



HUTCHISON

PLANNING

Town Planning Services & Design Advice

Development Assessment Report

Independent planning assessment of DA 2023/116

37 Annie Pyers Drive, Gundagai (Dog on the Tuckerbox site)

Prepared for: Cootamundra-Gundagai Regional Council

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Version	Date	Author	Reviewed	Notes
Draft 01	23 August 2024	Tom Hutchison	-	For Council review
Final 01	1 September 2024	Tom Hutchison	-	For issue to Council

1 Introduction

1.1 Purpose of the Report

This Development Assessment Report comprises an assessment of a proposed development (lodged with Cootamundra–Gundagai Regional Council as DA 2023/116) at 37 Annie Pyers Drive, Gundagai. This Report undertakes an assessment of the proposal under the relevant provisions of the Environmental Planning and Assessment Act, 1979 (the Act).

The owner of the site is Cootamundra–Gundagai Regional Council. In order to satisfy Council's Managing *Conflicts of Interest: Council- related Development Policy*, on 8 November 2023, Council engaged Hutchison Planning to undertake this assessment.

1.2 Application summary

The table below provides a summary of key details of the Development Application.

Development reference	2023/116
Development address	37 Annie Pyers Drive, Gundagai
Title details	2/-/DP160191 and 529B/-/DP203601
Owner(s)	Cootamundra–Gundagai Regional Council
Applicant	The DOTT Developments Pty Limited
Proposed development	<p>Proposed development to be constructed in 3 stages involving demolition of existing buildings; construction of 3 buildings (approval for use for food and drink premises and shop subject to separate subsequent consent); relocation of Dog on Tuckerbox Memorial; construction of play area; construction of car parking; sewer treatment works; stormwater works; tree removal works; earthworks; landscape works; and subdivision to create three allotments of 25,162 sqm, 210 sqm and 1,250 sqm.</p> <p>The subject proposal seeks approval for the construction of the 3 buildings only – their respective land use approvals are to be determined and subject to subsequent Development Application approval/s.</p>
Capital Investment Value	\$5,225,805 (excluding GST)

1.3 Report Conclusion

After consideration of all relevant matters, the DA is recommended for approval with a 'deferred commencement', pursuant to Section 4.16(3) of the Act. The deferred commencement is to ensure that outstanding matters relating to potable water, wastewater and contamination are appropriately addressed prior to the issue of an active consent.

A number of draft conditions are recommended for inclusion with the active consent to address specific issues that have been identified in the assessment of the proposal.

2 Site description and details

2.1 The Site

2.1.1 General Description

The subject site is known as the Dog on the Tuckerbox (DOTT) site and is located in an area known as the '5 Mile Precinct', which represents its distance from the township of Gundagai. The general location of the site is shown at **Figure 1**.

The site is comprised of 37 Annie Pyers Drive and part of Council's road reservation fronting Annie Pyers Drive. 37 Annie Pyers Drive is comprised of Lot 2 in DP 160191 and Lot 529B in DP 203601 – refer **Figure 2**. Annie Pyers Drive has 2 x at-grade intersections with the Hume Highway in the locations shown on **Figure 3**.

The site is relatively flat. The nearest watercourse is Five Mile Creek, located 94 metres from the northern boundary of the site.

A further detailed description of the site is provided below, and is separated into two separate sections - 37 Annie Pyers Drive; and Council's road reservation.

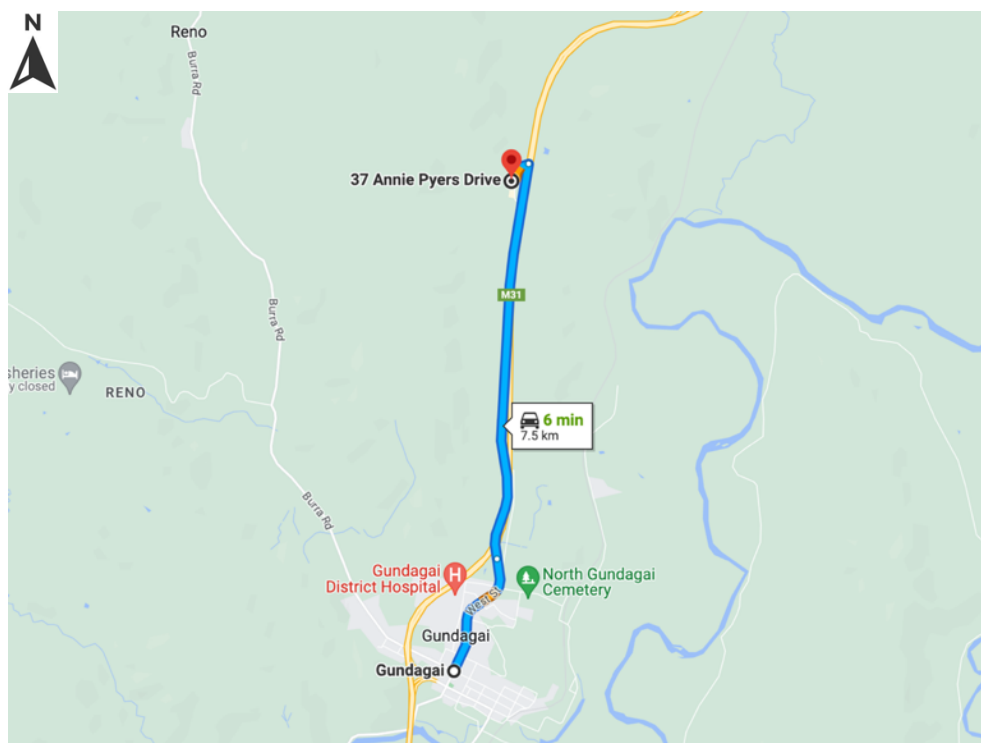


Figure 1: Location of subject site – identified with red pin – and distance from Gundagai (Source: Google)



Figure 2: Aerial view of subject site - 37 Annie Pyers Drive with red border; Council's road reservation shaded red (Source: SixMaps)

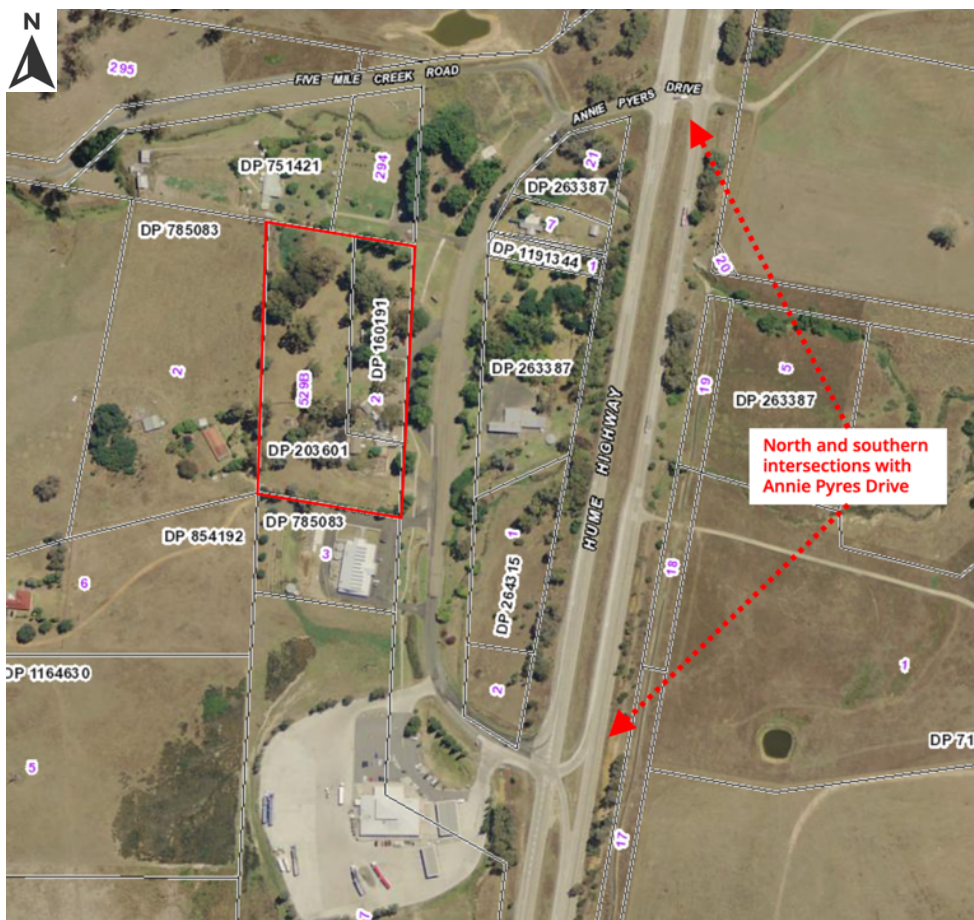


Figure 3: Aerial view of north and south intersections of Annie Pyers Drive with Hume Highway (Source: SixMaps)

