

## **RECORD OF DECISION – APPLICATION TO AMEND A DEVELOPMENT APPLICATION UNDER S37 OF THE *ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2021***

### **SOUTHERN REGIONAL PLANNING PANEL**

<b>DATE OF PANEL DECISION</b>	11 March 2024
<b>PANEL MEMBERS</b>	Chris Wilson (Chair), Juliet Grant, Grant Christmas, John Preston, Morgan Broadbent
<b>DECLARATIONS OF INTEREST</b>	Bryce Wilson (Cr Wilson is a close associate with a board member of the Vikings group).

### **Application to Amend a Development Application under section 37 and 38 of the *Environmental Planning and Assessment Regulation 2021***

### **REQUEST – APPLICATION TO AMEND DEVELOPMENT APPLICATION PPSSTH-340**

#### ***Application Details***

PPSSTH-340 - QUEANBEYAN-PALERANG – DA.2023.0635 - 37 Tomsitt Drive JERRABOMBERRA 2619 - Construction of a registered club premises

#### ***Background***

The development application was lodged on 25 January 2024. Given the proposal has an Estimated Development Cost (EDC) greater than \$30 million, the Southern Regional Planning Panel is the consent authority in accordance with Schedule 6 of the *State Environmental Planning Policy (Planning Systems) 2021*.

On 3 February 2025 the applicant uploaded an amended application to the planning portal. The amendments sought are specified in the letter from Knight Frank Town Planning (Town Planning Response to Council – 37 Tomsitt Dr, Jerrabomberra), dated 3 February 2025 (Attached as Schedule 1).

On 11 February 2025 Council advised that it had received an amended application pursuant to section 37 of the *Environmental Planning and Assessment Regulation 2021* and that re-notification of the amended application had commenced and would conclude on the 6 March 2025.

#### ***Discussion***

In accordance with s38 of the *Environmental Planning and Assessment Regulation 2021*, the panel as the consent authority, may through the NSW planning portal, approve or reject an application for an amendment to a development application submitted under section 37 of the EP&A Reg 2021.

## **Panel Resolution**



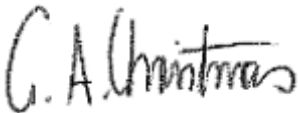


The panel has considered the proposed amendments outlined in Schedule 1 against the development as originally proposed and approves the amendment in accordance with section 38 of the *Environmental Planning and Assessment Regulation 2021*.

In making its decision the panel determined that:

- no one would be prejudiced by the proposed amendments given the amended application was being readvertised and subject to public comment; and
- a thorough merit assessment would still be required in accordance with section 4.15 of the *Environmental Planning and Assessment Act, 1979* before any decision could be made, including consideration of submissions made on the amended proposal.

For the purpose of section 38(2) of the *Environmental Planning and Assessment Regulation 2021*, the Panel did not consider the amendments to the development application to be minor, and consequently, the development application is taken to be lodged on the day on which the applicant applied to Council for the amendment.

This is a resolution of the panel made on 11 March 2025.

PANEL MEMBERS	
 Chris Wilson (Chair)	 Juliet Grant
 Grant Christmas	 John Preston
 Morgan Broadbent	

3 February 2025  
Our file – 22-096



The General Manager  
Queanbeyan Palerang Regional  
Council PO Box 90  
Queanbeyan NSW 2020

Attention: Luceille Yeomans

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Application: Registered Club  
37 Tomsitt Drive Jerrabomberra  
Council ref: 2023-0635

Dear Luceille,

Thank you for the opportunity to discuss Council's concerns in relation to the Development Application and the issues raised by the District Planning Panel in their Record of Briefing of 17 December 2024.

This letter summarises our response to the matters that have been raised in the assessment and as discussed with Council staff in meetings dated 20th December 2024 and 24th January 2025. The project team has been working diligently to better understand the issues raised and engage the required experts to assist both the Council and Panel in its assessment of the application.

