to meet the needs of the local community.

(e) to keep and protect important natural habitat and biodiversity,

Comment – Considered able to comply. The proposal is on land subject to development consent for subdivision however the lot has not yet been created. Conditions of that development consent will need to be met before the lot is released and before work on proposed Lot 11 commences, including relating Biodiversity Conservation Agreement commitments. Natural habitat and biodiversity values should be suitably protected.

(f) to protect water quality, aquifers and waterways,

Comment – Considered able to comply. The proposal is on land subject to development consent for subdivision however the lot has not yet been created. Once the conditions of that development consent are met, local water quality should be suitably protected.

(g) to keep, protect and encourage sustainable primary industry and associated commerce in rural areas,

Comment – not applicable.

(h) to identify and protect the cultural heritage of the area, including the built heritage and the Aboriginal heritage,

Comment – Considered able to comply. There are no specific built heritage features to be protected and Aboriginal heritage was considered as part of the assessment which approved subdivision of the parent lot.

(i) to protect important scenic quality, views and vistas,

Comment – Not considered to comply. The proposed development adjoins a conservation area to the north and will be highly visible from Lanyon Drive, an arterial road. It will also be visible from Tomsitt Drive and much of Jerrabomberra. At 3 storeys (2 level with mezzanine) and proposed to exceed the maximum height control established for the area, the proposal will not protect existing views and vistas.

The site adjoins an existing low density residential area to the east. No transition in built form is offered in the design and the building will appear bulky, especially in the absence of any future development on conservation land to the north.

(j) to facilitate the orderly growth of urban release areas

Comment – Not considered to comply. The site is in the South Jerrabomberra urban release area. The application was lodged over part of a large parcel of land. That site is approved for subdivision however the relevant lot has not yet been serviced, is not yet accessible and has not been registered. The application is considered to have been made prematurely and out of order.

(k) to ensure development does not unreasonably increase the demand for public services or public facilities,

Comment – Not considered to comply. The proposal has been assessed as having an impact on local roads and is not supported by NSW Police Force in terms of trading hours, an inadequate Plan of Management and regional policing capacity. The proposal is anticipated to unreasonably increase the demand for public services.

(l) to identify, protect and provide areas for community health and recreational activities.

Comment – Not considered to comply. The proposal includes recreational activities in terms of food, liquor, entertainment and gaming services where people can gather socially.

On 10 December 2024 the Applicant confirmed they will participate in the Club Grants scheme. This is a compulsory tax on gaming machine profits and is a condition of a Licensee holding a gaming licence.

The Applicant quoted from the ClubGrants website noting it *was established in 1998 to ensure registered clubs in NSW with profits over \$1 million contribute financial or in-kind support to local community services, programs, and projects.*

The Applicant suggests the club will provide *funding, facilities and sponsorship* to support local sports however no further details have been provided in the Development Application or response to Information Request which was made available to the local community. There will be an opportunity for local groups to apply for funding from taxes paid from gaming machine profits as a consequence of the proponent holding a gaming machine licence.

Clause 2.3 Zone Objective and Land Use Table

The site was included in the B1 Neighbourhood Centre Zone at the time of lodgement. The Objective of the zone and compliance of this proposal is outlined below:

To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area,

Comment – A Registered Club could provide opportunities for residents and those that work in or visit the area however this proposal is not considered a local or neighbourhood scale.

Additional Clauses under the QPRLEP include:

PART 6: URBAN RELEASE AREAS			
Public utility Infrastructure (CI 6.2(1))	Consent must not be granted for development on land in an urban release area unless the consent authority is satisfied as to various matters.	Satisfactory – refer below. This precondition to the grant of consent has been satisfied.	Yes
DCP (CI 6.3(2))	Consent must not be granted for development on land in an urban release area unless a development control plan that provides for matters specified in subclause (3) has been prepared for the land.	The <i>South Jerrabomberra Development Control Plan</i> has been prepared, which applies to the site and covers the matters required by Clause 6.3(3). This precondition to the grant of consent has been satisfied.	Yes Refer to DCP assessment
PART 7: ADDITIONAL LOCAL CLAUSES			
Earthworks (CI 7.1(3))	Consideration of matters prior to granting consent.	Satisfactory – considered further in key issues section of this report.	Yes
Clauses 7.2 to 7.7	Various environmental issues	The site is not included on these maps.	N/A
Airspace operations (CI 7.8(2))	Consent must not be granted to development that the consent authority is satisfied affect the site arising from Canberra airport unless certain matters are addressed.	Council notified the operator of the Canberra Airport who made recommendations on how the use could proceed to limit impacts on the airport operations.	Yes
Development in areas subject to aircraft noise (CI 7.9(3))	Consent must not be granted unless the consent authority (a) considers whether the development will result in an increase in the number of dwellings or people	The site is located between the 20 and 25 ANEF contour for Canberra airport and will increase the number of people affected by aircraft noise. Aircraft noise has not been addressed in the Acoustic	No

	affected by aircraft noise, and (b) considers the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021:2015, and (c) is satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015.	Environmental & Impact Assessment Report. That assessment suggests the internal amenity of the proposed club can meet AS2107:2016 which is not the relevant standard for buildings subject to aircraft noise and vibration, which is Australian Standard AS 2021-2000 Acoustics - Aircraft noise intrusion - Building siting and construction'.	
Aircraft noise—development in the South Jerrabomberra Urban Release Area (CI 7.10(3))	Consent must not be granted unless the consent authority is satisfied the development will meet various criteria in relation to aircraft noise.	The site is in the South Jerrabomberra Urban Release Area and is located between the 20 and 25 ANEF contour for Canberra airport. Aircraft noise has not been addressed in the Acoustic Environmental & Impact Assessment Report. This precondition to the grant of consent has not been satisfied.	N
Essential Services (CI 7.12)	Consent must not be granted unless the consent authority is satisfied as to certain matters.	Satisfactory – considered below. This precondition to the grant of consent has been satisfied.	Yes

Clause 4.6 Written Request - Height of Buildings development standard (Clause 4.3(2))

Pursuant to Clause 4.3(2) of the QPLEP 2022, the site is subject to the following maximum height of buildings development standard of 12m.