2.1.2 37 Annie Pyers Drive

37 Annie Pyers Drive (refer **Figure 2**) has a total area of 26,620 sqm (2.66 hectares) made up of:

- Lot 2 in DP 160191: 8,096.4 sqm
- Lot 529B in DP 203601: 18,523.6 sqm

Figure 4 shows an aerial view of the main structures located on this part of the site; and **Figure 5** shows an extract from the submitted site survey that identifies the location of key structures, which comprise the following:

- Kiosk building: Located on Lot 2 in DP 160191. The kiosk building was erected 1956. It comprises a simple brick and tile building with a café / kiosk and public toilets. Refer **Figure 6**.
- Dog on the Tuckerbox Memorial: Located on Lot 2 in DP 160191. It is a listed heritage item in Gundagai Local Environmental Plan 2011. The memorial comprises the statue of the Dog on the Tuckerbox and is surrounded by a 'wishing well'. Refer **Figure 7** and **Figure 8**. Details of the heritage significance of this are further discussed in sections 3 and 4 of this report.
- Limestone Inn ruins: Located on Lot 2 in DP 160191. These are included in the listed heritage item in Gundagai Local Environmental Plan 2011. They are the remains of Joseph Carberry's Limestone or 'Five Mile' Inn built in 1851. Refer **Figure 9**.
- Service Station: Located on Lot 529B in DP 203601. The service station was constructed around 1961. It is no longer used and remains vacant. The service station includes a small retail area, forecourt and Underground Petroleum Storage System (UPSS). It is understood that the service station stopped operation around 2016. Refer **Figure 10**. The submitted preliminary site investigation states the service station is considered to be a significant potential source of soil and groundwater contamination, but also concludes that the site can be made suitable for the proposed development. Detailed consideration of this is at sections 3 and 4 of this report.

There are several trees located on this part of the site, comprising exotic and native species. Details of this are further discussed in sections 3 and 4 of this report.

Other existing site features / improvements include:

- Covered awning connecting service station and kiosk building;
- Metal roofed structure containing an industrial relic (refer **Figure 11**);
- Small metal 'doggy toilet' building;
- Car parking areas;
- Old dam;
- Tuckerbox photo stage;
- Essential Energy electricity supply assets;
- Other minor ancillary structures such as fencing and seating (refer **Figure 12**).



Figure 4: Aerial view of main buildings on subject site (Source: Google)

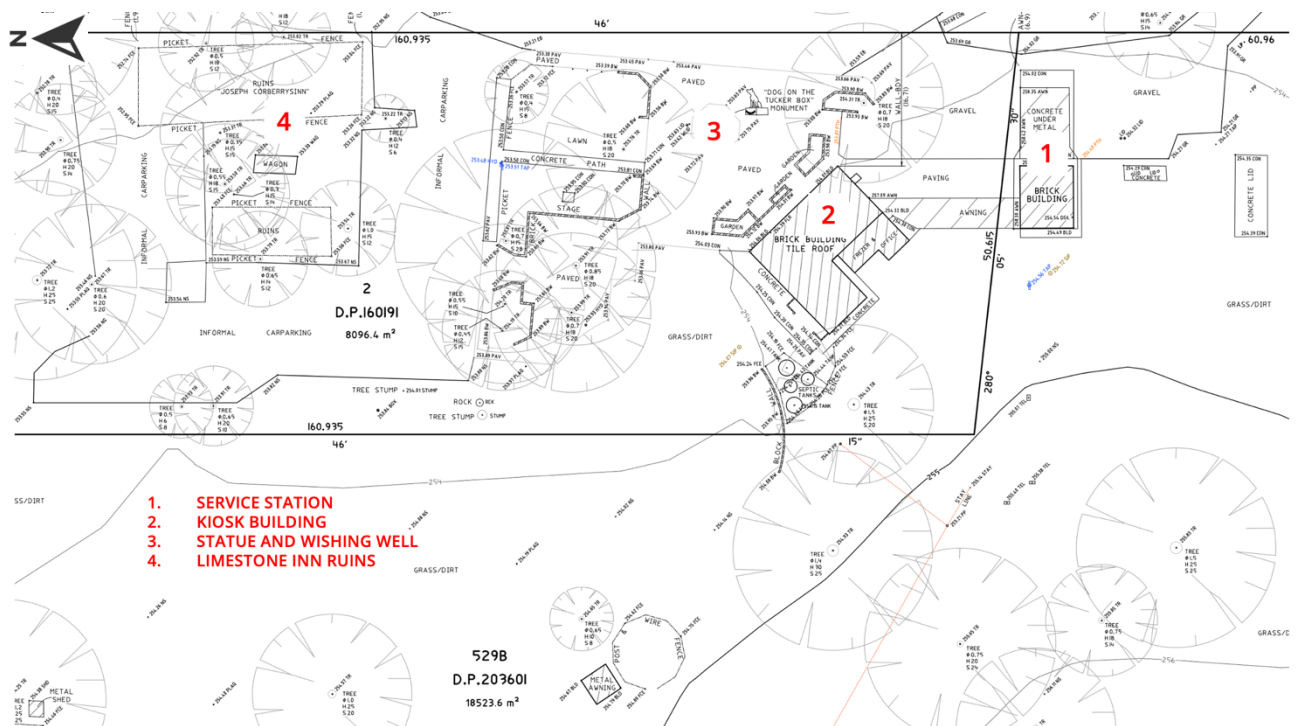


Figure 5: Extract of submitted site survey showing location of key areas and structures on the site



Figure 6: Looking northwest within the site towards the existing kiosk building and the Dog on the Tuckerbox statue and wishing well area



Figure 7: Dog on the Tuckerbox statue and wishing well



Figure 8: Looking east from within the site towards Annie Pyers Drive (back of the Dog on the Tuckerbox statue and wishing well in the foreground)



Figure 9: Looking south within the site towards the area containing the Limestone Inn ruins



Figure 10: Looking southwest within the site towards the former service station



Figure 11: Looking northeast from near the rear of the site towards the kiosk area



Figure 12: Looking north towards existing seating area opposite the kiosk building

2.1.3 Council's road reservation

The area of Council's road reservation to be used (refer **Figure 2**) is approximately 8,300 sqm in area. It contains:

- The existing road providing access and egress to the existing site from Annie Pyers Drive (refer **Figure 13** and **Figure 14**);
- Several trees, comprising exotic and native species (refer **Figure 13**, **Figure 14** and **Figure 15**). Details of this are further discussed in sections 3 and 4 of this report;
- Areas of grass and footpaths (refer **Figure 13** and **Figure 14**);
- Associated signage identifying / promoting the Dog on the Tuckerbox (refer **Figure 15**); and
- Dog on the Tuckerbox Recreational Trail, for walking and cycling (refer **Figure 16**).



Figure 13: Looking north from Annie Pyers Drive into the site entry



Figure 14: Looking south within the site towards the existing kiosk and former service station



Figure 15: Looking north along Annie Pyers Drive near the southern boundary of the site



Figure 16: Looking south towards the subject site along the Dog on the Tuckerbox Recreational Trail

2.2 Development History

There has been no recent development history on the site.

2.3 The Surroundings

The site surroundings comprise the remainder of the '5 Mile Precinct' and rural land uses. **Figure 17** shows an aerial view of the surrounding land uses; and **Figure 18** shows the zoning of 5 Mile Precinct and surrounding land.