The key matters listed in the Record of Briefing are as follows:

- *Site suitability with particular reference to the Neighbourhood Centre Zoning, and the nature and size of the development and its integration within the local and broader community.*
- *Traffic Impacts.*
- *Acoustic impacts.*
- *Social Impacts.*
- *Height of building departure.*

The level of engagement with residents in the adjacent residential area was also raised by Council in its assessment report. In accordance with the recommendations of the amended Social Impact Assessment (see section 5.4), further engagement with Tier 1 potential sensitive receivers is proposed to be undertaken by the proponent. We envisage that such engagement would be coordinated in terms of timing with Council's own statutory notification process. The purpose of the further engagement is to ensure that those potential receivers have the opportunity for a fully informed view on the proposed development as amended.

Sections 1 and 2 of this letter outlines the amendments that are made to the application and details the amended architectural plans and specialist reports that are submitted in support of the application. Section 3 of this letter responds to the key matters raised by way of summary. Section 4 summarises the key timeline and events of the DA assessment to date. This letter should be read in conjunction with the documentation that has been submitted.

### **1. Summary of Amendments**

We seek to amend the current Development Application (DA) to achieve the following changes which are explained in further detail via the amended architectural plans and specialist reports:

- The development has been reduced in height such that the development is wholly compliant with the maximum permitted building height of 12m.
- Alterations to the ground floor for Stage 1 comprising: a reduction in the size of the gaming lounge; reduction in the number of electronic gaming machines (EGM) and introduction of a function room.
- Alterations to the ground floor for Stage 2 comprising: a reduction in the size of the gaming lounge; and introduction of a function room.

- Changes to the hours of operation including a reduction in hours for the function rooms.
- Increase in height of the acoustic barrier along the eastern boundary with Esmond Ave to 3m along with changes to the landscape strategy

As discussed with Council on 24th of January, the amendments that are sought to the application are minor in nature and we understand are able to be accepted for assessment by Council. In support of the amendments that are sought, we submit the following for Council's consideration:

- a) Amended Architectural Plans prepared by Benson McCormack Architecture (BMA);
- b) Amended Landscape Plans prepared by Place Logic;
- c) Legal Advice prepared by Lindsay Taylor Lawyers, dated 21 January 2025;
- d) Amended Acoustic Environmental & Impact Assessment Report prepared by Acoustic Noise & Vibration Solutions P/L, dated 3 February 2025;
- e) Noise Emission Assessment – Expert Peer Review undertaken by Acoustic Dynamics, dated 16 January 2025;
- f) Amended Social Impact Assessment prepared by Hill PDA, dated 3 February 2025;
- g) Alcohol Plan of Management prepared by JSF Consulting, dated 15 January 2025;
- h) Amended Traffic Impact Assessment Report prepared by Quantum Traffic, dated 28 January 2025; and
- i) Amended Statement of Environmental Effects prepared by Knight Frank Town Planning, dated 3 February 2025.

## **1. Clarification of Development Staging**

In addition to the actual amendments that have been made, the project architects have provided a greater level of detail regarding Stage 1 and Stage 2 of the proposal to clearly demonstrate the built form outcomes for each stage in context. Refer to the photomontages at Figures 1 and 2 which detail how the development will be viewed from the pond area in the northern part of the site.

Indicative timing has been provided regarding the likely commencement of Stage 1 and Stage 2. This is important context as the character of the North Poplars precinct becomes more apparent through adjoining development.

- Stage 1: Operation expected to commence circa 2027
- Stage 2: Subject to operational conditions expected to commence circa 2032-2034



Figure 1 – Stage 1 Photo



Figure 2 – Stage 2 Photomontage as viewed from pond. Source: BMA

## 2. Response to the Record of Briefing – Key Matters

Site suitability with particular reference to the Neighbourhood Centre Zoning, and the nature and size of the development and its integration within the local and broader community

The objectives of both the current and soon to be adopted E1 local centre zone are relevant statutory matters to be considered. Legal advice from Lindsay Taylor Lawyers, which confirms this is the case, notes that *“the E1 zoning should be given significant weight. The planning instrument which introduced the zoning is to be treated as a proposed instrument, and its coming into effect in respect of the Site, is certain and imminent. Failure to consider the objectives of the E1 zone in determining the DA would*



be a legal error;" To assist, the legal advice from Lindsay Taylor Lawyers is attached as part of the response.