The roof for the main club building will measure 12.93m to 13.25m in height, exceeding the building height control by 0.93m to 1.25m being a deviation of 7.75% to 10.4%.

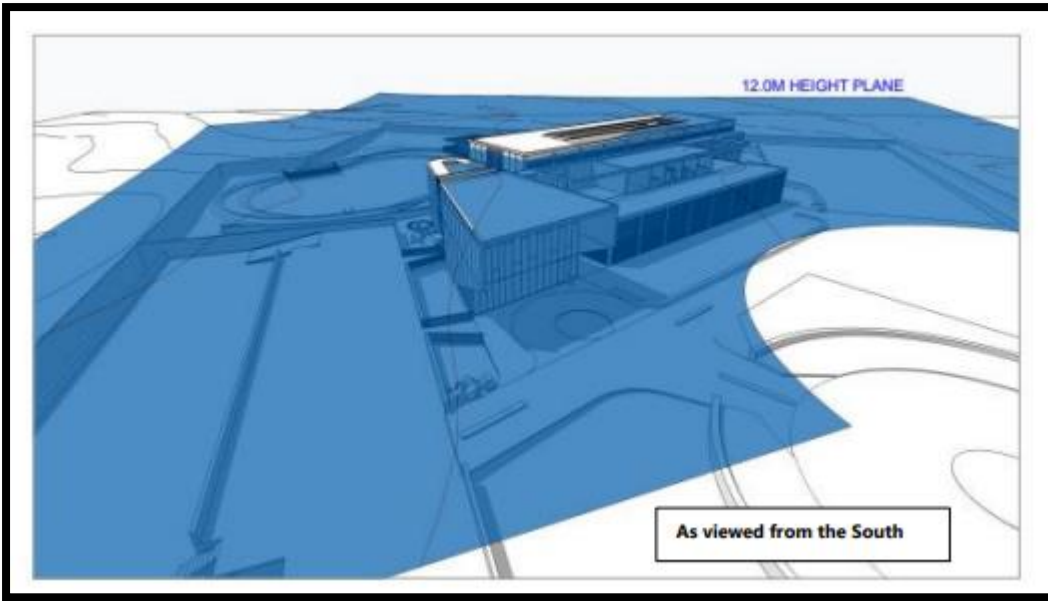


Figure 12 – Height encroachment above LEP Maximum (view from South)

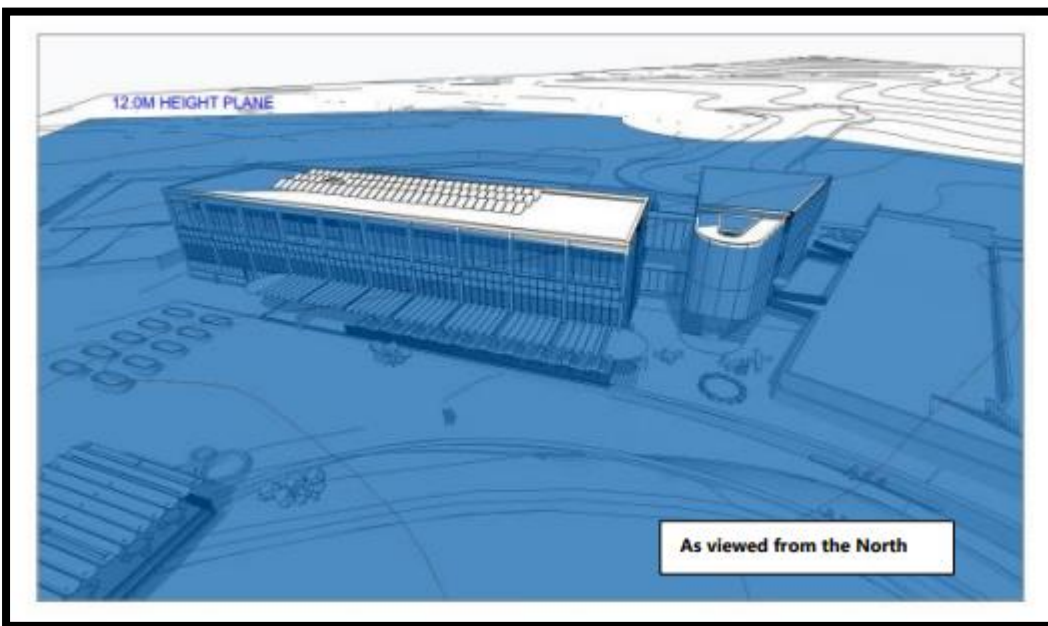


Figure 13 - Height encroachment above LEP Maximum (view from North)