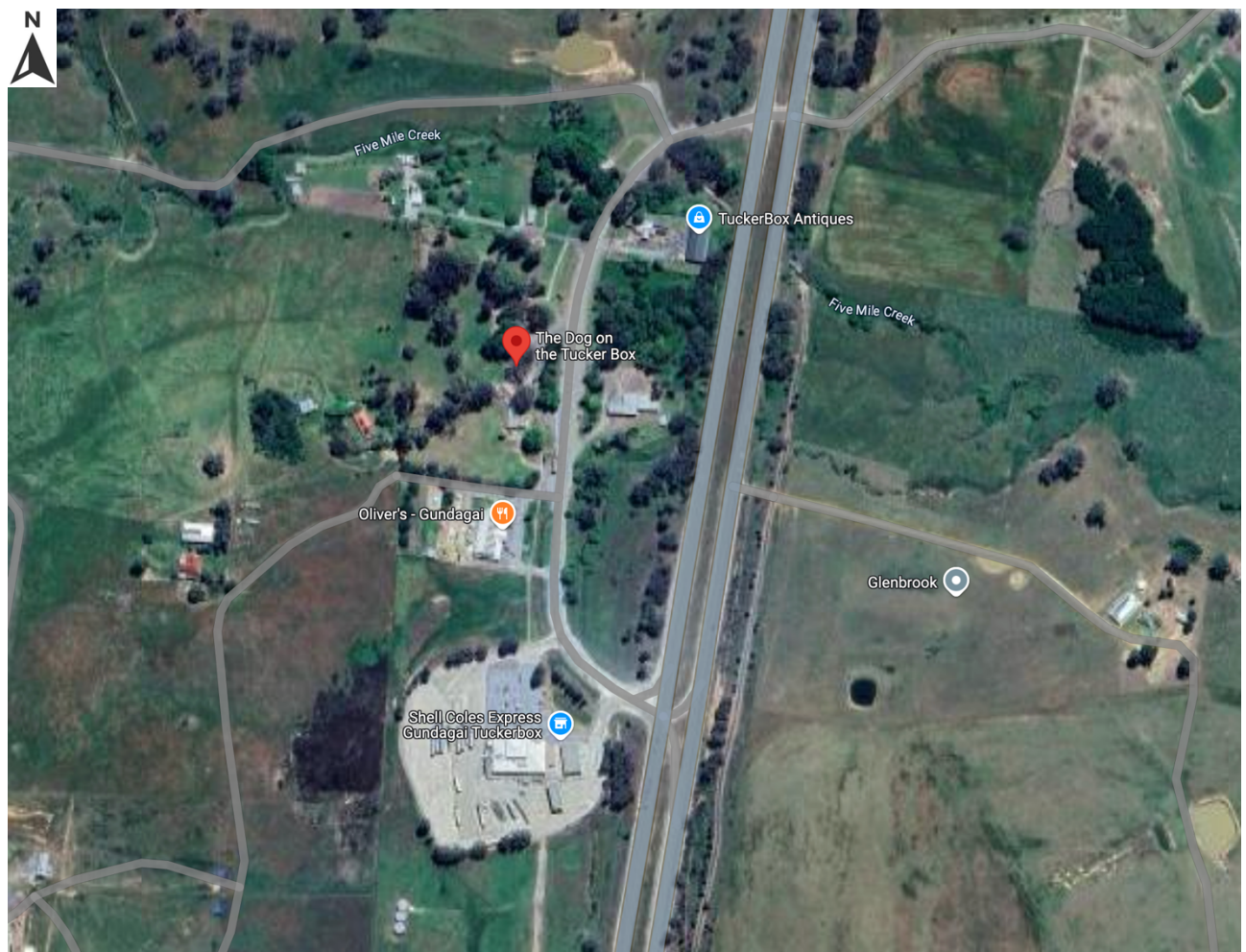


Figure 17: Aerial view showing surrounding landuses / activities (Source: Google)

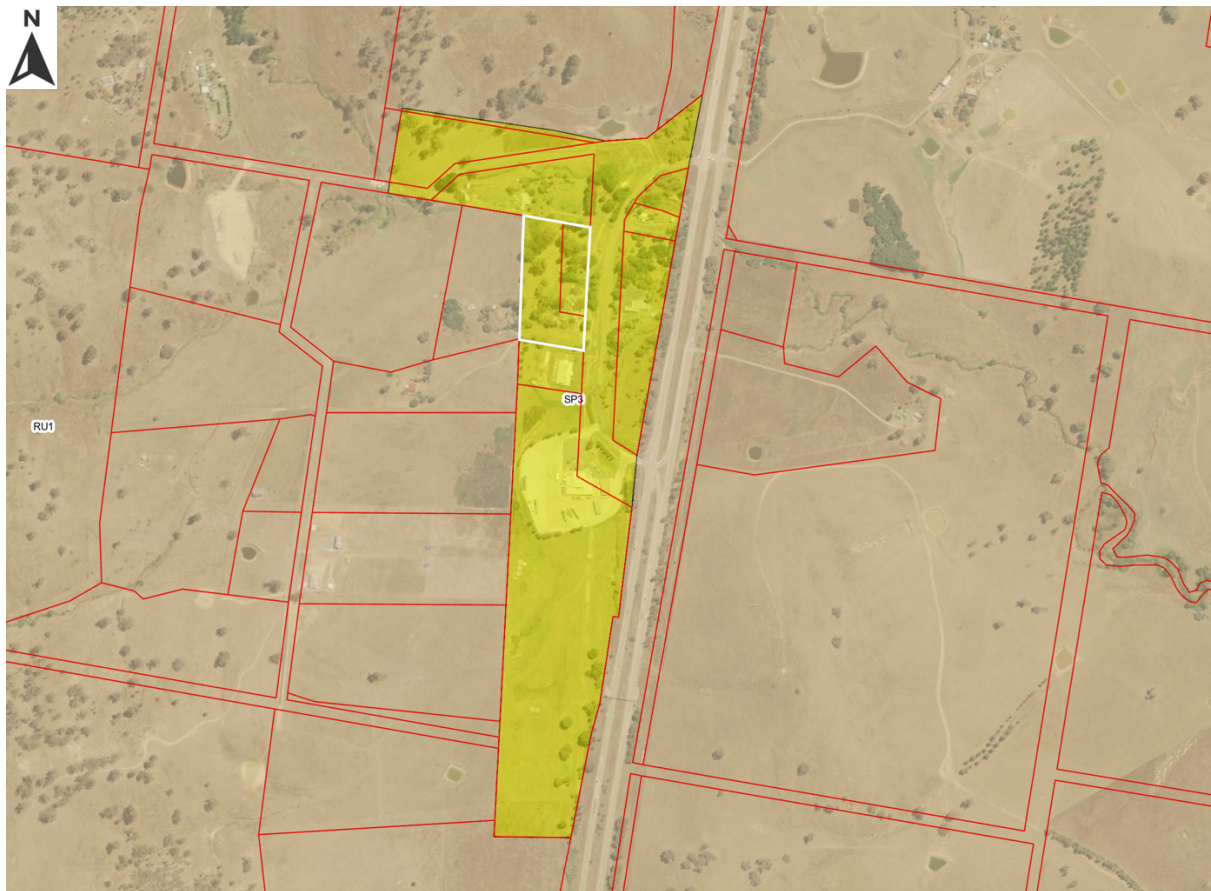


Figure 18: The 5 Mile Precinct and surrounding land zoned RU1 – Primary Production (Source: NSW Planning Portal)

2.3.1 North

Adjoining to the north is No.12 Five Mile Creek Road – refer **Figure 19** and **Figure 20**. The property contains a dwelling house and sheds. The owner sells apples from a shed located on the property. Five Mile Creek runs through the south parcel of the property (some 94 metres from the northern boundary of the subject site).



Figure 19: Adjoining No.12 Five Mile Creek Road – denoted in white outline (Source: Landchecker)



Figure 20: Looking towards 12 Five Mile Creek Road (adjoining land to the north) from the Dog on the Tuckerbox Recreational Trail

2.3.2 South

Adjoining to the south is No.31 Annie Pyers Drive – refer **Figure 21** and **Figure 22**. The property accommodates an Olivers fast food restaurant. Further to the south is a shell petrol station and additional fast food outlets (refer **Figure 23** and **Figure 24**).



Figure 21: Adjoining No.31 Annie Pyers Drive (Olivers) – denoted in white outline (Source: Landchecker)



Figure 22: Looking towards Oliver's at No.31 Annie Pyers Drive (adjoining land to the south)



Figure 23: Looking south along Annie Pyers Drive from the entry to Oliver's



Figure 24: Fast food outlets at No.11 Annie Pyers Drive (to the south of Olivers)

2.3.3 East

To the east, on the other side of Annie Pyers Drive, is a former disused service station, at No.34 Annie Pyers Drive (refer **Figure 25** and **Figure 26**); and an antique shop at No.50 Annie Pyers Drive (refer **Figure 27**).