It is reasonable to assume therefore that the broader objectives of the E1 zone does reflect Council's desired future character for the centre of which the site forms part. It does so by being a community use that serves the needs of people who live in, work in or visit the area; by encouraging investment in local commercial development that generates employment opportunities and economic growth; and by encouraging development that is consistent with the character and amenity of the locality being part of the NSW Government's vision when in March 2021 Government selected the South Jerrabomberra Innovation Precinct to become one of only four regional Job Precincts in the state of New South Wales.

Furthermore, we note that the proposed club is of a scale that complies with the development standards and is a type of development that is permissible, meaning in use, and scale that it has been contemplated by Council in the objectives of the current and proposed zone.

It is appropriate and necessary that the suitability of the site for the club, also have regard to the South Jerrabomberra Regional Job Precinct Draft Masterplan (the Masterplan), noting legal advice from Lindsay Taylor Lawyers that *"the master plan is a relevant consideration, and the fact that it has been exhibited means it should be given greater weight than if it had not been exhibited."*

By reference then to the masterplan, it notes that the North Poplars sub precinct *"is expected to play a significant role in supporting the South Jerrabomberra precinct. The local centre will provide shops and retail uses, cafés, bars, and restaurants as well as wellbeing facilities for people living and working in the South Jerrabomberra precinct and surrounding areas"*. It contemplates a commercial character in which the club and its services and facilities will be entirely consistent.

Further to the matters of the land use zoning and consistency with zone objective, the proposed club is consistent with the character and amenity of the locality when considering:

- We have engaged a third-party acoustic consultant Acoustic Dynamics to review both the acoustic report submitted in support of the DA and the peer review undertaken by Council's acoustic consultant Day Design. It concludes that the issues raised in the peer review are generally minor matters that are not in any way insurmountable in terms of the application submitted. An amended acoustic report has been prepared that adopts the matters raised by Day Design.
- The building has been amended so as not to exceed the maximum height of building of 12m. This has been achieved through changes to the internal floor to ceiling heights while retaining its amenity.
- Amended architectural plans have been prepared which better reflect the likely number of gaming machines and the internal space requirements. The obtaining of gaming machine authorisations is subject to a separate regulatory process through Liquor & Gaming NSW. It is the operators experience that between 60-100 gaming machine authorisations would be granted for Stage 1.
- An amended Alcohol Plan of Management has been prepared by an appropriately qualified person, JSF Consulting, addressing the matters raised in the NSW Police response dated 3 December 2024. The project team intends to engage further with NSW Police to address the issues they have raised.
- Quantum Traffic has prepared an amended Traffic Impact Assessment Report that addresses the matters raised by Council in the assessment of the application as it relates to traffic impacts and potential queuing. A 'base scenario' has been considered which contemplates the potential mix of uses in North Poplars.
- Project architects have undertaken a more detailed view analysis of the proposed development in the context of emerging development in the precinct. This analysis demonstrates that the visual impacts associated with the development are acceptable. That the impacts associated with Stage 1 are relatively minor with a moderate built form. With regard to views from the residential area that there is a level of screening that is achieved through the established canopy trees and which will be further mitigated through an increased acoustic barrier 3m in height and integrated landscaped setback to Esmond Ave. Further detail is provided in the amended Statement of Environmental Effects, amended landscape plan and acoustic report.
- As previously stated, a substantial buffer is achieved between the development and residential development to the east. Amended architectural plans detail that a separation of

between 50m, to the alfresco area adjoining the pond, and between 75m-97m to the seating areas associated with the main building.

- We note there are a number of existing registered clubs within the Queanbeyan LGA which are close or adjacent to established residential areas. For context we would note the following clubs:
  - Queanbeyan's largest club, the Queanbeyan Rugby League Club, is located approximately 60 metres to the nearest dwelling; and
  - Queanbeyan Kangaroo Leagues Club is located approximately 40m metres to the nearest dwelling.
- As previously stated, there will be no direct traffic access to the adjacent residential areas.
- As previously stated, there will be no direct pedestrian access to the adjacent residential areas.

The locality is also to be read as being the local centre of which the club forms part. The local centre has established commercial and retail uses as is contemplated by the zoning both existing and future as adopted by Council.