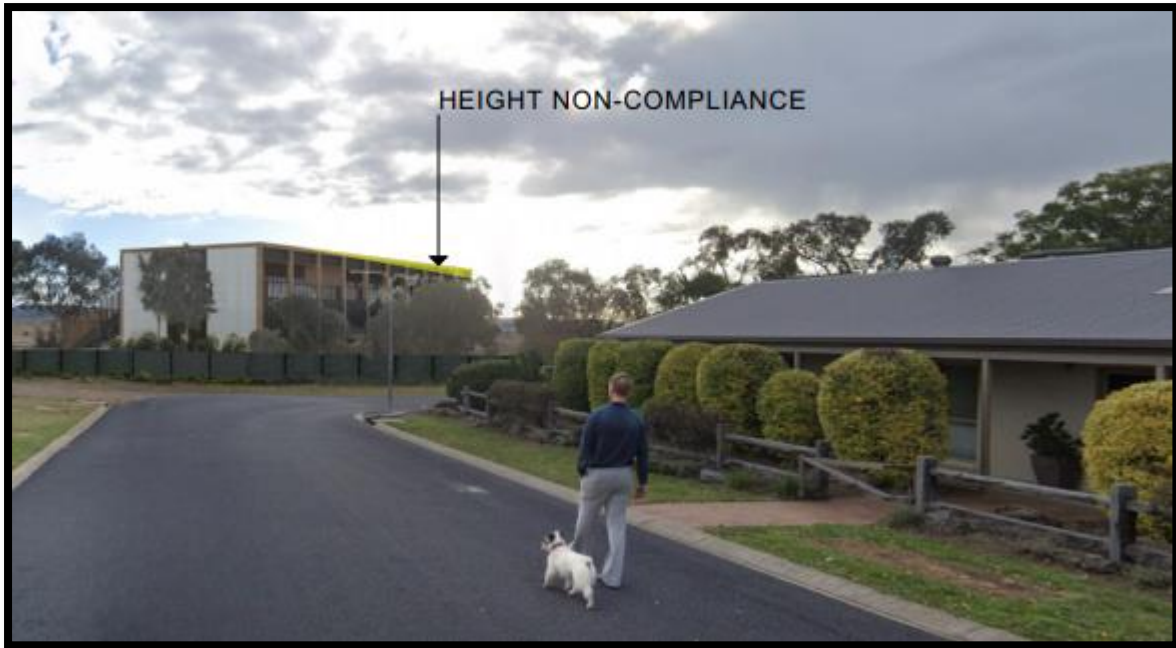


Figure 14 – Image of proposed building including height encroachment from Esmond Avenue looking west.



Figure 15 – Image of proposed building including height encroachment from Esmond Avenue looking south.

Solar panels are proposed above the highest point of the roof, however as fine elements which could be exempt development, it is not considered necessary to include them in this assessment.

Preconditions to be satisfied

Clause 4.6(4) of the QPLEP 2022 establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.

Clause 4.6(2) provides that permissive power to grant development consent for a development that contravenes the development standard is subject to conditions. This application is subject to the amendments to Clause 4.6 which commenced on 1 November 2023.

The consent authority must be satisfied that the applicant has demonstrated that:

- 1) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- 2) there are sufficient environmental planning grounds to justify the contravention of the development standard.

These matters are considered below for the proposed height exceedance having regard to the applicant's written Clause 4.6 request.

From Council's experience, there are five common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary as outlined in *Wehbe v Pittwater Council (2007) NSWLEC 827* ('Wehbe').

The first and most commonly used way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are still able to be achieved, notwithstanding non-compliance with the standard.

The applicant considers that the proposed development satisfies the first Wehbe test, in that the objectives of the standard are achieved.

The objectives of the Height of Buildings development standard pursuant to Clause 4.3(1) of the QPRLEP 2022 include the following:

- (a) *to establish the height of buildings consistent with the character, amenity and landscape of the area in which the buildings will be located,*

Applicant comment – *The exceedances to the maximum height limit are of a minor degree and are not so significant as to result in inconsistencies with the character, amenity and broader landscape of the area. With regard to the existing and future desired character of the area the site forms part of the South Jerrabomberra Jobs Precinct located within a Neighbourhood Centre.*

The exceedances are not the result of dominating architectural features or roof forms. Height variances for the main club building are partly the result of a sloping site and the user requirements for a large floorplate. The building achieves a substantial separation from the low-density residential development to the east.

Assessment comment – The applicants' assertions that the site is sloping and that a 28.6m to the eastern side property boundary will provide a substantial separation to sensitive receivers is not accepted. The desire for a particular floor plan by the proponent also does not justify contravention of the development standard.

Further, this justification is not supported given the scale appears at three storey which is inconsistent with the intent for development in a Neighbourhood Centre.

- (b) *to protect residential amenity and minimise overshadowing,*

Applicant comment – *The building has been setback appropriately from all site boundaries with a minimum setback of 28.6m from the eastern boundary with Esmond Ave. The actual separation achieved from the nearest residential development is a minimum of circa 58m. A*

2m high acoustic wall is proposed along the eastern boundary with screen landscaping. Remnant native vegetation is otherwise to be retained within the site and introduced landscaping to embellish the boundary treatment and pond area. There will be no overshadowing of the existing residential development as demonstrated by the submitted sun eye diagrams.

Assessment Comment – The additional height component is not anticipated to significantly alter the overall enjoyment of the local area by existing residents, beyond the impacts already anticipated by the operation of the use.

Residential amenity is considered to include views to the site from the residential area to the east. The view images show a built form out of character with that in the local area and approval of an exceedance would further exacerbate an already large and bulky structure.

Residential amenity is also considered to include the potential for overlooking to residential properties by patrons. The proposal includes outdoor alfresco areas above ground floor which will provide the opportunity to overlook dwellings in the existing residential area.

The proposal will remove the sense of secluded open space areas on these lots which will not protect residential amenity for adjoining owners.

(c) to minimise the visual impact of buildings,

Applicant comments - *The exceedances in building height will not result in a bulky or dominating architectural form. The building's eastern frontage has been carefully designed in response to the residential character to the east. Consisting of a grey concrete finish with brown timber battens and dark aluminum cladding— resulting in a modern, and unobtrusive design.*

The height exceedances are focused to the north western part of the building and are unlikely to be discernable in any significant way from Esmond Avenue.

Land to the north west is zoned C2 Environmental Conservation and beyond is Lanyon Drive. There will be some views of the development particularly travelling south, however these will be limited views and will not present significantly in the landscape.

Assessment Comment: The view images show a built form out of character with that in the local area and approval of an exceedance would further exacerbate an already bulky structure.

The proposed building is dissimilar in style and scale to the existing buildings in the local which demonstrates it does not suitably integrate into the local area.