Figure 25: Adjacent No.34 Annie Pyers Drive – denoted in white outline (Source: Landchecker)



Figure 26: Old southbound roadhouse at No.34 Annie Pyers Drive (located on the eastern side of Annie Pyers Drive, opposite the subject site)



Figure 27: Antique shop at No.50 Annie Pyers Drive (located to the northeast of the subject site)

2.3.4 West

Adjoining to the west is Lot, 2 DP 785083 which is a rural property zoned RU1 – Primary Production. The property contains a dwelling house and assorted outbuildings – refer **Figure 28**, **Figure 29** and **Figure 30**.



Figure 28: Adjoining Lot, 2 DP 785083 – denoted in white outline (Source: Landchecker)



Figure 29: Looking west over Lot 2, DP 785083 (adjoining land to the west)



Figure 30: Existing dwelling on Lot 2, DP 785083 (adjoining land to the west)

3 Proposed Development

3.1 Background

The following table provides a chronology of events in relation to the site from the adoption of the DCP, in 2007, up until the lodgement of the DA, in 2023.

Date	Event
13 March 2007	Adoption of the Development Control Plan for the 5 Mile precinct, including the Dog-on-the-Tuckerbox site
30 October 2018	Advertising commences for Expressions of Interest for redevelopment of the site
7 December 2018	Advertising concludes for Expressions of Interest for redevelopment of the site
26 February 2019	Council resolves Paramount Concrete Constructions Pty Ltd as the preferred developer
26 September 2019	Call Option Deed signed between Council and Paramount Concrete Constructions Pty Ltd. <u>The Deed includes the following conditional requirements:</u> a) <u>The purchaser at their cost must prepare a property masterplan ("Masterplan") of their proposed development which address the following four aspects:</u> <u>(i) Preservation and Enhancement of the Dog on The Tuckerbox Memorial (DoTT),</u> <u>(i) Preservation of the Joseph Carberry (aka) Limestone Inn historic ruins (Limestone Inn),</u> <u>(iii) Provide and maintain Public Amenity Facilities; and</u> <u>(iv) The development meeting the objectives of the Gundagai Local Environment Plan (LEP) 2001.</u> <u>and</u> b) <u>The purchaser must lodge the Masterplan no later than 12 months from the date of this deed, and</u> c) <u>The approval and adoption of the Masterplan by the vendor.</u>
22 March 2021	Draft Dog on the Tuckerbox Masterplan issued to Council
30 March 2021	Report to Council – Council resolves to exhibit the Draft Dog on the Tuckerbox Masterplan
25 May 2021	Report to Council - Council resolves to adopt the Draft Dog on the Tuckerbox Masterplan as exhibited <u>Figure 31 below shows an extract from the approved masterplan.</u>
1 February 2023	Pre-DA meeting held
20 September 2023	DA lodged and accepted.

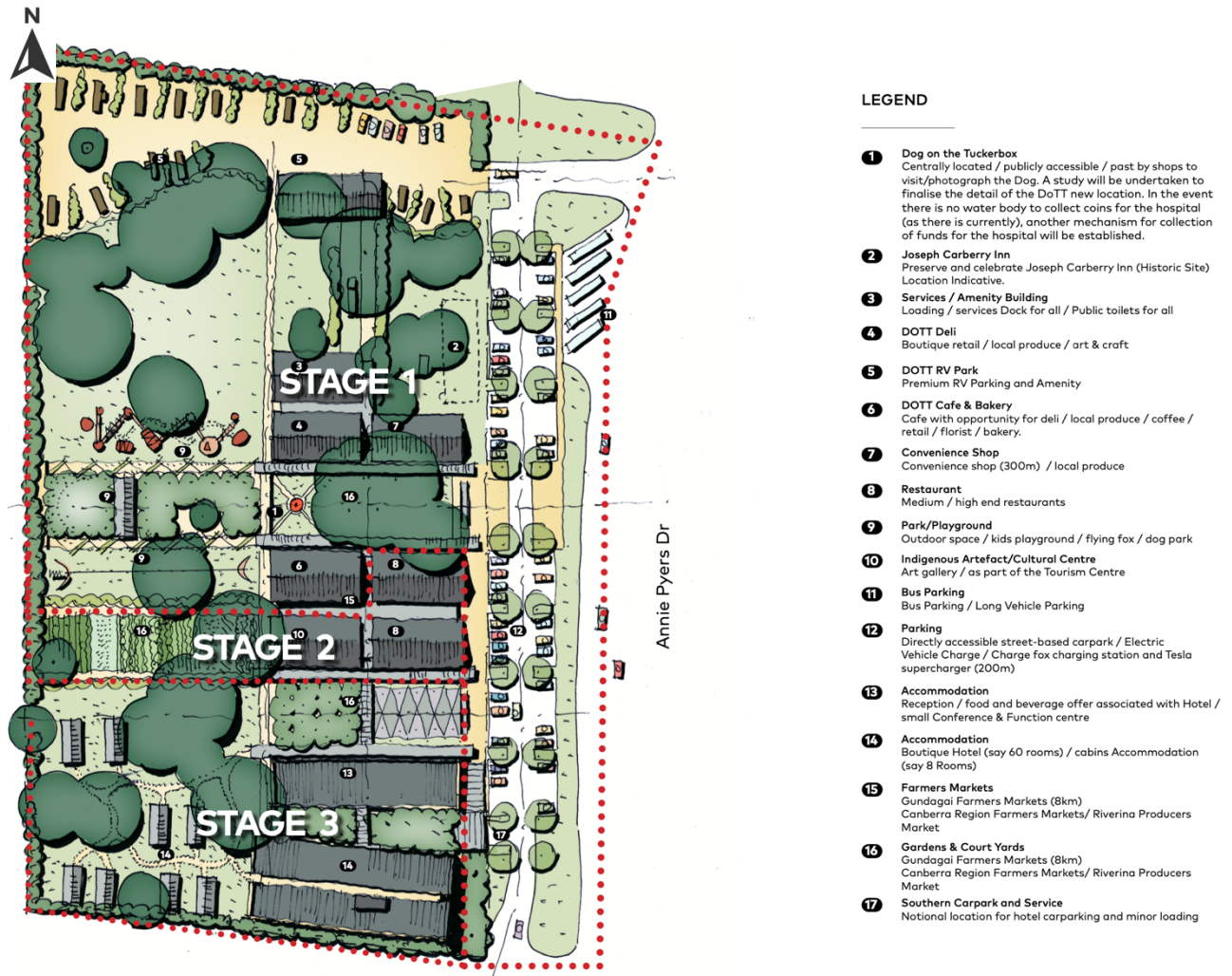


Figure 31: Extract from the approved masterplan for the Dog on the Tuckerbox site

3.2 Submitted Documentation

The DA is accompanied by documentation that has been submitted as follows:

- Original lodgement: Documentation submitted with lodgement of the DA.
- First Request for Information (RFI): Following a preliminary assessment of the documentation submitted with the DA, a request for information letter was submitted to the applicant on 16 November 2023.
- Second RFI: Following a preliminary assessment of the amended / additional documentation submitted under the first RFI, a request for information letter was submitted to the applicant on 6 March 2024.
- Delete Buildings 4 to 7: Following feedback from Transport for NSW, the applicant submitted amended documentation that deleted Buildings 4 to 7 from Stage 3 of the proposed works.
- Wastewater response: On 19 June 2024, at the request of Council, Whitehead & Associates prepared a peer review of the wastewater documentation submitted by the applicant over the course of documentation above. The applicant issued a response to that peer review.

Annexure A contains summarised schedule of the submitted documentation arising from above.

3.3 Description of Proposal

3.3.1 General description

The description of the proposed development is as follows:

Proposed development to be constructed in 3 stages involving demolition of existing buildings; construction of 3 buildings (approval for use for food and drink premises and shop subject to separate subsequent consent); relocation of Dog on Tuckerbox Memorial; construction of play area; construction of car parking; sewer treatment works; stormwater works; tree removal works; earthworks; landscape works; and subdivision to create three allotments of 25,162 sqm, 210 sqm and 1,250 sqm.

The subject proposal seeks approval for the construction of the 3 buildings only – their respective land use approvals are to be determined and subject to subsequent Development Application approval/s.

Figure 32 is an extract from the architectural drawings, and provides an overview of the proposed development.

The table below provides a summary of the proposed works; the part of the site that it applies to; and the applicant's nominated construction stage. The following sections provide further details in relation to the various components of the development.