With no adverse impacts on the nearby residential areas able to be identified by Council, the proposed club by any measure of amenity, use and environmental impacts is consistent with both the residential and commercial character of the locality.

The club is a use that serves the needs of people who live in, work in or visit the area. It does so as a community based organisation for which its members are expected to be principally from the local area. The Vikings Club advises the following regarding their current membership within the locality:

- There are 5,732 Vikings only Members from Jerrabomberra / Queanbeyan area i.e. they use Vikings Group Clubs and live in the locality;
- There are 12155 members that have Campbell & George membership (which the Vikings Club operate) from the Jerrabomberra / Queanbeyan area – i.e. they use Vikings and Campbell & George;
- Statistically the majority of Club users live within a 5km radius of the development.

There is a clear and demonstrated number of existing Club Members within the locality that would benefit from the registered club, this of course does not consider potential members once the club is operating. It will be an integral part of the local and broader community. There is no basis to suggest otherwise.

In summary, the proposed club is suitable for the site in terms of the zoning, existing and proposed, the draft master plan, the nature and size of the club and its integration with the local and broader community.

#### Traffic impacts

Quantum Traffic has undertaken a review of the matters raised by Council with regard to traffic impacts. They have considered in more detail the impacts associated across both Stage 1 and Stage 2 of the development and prepared an amended Traffic Impact Assessment Report. The assessment has undertaken more detailed analysis of the traffic generation from indicative developments within Poplars North and a 'base scenario', which is intended to be utilised as a baseline against which the impacts of the proposed licensed club can be assessed. This adopts a rather conservative 2,300m<sup>2</sup> of retail floor space on the subject site in place of the registered club. The assessment concludes that:

*Section 3 (page 13) has been added and section 6 (page 12) updated to reflect the consideration of other indicative developments within Poplars North. The analysis indicates that the traffic demands associated with the Poplars North development are likely to exceed the practical capacity of the Envirova Drive / Henry Place / Tompsitt Drive intersection during both the weekday PM and Saturday peak hours. Furthermore, the analysis demonstrates that the proposed licensed club would be expected to result in lesser traffic demands, and hence lesser traffic impacts, compared to even a conservatively small shop, which would otherwise likely be developed on the subject site.*

#### Acoustic impacts

Acoustic Dynamics were engaged to undertake an expert peer review of the Acoustic Environmental & Impact Assessment Report prepared by Acoustic Noise & Vibration Solutions P/L and the matters raised in the acoustic peer review undertaken by Day Design dated 12 December 2024.

The findings of the Acoustic Dynamic peer review are summarised as follows:

**33.** *Our findings are summarised as follows:*

- i. The acoustic report prepared by Acoustic Noise and Vibration Solutions requires minor updates in relation to insufficient information, determination of criteria, calculation assumptions, calculations, and noise management measures;*
- ii. Day Design suggests that the patron and music noise calculations are incorrect yet did not provide calculations or predictions to support the statement;*
- iii. Day Design recommend using the most conservative criterion for all receivers, however insufficient justification was provided;*
- iv. Patron and music noise impacts may be marginally underpredicted, however if required, additional mitigation could readily be achieved through the use of architectural mitigation and/or additional patron management measures; and*
- v. The recommended control measures may require minor updates.*

**34.** *It is our opinion that the required updates are not insurmountable and do not preclude the development from achieving compliance with the relevant acoustic criteria.*

Acoustic Noise & Vibration Solutions P/L has now prepared an amended acoustic report that adopts the recommendations contained within the acoustic peer review undertaken by Day Design. Both the expert peer.

review and the amended acoustic report are provided as part of the amended application. The amended acoustic report concludes that:

*Measurements and computations presented in this report show that the noise emissions from the proposed Vikings Club at No. 37 Tomsitt St, Jerrabomberra, will not exceed the noise criteria set out in the NSW Noise Policy for Industry (2017), Section 2.2.1 of the Noise Guide for Local Government, NSW Office of Liquor, Gaming & Racing (OLGR) noise recommendations, and Queanbeyan-Palerang Regional Council requirements.*

*Noise control recommendations are outlined in Section 9 to ensure compliance through the operation of the proposed Vikings Club. The operation of the proposed Club will comply with the relative sections of the EPA and will not create any offensive noise.*

Design and operational recommendations have been made which are to be adopted by the development. The following are the key changes to the recommendations (refer to report for full list of recommendations):

- An acoustic barrier is now proposed at a height of 3m (increased from 2m) along the eastern boundary with Esmond Ave;
- Automatic door closers are to be installed on all external entry doors to ensure no noise propagation to the nearby residential dwellings;
- Recommendations with respect to mechanical plant equipment noting that further assessment will be required as part of the Construction Certificate phase, which can be addressed by way of condition of consent.