Due to the site being next to a Conservation Area, and the absence of any buildings or vegetation screening, the building will be very prominent from Lanyon Drive, an arterial road and view corridor to the western edge of the Shire.

The proposed exceedance does not minimise the visual impact of buildings.

(d) to maintain the predominantly low-rise character of buildings in the Queanbeyan-Palerang Regional local government area,

Applicants' Comments - *The proposal generally presents as a two storey building in terms of its form although it is acknowledged that in terms of its height this is representative of a three storey building.*

The proposed building height is consistent with that allowed within the neighbourhood centre under the South Jerrabomberra Development Control Plan.

The height exceedances are minor in extent and do not result in additional storeys, nor does it add any substantive visual bulk to the building's architectural form.

Assessment Comment: This justification is not supported. In addition to the maximum height of 12m specified in the QPRLEP, the relevant Development Control Plan seeks a building of 1-2 storeys. The proposal will appear as a 3 storey development with a height exceedance of up to 1.25m.

It is not considered that the applicant has demonstrated that the development objectives are achieved despite the non-compliance with the height of building standard. Nor has the applicant demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances.

In the absence of demonstration that the objectives of the development standard have been complied with, the Clause 4.6 Request is not supported.

South Jerrabomberra Development Control Plan 2015

The proposal is not consistent with the scale or character for development sought by the relevant development controls in the South Jerrabomberra Development Control Plan.

(e) to ensure the height of buildings complement the streetscape or the historic character of the area in which the buildings are located,

Applicants Comments - *The proposal is compatible with the bulk, form, and scale of buildings in its surrounds including the low density residential to the east. The eastern elevation and setback, circa 28.6m to the eastern boundary at its nearest, has been carefully considered to be sympathetic to the residential character to its east.*

The facade consists of modern materials and unobtrusive colours and finishes. It will be softened through a landscape buffer along the eastern boundary including the retention of native vegetation. An acoustic barrier is required at the interface between the site and the adjoining residential zone for the purpose of mitigating acoustic impacts and which also delineates between the public domain and the use of the site.

Assessment Comment: The proposal is not compatible with the bulk, form and scale of buildings in the surrounding residential area. The proposal is also not compatible with the bulk, form and scale of buildings in the local commercial area which are predominantly 1 storey.

Retaining existing sparse trees and additional planting may assist to screen the use over time.

(f) to protect the heritage character of the Queanbeyan-Palerang Regional local government area and the significance of heritage buildings and heritage items,

Applicants' Comments – *There are no heritage items or buildings known to be located within the site or its immediate surrounds, nor is the site located within a Heritage Conservation Area.*

Assessment Comment: Confirming there are no heritage buildings on or near the site however this does not overcome the issues of non-compliance outlined in this assessment.

(g) to provide appropriate height transitions between buildings, particularly at zone boundaries.

Applicants' comments -*The proposed height exceedances are minor and will not result in an inappropriate height transition from the site to the residential area at the site's east. The variations are concentrated within the northwest segment of the building while the residential area is located to its east. A substantial setback to the eastern boundary is achieved, at its nearest, with further separation to the actual residential dwellings achieved by way of the road and road reserve.*

With regard to the neighbourhood centre there is currently vacant land located immediately to the south and south west. The development presents principally as single storey transitioning to a two-storey form. An at-grade car park is otherwise located between the built form and future development within the centre. This approach will allow for an appropriate built form transition for future development.

Assessment Comment: This justification is not supported as the design has failed to show a transition to the residential development to the east. The proposal is not considered to be compatible with existing commercial development in the local area at 1-2 storey or residences in the local area generally at 1 storey.

Councils has assessed the Applicants comments and assertions above and has considered whether the strict application of the development standard is reasonable or not in this instance.

The Applicant has been unable to demonstrate to Council's satisfaction that the Clause 4.6 written request has adequately demonstrated that the proposed height exceedance is consistent with the objectives of the development standard and therefore has not met the relevant test that compliance with the development standard is unreasonable or unnecessary in the circumstance (Clause 4.6(3)(a)).

Development Control Plan summary

The South Jerrabomberra Development Control Plan applies. In addition to Part 3 – Master Plan, discussed above, the following discussion is provided on relevant controls.

Part 8 – Environmental Management

This part includes controls in relation to the following matters which have been considered in this assessment:

- *Soils and Salinity* - These controls require that soil conservation measures are provided to minimise soil erosion and siltation during construction and following completion of development. A Sediment and Erosion Control Plan can be sought as a condition of consent should the use be approved.

The QPRLEP 2022 does not include the site on the salinity mapping.

- *Cut and fill* – The controls limit excavation and fill on building sites to a maximum of 1.5 metres, with greater depths capable of being considered by Council, if within the building envelope, suitably retained and/or stabilised and not visible from the street.

There is approximately 3.5 metres of excavation required for the western car park. This has been shown on a civil engineering plan and could be conditioned to ensure any potential soil erosion or stability issues are managed.

- *Water sensitive urban design (WSUD)* – These controls require that development incorporates stormwater, retention and detention strategies to limit the changes to the hydrological regime (flow rate and duration) of the receiving waterways. The Stormwater plan proposes adequate arrangements for the management of stormwater on the site including the use of the pond to the northeastern corner of the site. This aspect of the proposal is considered to be satisfactory.
- *Natural hazards* – These controls require the application identify measures which minimises risks to future development and users from slip, bushfire, flood and other natural hazards. This site is affected by bushfire prone land which has been considered and RFS consider to be satisfactory.
- *Bushfire management* – This section requires that a Bushfire Threat Assessment report must form part of all development applications for lands identified as 'bush fire prone' in accordance with *Planning for Bushfire Protection*. The recommendations of the Assessment report must be incorporated into the design and would be included as a condition should the use be approved.
- *Aboriginal heritage* – An Aboriginal Cultural Heritage report was prepared for the subdivision of the parent land. An Aboriginal Cultural Heritage and Archaeological Report prepared by Past Traces Pty Ltd dated 30 March 2023 was submitted with that application. The report determined that no Aboriginal artefacts, sites or areas of potential archaeological deposit were located within the subject site (parent lot), furthermore that the area has a low potential for sites.