Proposed work	Area of site	Construction stage
Demolition of service station	37 Annie Pyers Drive	1
Tree removal works to provide for the footprint of the new buildings	37 Annie Pyers Drive	1
Construction of Buildings B01 and B03	37 Annie Pyers Drive	1
Installation of sewer system	37 Annie Pyers Drive	1
Repair works as required to the existing car park	Council road reservation	1
Demolition of kiosk	37 Annie Pyers Drive	2
Construction of Building B02	37 Annie Pyers Drive	2
Relocation of the Dog on the Tuckerbox sculpture and wishing well	37 Annie Pyers Drive	2
Installation of seating and footpath areas, stand and courtyard area and associated landscaped works	37 Annie Pyers Drive	2
Installation of children's play area	37 Annie Pyers Drive	3
Construction of new car parking and bus parking area, including associated speed humps, pedestrian crossings, crossings to Annie Pyers Drive and landscaping	Council road reservation and 37 Annie Pyers Drive	3
Installation of the balance of the seating and footpath areas, stands and courtyard area and associated landscaped works	37 Annie Pyers Drive	3
Subdivision to create three allotments to facilitate dedication of the Dog on the Tuckerbox sculpture and wishing well and the Joseph Limestone/Joseph Carberry Inn site to Council (requirement of the Deed)	37 Annie Pyers Drive	3

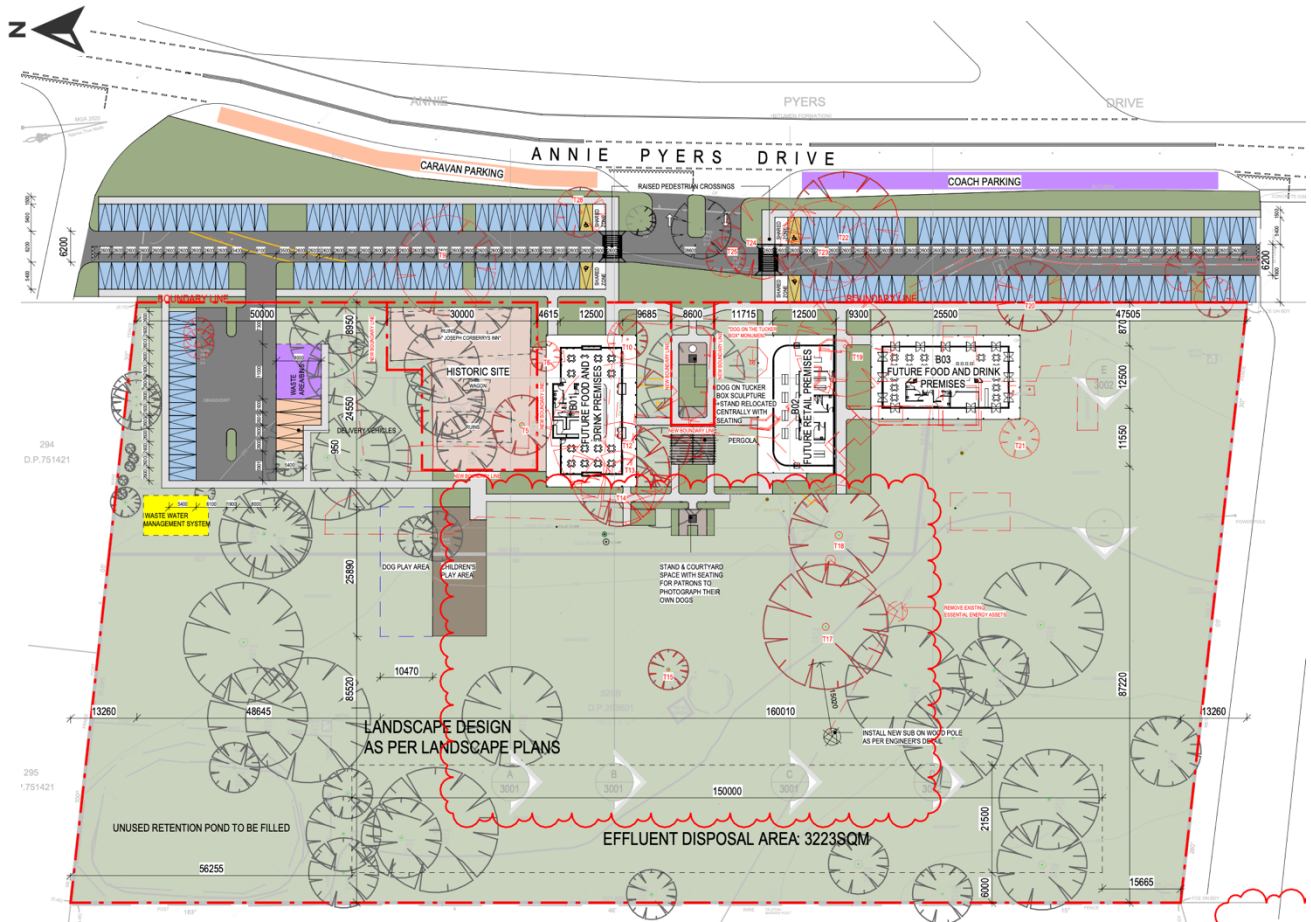


Figure 32: Extract from the architectural drawings showing proposed development

3.3.2 Detailed description

Remediation

Although not included in the DA, the site will require remediation works.

The submitted preliminary site investigation states that the service station is considered to be a significant potential source of soil and groundwater contamination, but also concludes that the site can be made suitable for the proposed development.

The applicant is seeking to undertake the remediation works as 'Category 2 remediation work' (work not needing consent) under Chapter 4 of State Environmental Planning Policy (Resilience And Hazards) 2021. Refer to section 4.2.1 of this report for further consideration and assessment in relation to the remediation works.

The preliminary site investigation makes the following conclusions:

Site use has included the operation of a service station between 1961 and about 2020 during ownership by Gundagai Shire Council. The UPSS associated with the service station is still present at the Site. This use and infrastructure is considered a likely source of soil and groundwater contamination that needs to be investigated.

Based on the aerial photographs and Site inspection the UPSS at the service station facility on the Site has not been used to store fuel for two or more years. In addition, the UPSS will not be required within the proposed development on the Site. In

accordance with the UPSS guidelines the fuel storage system is deemed to be abandoned and should be decommissioned appropriately.

...

Based on the findings of this investigation, ECS concludes that the Site may be made suitable for proposed redevelopment and land use provided the following recommendations are implemented:

- *A hazardous building materials survey should be undertaken by a suitably qualified consultant prior to the demolition of buildings and structures. Asbestos containing material (ACM) identified during the building survey, should be dismantled by an appropriately licensed asbestos removalist in such a manner that does not impact the ground surface;*
- *The UPSS at the Site is decommissioned in accordance with current Australian Standards and relevant NSW regulations by an appropriately licenced civil contractor. The decommissioning is considered to be Category 2 remediation work which requires notification of the decommissioning of the UPSS to the local Council. Notification must also be submitted to Safework NSW in accordance with Dangerous Good Licensing. All UPSS should be disposed of appropriately at a licenced facility permitted to receive the tanks and pipes;*
- *An environmental assessment must be undertaken during the removal of the UPSS in accordance with NSW EPA guidelines. Where soil or groundwater contamination is encountered at levels considered to represent a potential risk to human health or the environment, remediation must be undertake;*
- *An environmental report must be provided to the relevant local authority following the removal of the UPSS and any required remediation work. This report must be provided within 60 days of completion of the removal of the UPSS and any remediation work; and*
- *Excavated soil material generated during excavation and redevelopment activities should be classified in accordance with the NSW EPA (2014) Waste Classification Guidelines and disposed of to an appropriate and licenced facility.*

Subject to compliance with the recommendations in this report including the decommissioning of the UPSS, site investigation and category 2 remediation work, the Site will be suitable (with respect to contaminated land considerations) for the proposed commercial development.

Demolition

Demolition works include the removal of the existing kiosk and service station buildings, as well as the awning structure that connects the two buildings. Other minor structures such as fencing are also to be demolished to make way for the proposed buildings.

The existing dog on the Tuckerbox statue and wishing well are to be relocated from their current location – refer further below.

Tree removal

The submitted Tree Inventory (and Addendum) makes an assessment of 32 trees over the site.