Further to the assessment of impacts resulting from the registered club, an assessment has also been undertaken with respect to the impact of aircraft movements associated with the Canberra Airport, concluding that:

*The noise attenuation proposed in this report and the building components described in Section 5.0 of this report will result in internal noise levels that are in compliance with AS 2021:2015 'Acoustics – Aircraft noise intrusion – Building siting and construction' and Queanbeyan-Palerang Regional Council requirements.*

### Social impacts

In support of the application is an amended Social Impact Assessment (SIA) prepared by Hill PDA which assesses the impacts of the development including as a result of the amendments that have been made. The report has been amended incorporating the findings and outcomes of the amended and additional specialist reports. The report also more clearly details the impacts of the development as associated with both Stage 1 and Stage 2.

The level of engagement with residents in the adjacent residential area was raised by Council in its assessment report. Further engagement with Tier 1 potential sensitive receivers is proposed to be undertaken by the proponent. We envisage that such engagement would be coordinated in terms of



timing with Council's own statutory notification process. The purpose of the further engagement is to ensure that those potential receivers have the opportunity for a fully informed view on the proposed development as amended.

Further to community engagement, the proponent intends to meet with NSW Police to step through the amendments that have been made and particularly the approach taken in the new Alcohol Plan of Management to address concerns raised in their letter response dated 3 December 2025.

With respect to the potential social impacts arising from both the construction and operational phases of the development, the SIA documents that there will be a range of both positive and negative social impacts, concluding that:

*This report has assessed a range of positive and negative social impacts presented by the proposal. Construction impacts would be temporary in nature and can be mitigated through planning and coordination mechanisms identified in this report.*

*When operational, the proposal could present social risks, as with any site where liquor and gaming are served and conducted. To some extent, social risks may occur on-site regardless of this proposal, due to the likelihood of development for business/retail uses as per a local centre zoning. This SIA identifies that there is a low-risk baseline environment for risky behaviours and sets out a range of strategies to further mitigate residual risks posed. The proposal would provide a range of community services that would not otherwise be present or available within an identified growth area, including a range of social and recreational activities that would contribute to the development of the area's overall sense of community.*

There are a range of mitigation measures recommended in the report in section 8 which would be adopted by the proponent, these relate to both the construction and operational phases of the proposal. With regard to the operational phase the following actions are proposed:

- *Events and entertainment likely being hosted at the venue*
- *Provision of family-friendly dining areas*
- *Provision of information on gambling and alcohol addiction support services at the venue.*
- *Enacting Alcohol Plan of Management (APM) measures to minimise the number of intoxicated patrons and ensure that people leave the premises in a timely and respectful fashion at, or prior to, closing time, while also restricting operating hours*
- *Adoption of noise reduction measures identified in the Acoustic Environmental & Impact Assessment Report prepared by Acoustic Noise & Vibration Solutions P/L, dated January 2025, including the adoption of a Noise Management Plan*
- *Events and entertainment likely being hosted at the venue giving potential opportunities for community expression and connectedness*
- *Provision of a function room for community gathering*
- *Should stage 2 of the proposal occur, provision of additional function rooms, which would comprise additional space for community gathering*
- *Continuation of support for programs in the wider Jerrabomberra and Queanbeyan areas*
- *Monitoring for new opportunities to fund programs and initiatives in Jerrabomberra*
- *Use of design to ensure that the venue is accessible to people with disabilities*
- *Location of development near cycle/pedestrian paths and bus routes*
- *Consideration of prioritising hiring local residents*
- *Provision of a range of parking spaces and development occurring alongside the construction of new roads*
- *Adherence to the sustainable design principles put forward in the Architecture Report prepared by Benson McCormack Architecture*
- *Hosting of events and live entertainment at the premises*
- *Use of revenues to help fund Vikings Group's social and sport-related programs in Jerrabomberra and Queanbeyan. It is recommended that opportunities are continually monitored to fund additional programs/services that the community is likely to support*
- *Provision of information on alcohol and gambling addiction services in the venue*
- *Implementation of responsible service of alcohol and responsible conduct of gaming policy*
- *Maintaining Vikings Group's gambling harm reduction policies, including an 'Ask for Andy' program that seeks to encourage patron contact with Gambling Contact Officers*