If consent is issued a condition could be imposed to ensure development proceeds with caution.

- *Aircraft noise and operations* – The controls require consideration of aircraft noise and airspace operations as outlined in the QPRLEP 2022.

The Acoustic Assessment did not address aircraft noise or refer to the relevant Australian Standard (AS2021-2000 – Acoustics – Aircraft noise intrusion – Building Siting and Construction).

Canberra Airport have been referred the application and made suggestions on how the use could operate to ensure the continued safe operation of the airport.

- *Tree retention, biodiversity and flora and fauna* - These controls require existing significant trees to be retained with native vegetation (canopy level) to be provided by developments. Tree removal has been assessed through a BCAR with commitments required to be met before the lot is registered.

Landscape Plan provides additional tree planting on the site.

- *Land contamination* – Consideration of land contamination is required and is considered in the Resilience & Hazards SEPP assessment.
- *Construction waste* – Construction waste must be considered, and a Waste Management Plan provided. Council's Waste Officer notes discrepancies between the

waste management information (service vehicle size, Food Waste not addressed) however this could be sought or managed through conditions should the use be approved.

- *Landfill and earthworks* – The controls require adequate justification of the need for landfill to be deposited on a site. The proposed earthworks are required to provide a level building pad for the proposed new building and car parks. Conditions could manage this impact should the use be approved.
- *Urban and non-urban interfaces* - The controls require that the potential for land use conflict is considered at the subdivision stage.

Part 10 – Neighbourhood Centre including Mixed Use Controls and Principles

This part includes controls in relation to the following matters which have been considered in this assessment:

- *Desired future character* - The proposal is generally inconsistent with the North Poplars neighbourhood structure plan in terms of scale, interface with residential areas, desired future character and amenity.
- *Safety and security* – The controls require compliance with the relevant controls of CI 2.9 of the QDCP 2012. These matters are considered above and raised in the submission by the NSW Police Force. Despite onsite design measures which could be implemented the scale and location is considered undesirable in terms of public safety.

NSW Police Force object to the proposed development based on hours of operation, inadequate Plan of Management, impacts on residential amenity including from a higher risk of alcohol related and street crime, and the agencies' ability to respond noting a serious crime (armed robbery) occurred recently at a premises near the proposed development.

- *Site car parking* – The controls require compliance with the relevant controls of CI 2.2 of the QDCP 2012. Car parking numbers have been assessed by Council's Engineer to be satisfactory.
- *Pedestrian access and mobility* – These controls require the provision of access for people with disabilities. The design of the building can meet relevant standards through conditions should the use be approved.
- *Additional Objectives and Controls for Poplars Neighbourhood Centre* – there are a number of controls in relation to the built form, public domain, access and mobility, landscaping and edge treatment and safety and surveillance. These matters are generally addressed at the subdivision stage and are therefore not directly relevant to the current proposal.

Queanbeyan Development Control Plan 2012

Pursuant to Clause 1.7 of the SJDCP, Sections 2.2 to 2.9 of Part 2 of the Queanbeyan Development Control Plan 2012 (QDCP) are adopted by the SJDCP. These matters include the following:

- *Car Parking* (CI 2.2) – Car parking numbers and arrangement is supported by a Traffic Impact Assessment and by Council's Development Engineer. Local traffic issues are discussed above.
- *Environmental Management* (CI 2.3) – This clause contains a number of matters for consideration including energy efficiency and water conservation, waste and recycling and noise and vibration. These are discussed above and are not suitably addressed.
- *Contaminated Land Management* (CI 2.4) – Considered in the assessment under the Resilience & Hazards SEPP and is satisfactory.
- *Flood management* (CI 2.5) – Considered in the LEP assessment and is satisfactory.
- *Landscaping* (CI 2.6) – A landscape Plan has been provided which is satisfactory.
- *Erosion and Sediment Control* (CI 2.7) – Erosion and Sediment Control Plan has been provided. Relevant conditions could be imposed should the use be approved.
- *Guidelines for bushfire prone areas* (CI 2.8) – Refer to NSW RFS referral.
- *Safe design* (CI 2.9) - A CPTED assessment has been provided by the Applicant. There are suggestions that are not supported, including that surveillance from the residential area is available however that will be obstructed by a 2m high acoustic wall. It is anticipated that light, landscaping and movement paths can assist to manage people through the site however, on balance, these are unlikely to overcome amenity and impact issues as a consequence of the scale and nature of the use.

4. REFERRALS & SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 4**.

Table 4: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Referral/Consultation Agencies			
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure.	Essential Energy advised it has no comments to make as to potential safety risks arising from the proposed development.	Yes
Department of Planning,	Crown Lands as adjoining land owner.	No objection.	Yes

Housing & Infrastructure (Crown Lands)			
Canberra Airport	Obstacle Limitation Surface (OLS) assessment.	<p>Confirmation the site is situated in the ANEF 20-25 contours.</p> <p><i>As the proposed club premises will be subject to aviation noise, the development must be constructed in accordance with the relevant Australian Standard to withstand aviation noise impacts. Can be conditioned.</i></p> <p><i>Managing the Risk of Wildlife Strikes in the Vicinity of Airports. Can be conditioned.</i></p>	Yes (Conditions)
NSW Police Force	Public Safety	<p>The NSW Police objects to the proposal in terms of public safety.</p> <p>They provided advice on 22 March 2024, met with Council staff on 26 November 2024 and provided additional advice received on 6 December 2024 regarding the potential risks from alcohol related and street crime, objection to the hours of operation and inability of the Plan of Management to minimise amenity and safety risks and their concerns regarding resourcing especially given a serious crime occurred in November at a premises near the proposed development.</p>	No
Integrated Development (S 4.46 of the EP&A Act)			
Rural Fire Service	S100B - <i>Rural Fires Act 1997</i> bush fire safety for development of land for special fire protection purposes.	<p>The land is bushfire prone.</p> <p>A Bushfire Safety Authority has been provided subject to General Terms of Approval (GTA) from the NSW RFS. Relevant conditions of consent have been included in the recommended consent conditions.</p>	Yes (Conditions)