- A total of 24 trees are proposed for removal (15 on 37 Annie Pyers Drive; and 9 on the Council road reservation);
- A total of 6 trees are proposed for retention (4 on 37 Annie Pyers Drive; and 2 on the Council road reservation); and
- A total of 2 trees have already been removed.

The table below provides a summary of the trees; their location on the site; and identification for proposed retention removal. **Figure 33** shows the location of proposed trees to be removed.

Refer to section 4.2.1 of this report for further consideration and assessment in relation to proposed tree removal.

Tree No.	Species (Common name)	Area of site	Retain or remove
1.	Tree removed (stump)	37 Annie Pyers Drive	N/A
2.	Spotted Gum	37 Annie Pyers Drive	REMOVE
3.	Spotted Gum	37 Annie Pyers Drive	REMOVE
4.	Brittle Gum	37 Annie Pyers Drive	RETAIN
5.	Plane Tree	37 Annie Pyers Drive	REMOVE
6.	Argyle Apple	37 Annie Pyers Drive	REMOVE
7.	Brittle Gum	37 Annie Pyers Drive	RETAIN
8.	Brittle Gum	37 Annie Pyers Drive	RETAIN
9.	White Cedar	Council road reservation	REMOVE
10.	Mugga Ironbark	37 Annie Pyers Drive	REMOVE
11.	Lemon-scented Gum	37 Annie Pyers Drive	RETAIN
12.	Plane Tree	37 Annie Pyers Drive	REMOVE
13.	Claret Ash	37 Annie Pyers Drive	REMOVE
14.	Claret Ash	37 Annie Pyers Drive	REMOVE
15.	Lemon-scented Gum	37 Annie Pyers Drive	REMOVE
16.	Tree removed	37 Annie Pyers Drive	N/A
17.	Blue Gum	37 Annie Pyers Drive	REMOVE
18.	River Red Gum	37 Annie Pyers Drive	REMOVE
19.	Lemon-scented Gum	37 Annie Pyers Drive	REMOVE
20.	Liquidamber	Council road reservation	REMOVE
21.	Honey Myrtle	37 Annie Pyers Drive	REMOVE
22.	Pin Oak	Council road reservation	REMOVE
23.	Silky Oak	Council road reservation	REMOVE
24.	Silky Oak	Council road reservation	REMOVE
25.	Liquidamber	Council road reservation	REMOVE
26.	Silky Oak	Council road reservation	RETAIN
27.	Silky Oak	Council road reservation	RETAIN
28.	Silky Oak	Council road reservation	REMOVE
29.	Silky Oak	Council road reservation	REMOVE
30.	Kurrajong	Council road reservation	REMOVE
YY	River Oak	37 Annie Pyers Drive	REMOVE
ZZ	River Oak	37 Annie Pyers Drive	REMOVE

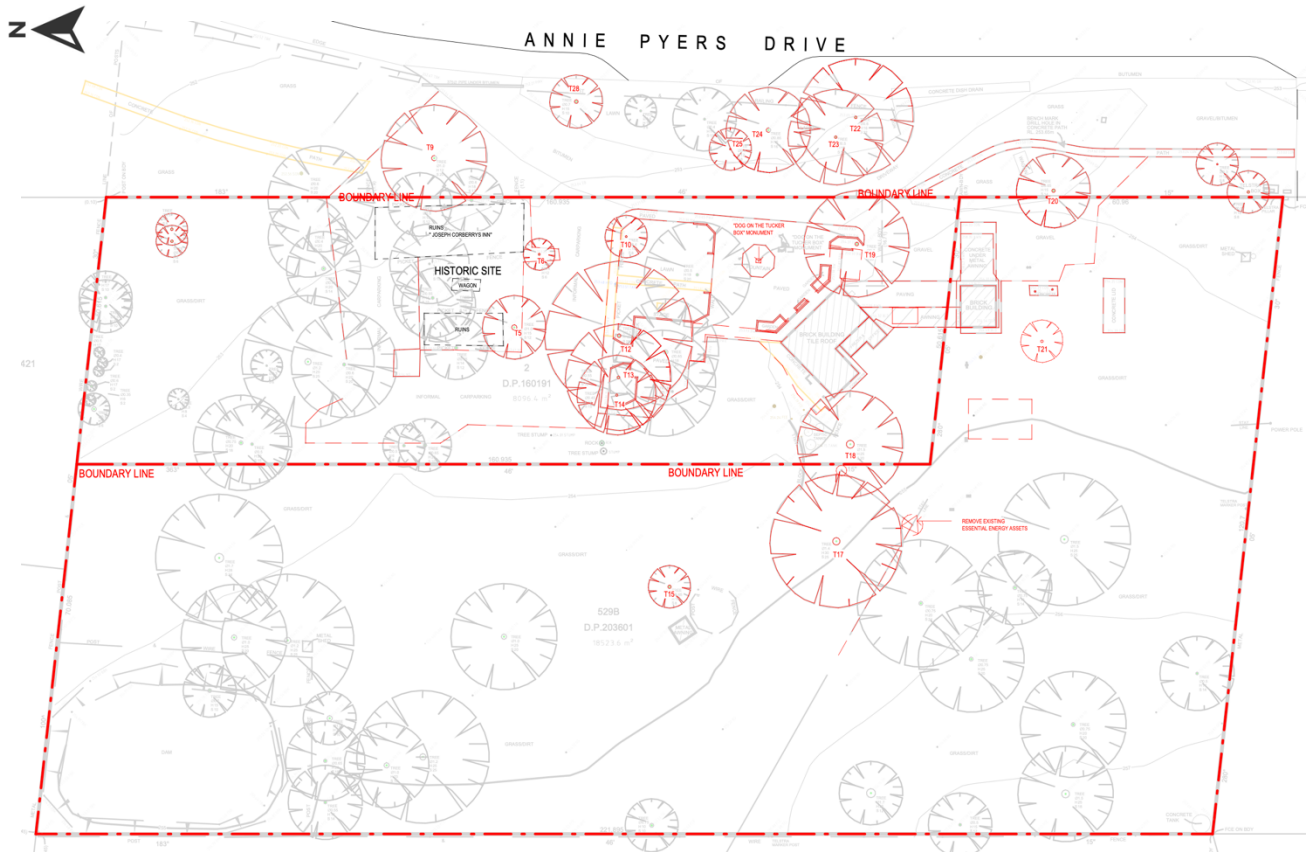


Figure 33: Extract from the architectural drawings showing proposed trees to be removed (in red)

Proposed buildings and pergola

It is proposed to construct 3 new buildings and a pergola on the site. It is noted that no application is made for the fitout and use of the buildings – indicative uses are nominated for each building and would be subject to future separate DAs. The arrangement of the buildings on the site is shown in **Figure 34** below, and a summary of the buildings follows.