- *Separate gaming licence application processes that would assess and revise the count of gaming machines, which may mitigate gambling health and wellbeing effects and related impacts*
- *Use of bush planting to limit negative visual impacts of the proposed acoustic barrier on the eastern edge of the site*
- *Consideration of using local contractors and suppliers where possible*
- *Enabling engagement throughout any future development processes by:*
  - *Engaging with the community about the project, its impacts, and the approval process*
  - *Providing information about communications and complaints protocols to neighbouring premises prior to any works commencing*
  - *Ensuring that Tier 1 stakeholder engagement occurs through any subsequent exhibition period.*
- **Amendments to the proposal in response to Council and SRPP feedback:**
  - *Reduction in proposed building height under stage 2*
  - *Addition of a function room and reduced gaming area sizes under stages 1 and 2, with smaller initial capacity*
  - *Alteration of operational hours, including a reduction of function room operating hours*
  - *Revised design and landscaping of acoustic barrier along eastern boundary with Esmond Avenue, involving a heightened 3m barrier*
  - *Development of a revised Acoustic Environmental & Impact Assessment Report, with more stringent mitigations*
  - *Development of a revised Plan of Alcohol Management, with more stringent mitigations.*

#### Height of building departure

The amended architectural plans by Benson McCormack Architecture dated 30 January 2025 confirm that the height of the building has been reduced to below the maximum height of building as per the Queanbeyan Palerang Local Environmental Plan 2022. Floor to ceiling heights of the development have been reduced to achieve the reduction in height. Accordingly, the cl 4.6 departure is no longer required.

### **3. Development Application Timeline**

The Development Application was lodged via the Planning Portal on 21 December 2023 and formally accepted by Council on 25 January 2024. The table below summarises the key events associated with the DA to date.

Who	Key Event	Date
Applicant	DA submitted on Planning Portal	21.12.23
Council	DA lodged with Council	25.1.24
Council	First Exhibition	6.3.24 – 22.3.24
Council	Extended Notification	3.4.24 – 19.4.24
Council	Redacted submissions issued to applicant	6.5.24
Applicant/ Council	Presentation to Councillors on the DA	23.5.24
Council	Email confirming change in assessing office	25.6.24
Council	Request for information (RFI) letter from Council	27.6.24
Planning Panel	Site Inspection, Public Briefing & Applicant Briefing	17.7.24
Applicant	Response to Submissions submitted to Council	18.7.24
Applicant	Additional information and amendments submitted to Council	6.9.24
Council	Renotification – 23 submissions received	26.9.24- 15.10.24

Council	Redacted submissions issued to applicant	27.11.24
Applicant	Requested meeting with Council staff	3.12.24
Applicant	Response to Submissions submitted to Council	10.12.24
Planning Panel	Assessment briefing	17.12.24
Applicant/Council	Meeting with Council to discuss issues raised in report to Panel	20.12.25
Applicant/Council	Meeting with Council to provide update on amended documentation	24.1.24

#### 4. Conclusion

In summary, we believe the issues raised by Council and the Panel have been satisfactorily addressed and that there is no basis for concluding that the site is not suitable. We consider it to be in the public interest for the amendments that have been made and supporting documentation provided to Council to be the subject of further notification in accordance with Council's Community Engagement and Participation Plan.

As per our meeting on 24th January 2025 we understand that once in receipt of the amended documentation that Council intends to renotify the application.

We thank Council for the opportunity to address the above matters.

Kind regards,

Nicholas Cavallo Associate Director  
**Knight Frank Town Planning**