Transport for NSW	Section 2.121 & 3.58(3) – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	TfNSW found that the intersection under their control is likely to be able to function adequately should the use proceed. However, they noted that due to the queuing length of vehicles, these are likely to impact on users to the service station.	Y
-------------------	--	---	---

4.2 Council Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 5**.

Table 5: Consideration of Council Referrals

Officer	Comments	Resolved
Development Engineer	<p>Council's Development Engineering reviewed the onsite servicing arrangements and consider them to be satisfactory.</p> <p>Traffic generation and car parking was assessed. In response to TfNSW comments, Council's Development Engineer advises:</p> <p><i>While the referral from TfNSW did not have any objections to the proposed development, they have outlined that a 60m queue length at Henry Place in a post-development scenario might cause traffic congestion for customers egressing from the service station. Development engineering notes that the traffic impact assessment only includes movements under existing conditions plus the traffic demands associated with the proposed development. Several other developments are expected to occur within the Poplars North precinct subdivision, which is not considered on the traffic impact assessment. While the proposed development may not have a significant impact, a cumulative traffic demands of future developments on North Poplars will have significant impacts on intersection performance and queue length issues.</i></p>	No
Building	Council's Building Officer did not raise any objections and noted a report addressing BCA compliance has been submitted with the application and it indicates that	Yes (conditions)

	compliance can be achieved by meeting deem to satisfy requirements or performance solutions.	
Environmental Health	<p>Council's Environmental Health officer confirmed the potential for contamination was addressed through the recent subdivision application.</p> <p>Revised operational time to 2am - Council would prefer the operational times to be reduced on Sunday to Thursday to midnight pending suitable noise mitigation strategies.</p> <p>The removal of the eastern gate and the continuation of the acoustic wall along the length of the residential interface should reduced some noise. There are still concerns regarding the effectiveness of the boundary acoustic wall in mitigating noise from a multistorey building.</p> <p>Also why is the wall significantly lower (proposed at 2m) than the existing wall to the south east of the site that borders the residential area (3.6m).</p> <p>Due to the acoustic impact of this development on the surrounding neighbouring residential area it is recommended that an independent acoustic consultant is engaged to review the report to determine if the mitigation strategies will indeed be effective. The submitted acoustic report did contain errors and failed to assess the outdoor area beside the pond.</p>	N
Waste	<p>The Waste Management Plan does not specify food waste and how it will be collected. It will need to be separated from landfill waste and a collection service implemented. This will be mandated by NSW EPA from 2025 for many businesses and was specifically sought in the Information Request.</p> <p>Litter management has not been addressed and was specifically sought in the Information Request.</p> <p>Waste Management Plans and Civil Plans are inconsistent. Waste Plan shows servicing by an 8.8m long vehicle while Civil Plans correctly show a 12.5m vehicle.</p>	N
Trade Waste	Trade Waste application required which could be conditioned should the use be approved.	Y

<p>External Independent Acoustic Consultant</p>	<p>In response to Council's Environmental Health Officers concerns regarding the adequacy of the Acoustic Environmental & Impact Assessment by Acoustic Noise and Vibration Solutions Pty Ltd dated 15 August 2024, Council engaged an external independent consultant to peer review the report and provide Council with independent advice.</p> <p>Mr Stephen Gauld of Day Design advised in his review dated 15 November 2024 that <i>'Following my review of the documentation provided, there are significant concerns that result from an inadequate level of information, incorrect calculations and unworkable recommendations.'</i></p> <p><i>Specifically, the noise criteria in the report have not been fully defined.</i></p> <p><i>Section 5.3 (NSW Office of Liquor, Gaming & Racing) The Section does not determine a noise criterion for pre-midnight or post-midnight operation as required by the standard.</i></p> <p><i>Section 6.2 Noise from Outdoor Areas. Assumptions of vocal effort and music are not clear.</i></p> <p><i>Section 6.6 – Noise from Cars in the Car Park Data in Table 6.6.1 is not identified as Leq (Equivalent Continuous Sound Pressure Level) for assessment against the Noise Policy for Industry or L1 (Discrete event peak levels) for assessment against the sleep disturbance noise criterion. Both are required.</i></p> <p><i>Number of cars assumed is not available and the calculation does not include noise from patrons talking in the carpark while walking to their car.</i></p> <p><i>Table 5.1 – Noise criteria at Point A and Point B are incorrect.</i></p> <p><i>Section 5.1.1 – Sleep Disturbance. The calculated noise criteria are incorrect.</i></p> <p><i>Section 7.2 – Entry Doors. The calculations assume that doors will be closed at all times.</i></p> <p><i>Section 7.4 – Outdoor 1st Floor Terrace. A recommendation for patrons to "not raise their voice when the terrace is in use" is unlikely to be complied with.</i></p>	<p>N</p>
---	---	----------

	Council has relied on this advice in its assessment.	
--	--	--

4.3 Community Consultation

The proposal was advertised and notified in accordance with the Council's Community Engagement and Participation Plan from 9 October 2023 to 6 November 2023 and following the Applicants response to the Information Request from 26 September – 15 October 2024.

A total of 66 submissions (47 unique) were received.

A copy of the redacted submission have been uploaded to the NSW Planning Portal for the Panels consideration. Redacted submissions from both notification rounds have been made available to the Applicant with the Applicant providing a response on 10 December 2024.