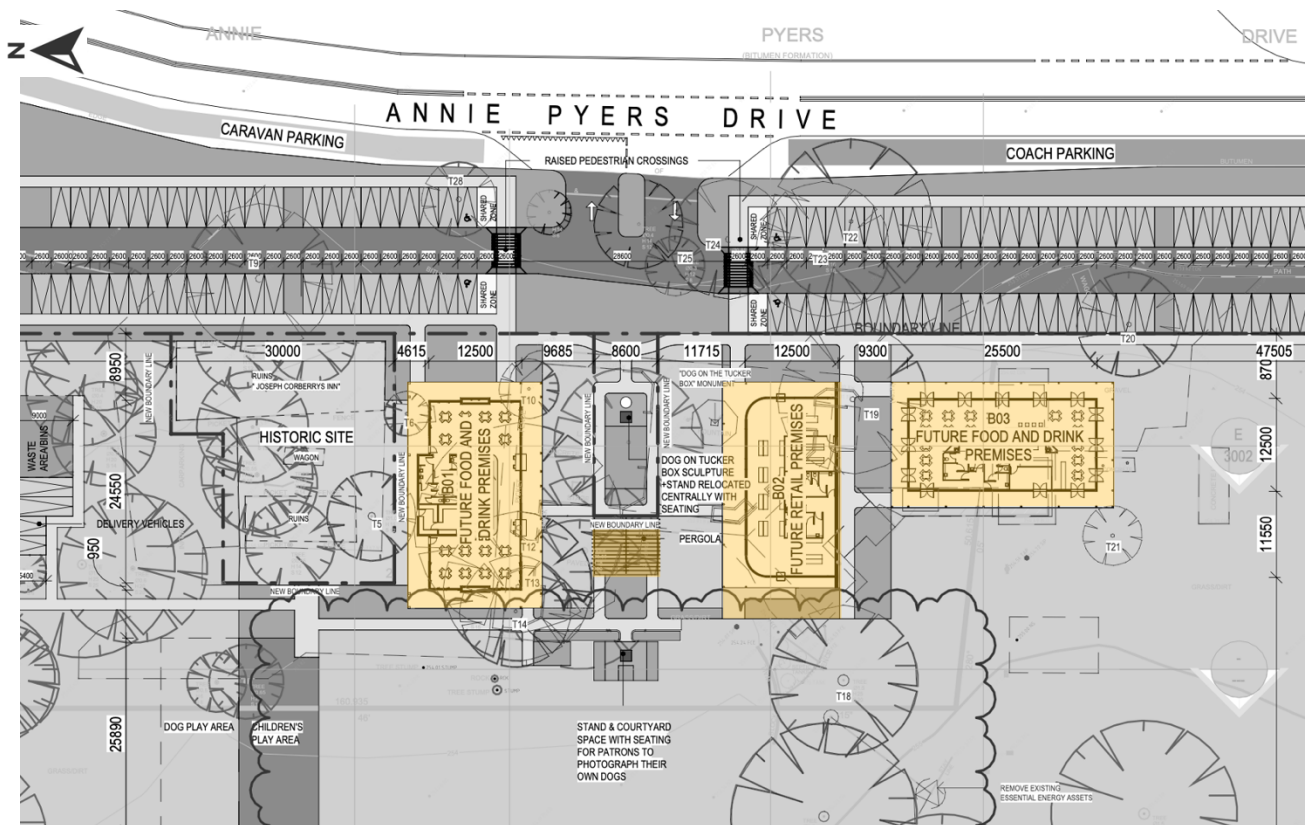


Figure 34: Extract from the architectural drawings showing arrangement of proposed buildings on the site

Building 1

Intended for future use as a food and drink premises. It contains 252 sqm of 'seating area', a kitchen, toilets and back of house facilities. A total GFA of 316 sqm is proposed. Refer floorplan and 3D render at **Figure 35**.

Building 2

Intended for future use as a retail premises. It contains 184 sqm of retail floor area, toilets (publicly accessible) and back of house facilities. A total GFA of 278 sqm is proposed. Refer floorplan and 3D render at **Figure 36**.

Building 3

Intended for future use as a food and drink premises. It contains 239 sqm of 'seating area', a kitchen, toilets and back of house facilities. A total GFA of 300 sqm is proposed. Refer floorplan and 3D render at **Figure 37**.

Pergola

A pergola structure is proposed for the landscape area in between Buildings 1 and 2. No detailed information has been provided in relation to the structure – it is only diagrammatically shown on the architectural drawings (refer **Figure 34**).

Design and Colours & Materials

Buildings 1 and 2 have been designed with a 'modern barn' style architecture; whilst Building 3 adopts a more traditional Victorian 'homestead' style. All buildings include verandah areas. The colour palette is in darker tones and the following materials are proposed:

- Structural elements: Powder coated steel columns.
- Walls: Non-combustible timber look cladding, metal panelling, powder coated steel sheets/columns;
- Roof: Metal roofing (clip-lock decking style for Buildings 1 and 3, and corrugated style for Building 3);
- Windows and doors: Aluminium framed.
- Features: Sandstone cladding.

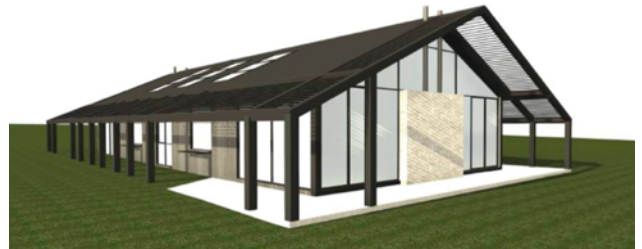
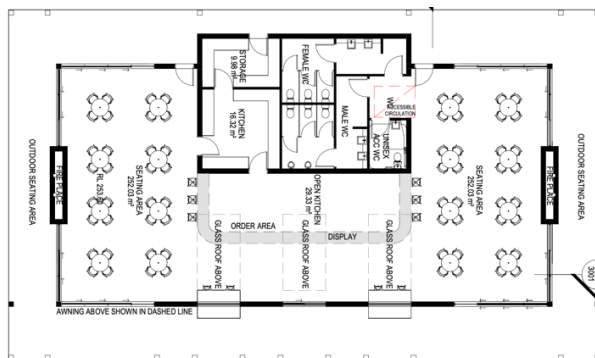


Figure 35: Extract from the architectural drawings showing floor plan and 3D render of Building 1

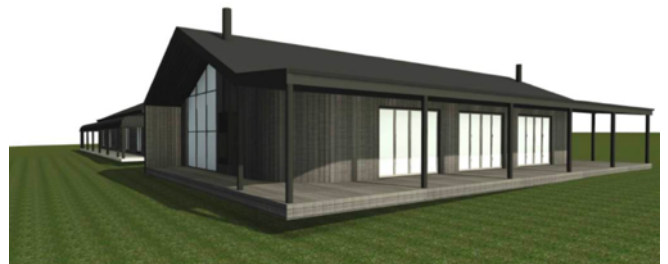
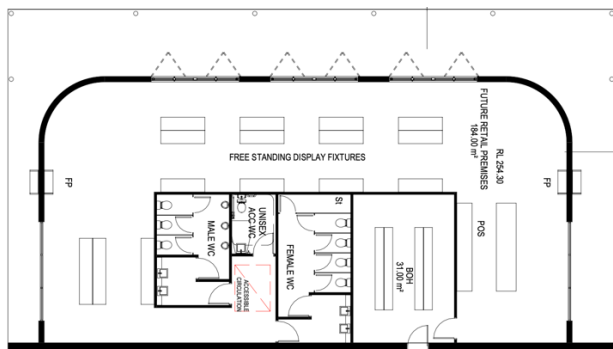


Figure 36: Extract from the architectural drawings showing floor plan and 3D render of Building 2

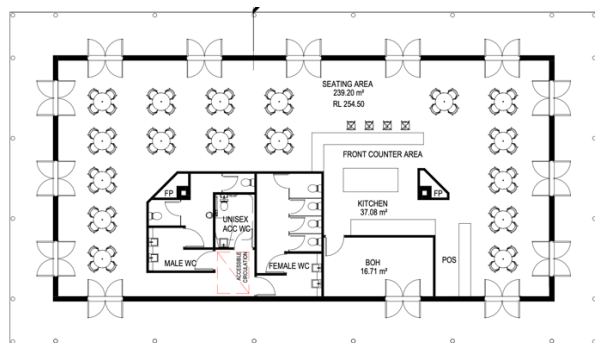


Figure 37: Extract from the architectural drawings showing floor plan and 3D render of Building 3

Sewer system

Initially, the Applicant sought installation of a pump-out sewer management system to manage wastewater for the proposed development. The response to the first Council RFI, the proposed system has since been amended to an Aerated Wastewater Treatment Systems (AWTS) with land application via drip or low-pressure spray irrigation. The proposed system has been based on an estimated volume of wastewater produced from the proposed development of 6,382 litres per day. **Figure 38** shows the proposed system siting.

Refer to section 4.2 of this report for further consideration and assessment in relation to the proposed system, including comments from Whitehead & Associates who were engaged by Council to review the proposed system for adequacy and impact.