A summary of the key concerns and questions raised in submissions include:

- Address is misleading. The Tomsitt Drive address meant people did not appreciate the actual location.
- Inadequate consultation, lack of prior engagement, public notification during school holidays, suggestions that Council chose this site and inconsistency with the initial proposal and the application as lodged.
- Trading hours will promote noise and impacts from anti-social behaviour for residents in the local area.
- Inconsistent with the quiet low density, family friendly suburb opposite a children's playground. An alternative site should be used.
- Need – there is already a tavern in this suburb.
- Noise – intoxicated people will make a noise leaving the club, a low acoustic barrier may not be effective, operational noise from functions, car park noise, plant, waste vehicles and announcements to patrons to be quiet on departure. The acoustic report does not appear to describe the elevated locations nearby.
- Effectiveness of the Plan of Management to manage people leaving the premises.
- No sporting fields or outdoor space which could have been an additional buffer.
- Bulk and scale – the view from the residential area to the east and from Lanyon Drive will be bulky and out of character with the local area, height exceeds, the scale is not family friendly.
- Social impacts associated with alcohol and gambling, poker machine numbers, anti-social behaviour and public safety concerns.
- Parking and traffic issues including the adequacy of on site car parking, traffic congestion, access points to local streets and installation of no parking signs on local residential streets.
- Affiliation of the club and how it will benefit the local community, not just continuing to support a Canberra / Tuggeranong club.
- Residential amenity impacts including overlooking, loss of privacy and increased litter in the local area.
- Better formed pedestrian links to this site and the local commercial area.

- Impacts on air quality including from smoke from smoking areas and odour from commercial food operations.
- Commercial impacts including from waste management, loading dock and servicing.
- Proposal does not compliance with relevant planning aims, objectives and controls.
- Relationship with adjoining land with a high biodiversity value, flora and fauna impacts from development on this site including how the pond will be impacted.
- Height / use may cause air safety risks.
- Why is the development staged.
- Urban design and view impacts.
- Loss in property values and loss of current views to open space.

A summary of the key issues raised in support of the proposal include:

- Provide competition for the local hotel,
- Provide a social venue for gathering,
- Some local jobs will be available.

5. KEY ISSUES

Whilst this assessment is provided for a Panel Briefing meeting, an assessment of the proposal against Section 4.15(1) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* is provided for completeness.

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*

The proposal does not comply with all relevant development controls in the applicable State Environmental Planning Policies, the QPRLEP nor guidelines in the South Jerrabomberra DCP.

- (h) *any environmental planning instrument* – not applicable

- (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)* - not applicable

- (iii) *any development control plan* – addressed above

- (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 – can be maintained as applicable*

(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 – discussed above

(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,

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 SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposal is not considered to be generally consistent with the context of the site in terms of proximity to existing residential development and the scale and hours of operation.

There is no transition or gradation towards the existing residential area and the operation of the use is likely to have amenity impacts from noise and overlooking impacts. The application has not been amended to adequately address these issues.



Figure 16 – view of the proposal looking south west from Esmond Avenue.

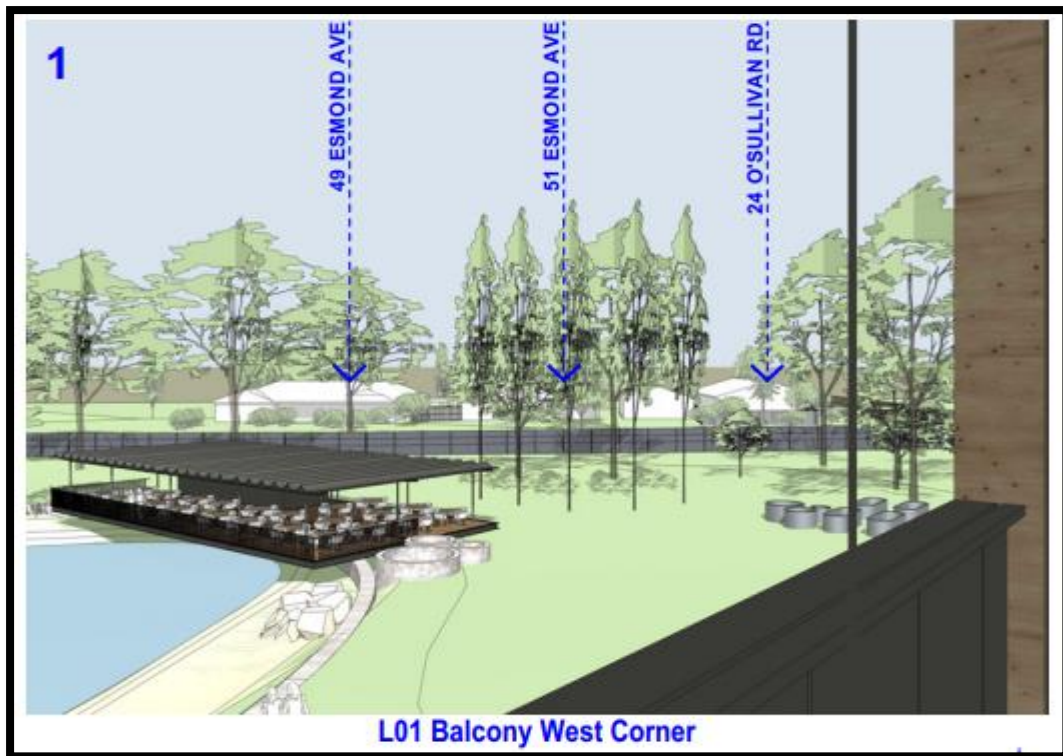


Figure 17 – view from balcony to local residents to the north east and east.

- Access and traffic – Access to the site will be newly formed and expected to function well. Impacts from cars queuing at the intersection with Tompsitt Drive is likely to cause local traffic issues which will compound with future development on adjoining sites. This has not been satisfactorily addressed.
- Public Domain – The proposal will appear as a prominent structure in the landscape. The impact of the view, including above the maximum height control in the QPRLEP does not integrate well in the public domain. This has not been satisfactorily addressed.
- Utilities – It is anticipated that relevant utilities will be available to the site once the lot is registered.
- Heritage – There are no heritage items located on the site contain or on any adjoining or nearby sites. Aboriginal cultural heritage is considered in the key issues section of this report and is adequately addressed.
- Other land resources – The site is not located within or adjacent to water catchment or mining. There are some agricultural land uses in the area, however, the proposal does not affect, or is affected by, such uses.
- Water/air/soils impacts – The potential for contaminated land is considered in the assessment under the Hazards & Resilience SEPP and the site is not affected by acid sulphate soils.
- Flora and fauna impacts – Ecological impacts under the Biodiversity Conservation Act have been considered in the subdivision of the parent lot. Local flora and fauna impacts may result from the clearing and development of the site, for any use.

- Natural environment – There are some earthworks proposed on the site, however, these could be managed through conditions. The natural environment would be altered by any use of the land.
- Noise and vibration – An Acoustic Environmental & Impact Assessment Report has been provided by the Applicant. Council's Environmental Health Officer has reviewed the proposal and the report and found it unacceptable. This is discussed further above. This impact has not been managed adequately and is not able to be conditioned.
- Natural hazards – The site is affected by bushfire, which has been considered by the NSW RFS and a Bushfire Safety Authority has been issued. Flooding has also been considered in the QPRLEP 2022 assessment and found to be satisfactory. Relevant conditions could be imposed to manage these impacts.
- Safety, security and crime prevention – This is considered above and is not considered satisfactory. Council's assessment notes lighting, pedestrian movement controls and landscaping could assist to reduce the potential for these impacts however the scale, location and potential for anti-social behaviour cannot be overcome by design features.

NSW Police Force Monaro District object to the proposal. If operational, they would take on enforcement responsibility for public nuisance and crime which they anticipate could occur as a result of a proposal of this nature, scale, trading hours, and perceived deficiencies in the operational plan of management to effectively manage patron behaviour.

- Social impact – A registered club could provide residents and employees in the local area with a social benefit. However, the location and scale suggest this will cater to patrons well beyond the local area and is not of a local or neighbourhood scale as sought by the relevant planning framework.

The proponent has failed to demonstrate active involvement in the delivery of a social, recreational or community good for the local residents of Jerrabomberra through the application material lodged, noting some could apply to access funding from gaming machine profits. The Social Impact Assessment by Hill PDA Consulting (page 44) confirm they did not undertake any 'dedicated engagement' with Tier 1 stakeholders, being the closest residents to the site, which they describe as *Potential sensitive receivers*.

The Information Request specifically sought the social impact assessment follow the NSW DPHI Social Impact Assessment Guideline 2023, which is referenced in the SIA. However, the consequences the closest residents could experience from this change is not documented in the SIA which is sought by that guideline.

Without direct consultation with the most affected residents in Esmond Avenue, Cane Place, O'Sullivan Road, Franklin Circuit, Miles Place and Stella Place the establishment of a social baseline appears to be a failing in the overall assessment.

The proposed availability of club facilities is not anticipated to create a net positive social impact and the potential negative social impacts, especially on the closest residents, cannot be overcome through the imposition of conditions.

- Economic impact – The proposal will assist with employment generation for staff in a number of areas including the construction phase, food and bar service, security and

grounds management which is likely to include local residents and tradespeople.

The use is also anticipated to create a direct and ongoing profit for the proponent. The Social Impact Assessment recognises that the proposed use of gaming machines may be problematic for some which could impact their own financial situation. This is supported by comments by the NSW Police Force.

The proponent would need to hold the relevant licences for both the service of alcohol and providing gaming machines and meet their obligations for the responsible service of both. There is likely to be a net positive economic impact.

- Site design and internal design – The proposed building directs activities generally to the north however this does not mitigate potential impacts to sensitive receivers to the east in the existing residential area. The scale of the proposed development contributes to anticipated impacts being able to be suitably managed on this site.
- Construction – Relevant conditions can be imposed to reduce potential construction impacts during that time.
- Cumulative impacts – The proposal is anticipated to result in adverse cumulative impacts given the proposal is not consistent with relevant planning controls and is therefore not considered to be in the public interest.

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

The use is one which is permissible in this zone however the scale, incompatibility with existing residential development and inability of anticipated operational impacts to be suitably managed confirms this proposal is not suitable for this site.

Accordingly, it is considered that the proposal will result in significant adverse impacts in the locality as outlined above.

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

The issues raised by submitters, including the Jerrabomberra Residents Association, cannot be overcome through the imposition of conditions.

(e) *the public interest.*

The proposal is not considered to be in the public interest. The potential impacts of the proposal have not been adequately mitigated.

Despite some positive social and economic impacts, the net impact on the amenity of the public cannot be adequately managed through the imposition of conditions.

The proposal is therefore considered to not be in the public interest.

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.

7. RECOMMENDATION

That the Panel note the above status report associated with Development Application DA.2023.0635 for Construction of a Registered Club at 37 Tomsitt Drive Jerrabomberra.

It appears the following options are available for the Panels' consideration;

- a) The Applicant withdraw this application,
- b) Provide the Applicant with an opportunity to address the issues raised above, or
- c) Seek that a final assessment report be provided based on the material available to date.

We note that under clause 38 of the *Environmental Planning and Assessment Regulation 2021*, Council can reject an application for an amendment to a development application. Council would need to determine any such modification is minor and the proposal will be substantially the same as lodged. If the proposed amendments are not considered minor they will not be accepted as an amendment to the current application.