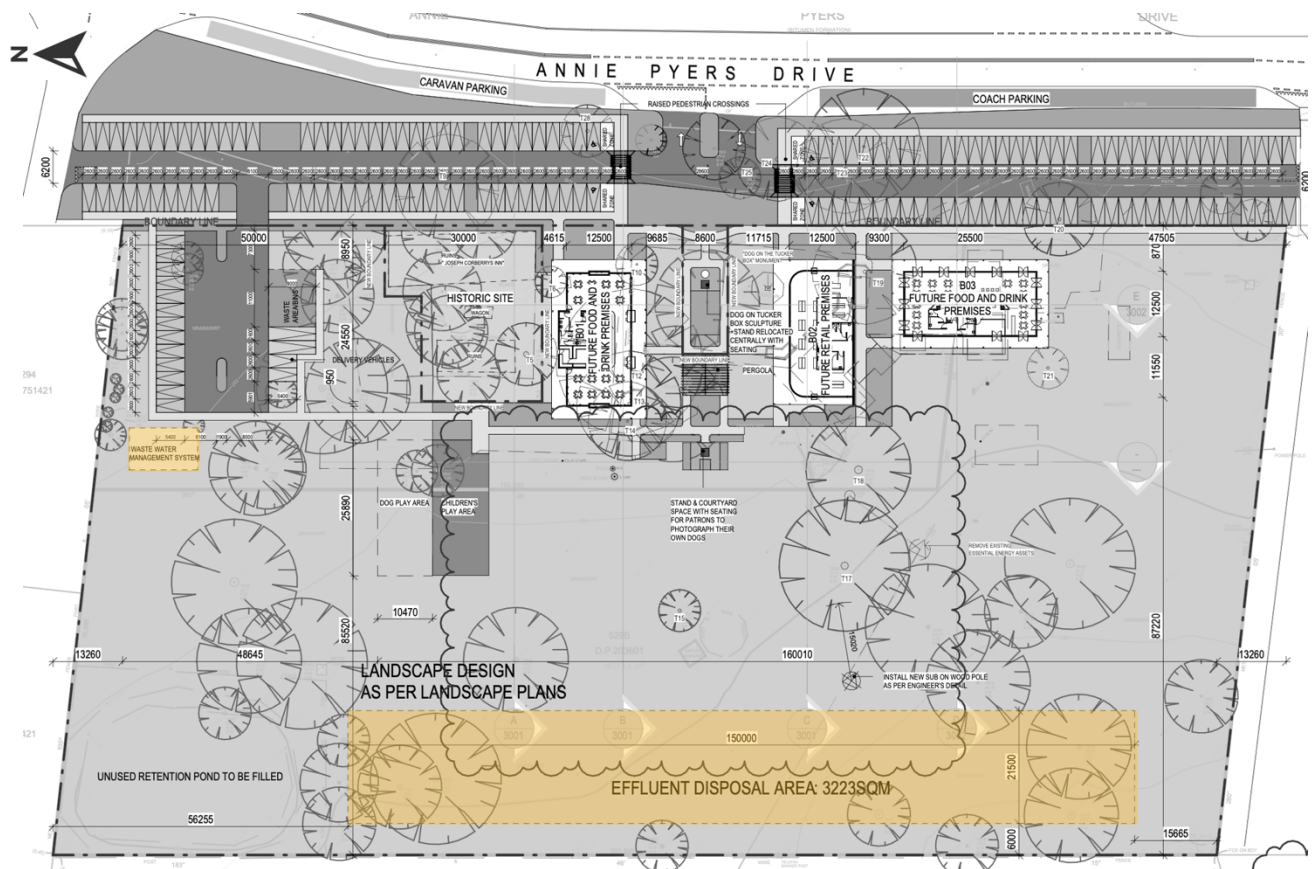


Figure 38: Extract from the architectural drawings showing the location of the AWTS and irrigation area (shaded orange)

Car parking and vehicular access/egress

The proposal seeks to construct parking for vehicles as shown in **Figure 39**. The bus majority of parking is proposed to be constructed on Council Road reservation; and the remainder of parking is proposed on 37 Annie Pyers Drive. The tables below provide the number of parking spaces for each category.

The submitted documentation does not specifically identify an allocated location for EV vehicle charging spaces – although it would seem logical to allocate the 13 spaces located on 37 Annie Pyers Drive (shaded orange in **Figure 39**) for that purpose.

The proposed parking areas include landscaping – refer further below.

Space Type	Number Spaces	Location on Site
Standard spaces	141	Council road reservation and 37 Annie Pyers Drive
Disabled spaces	4	Council road reservation
Total	145	

In addition to the above, the following additional parking is proposed.

Space Type	Number Spaces	Location on Site
Service spaces	4	37 Annie Pyers Drive
Caravan parking	7 (approximately)	Council road reservation
Coach parking	5 (approximately)	Council road reservation
Total	16	

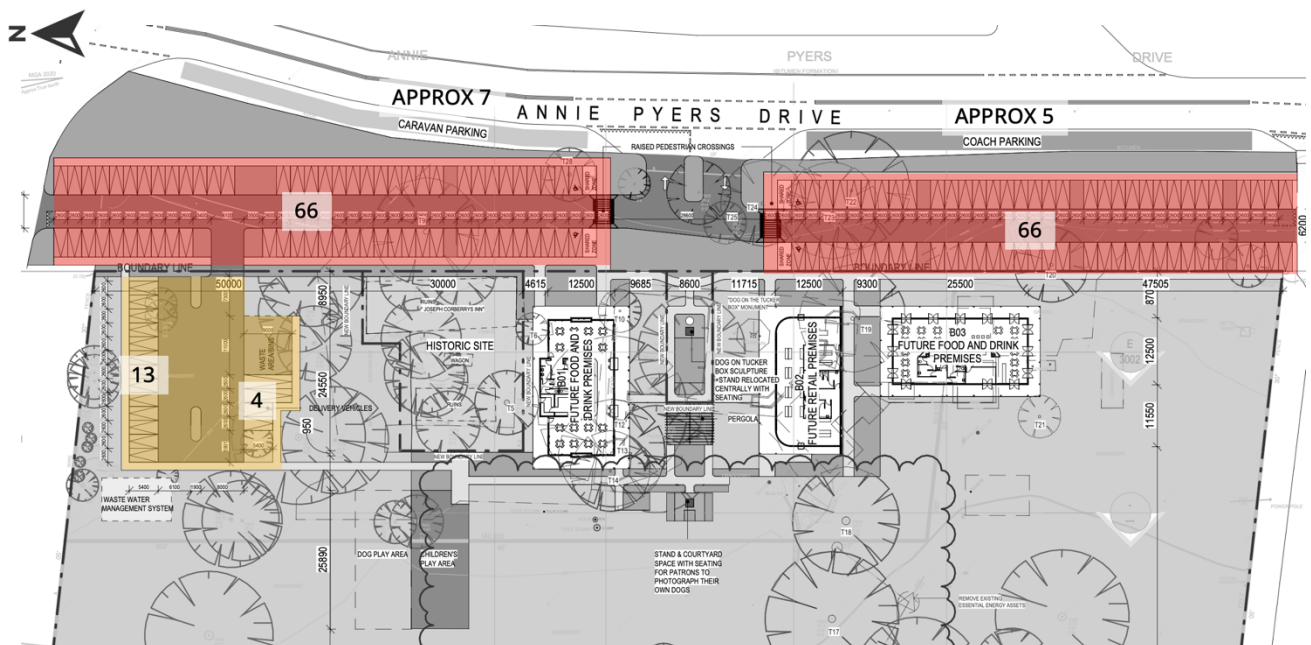


Figure 39: Extract from the architectural drawings showing the location and number of car parking (red denotes road reserve; orange denotes 37 Annie Pyers Drive)

The proposed car parking area includes new accessways that have been designed to connect to the existing roads in the reservation area – referred to **Figure 40**. The proposed new accessway is designed with a width of 6.2 metres and is intended to carry two way traffic. Raised pedestrian crossings have been included in at the proposed centrally located T intersection.

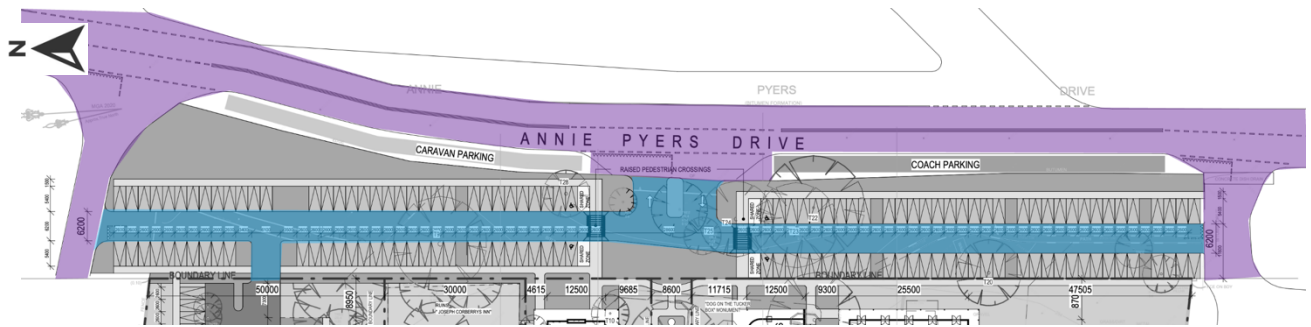


Figure 40: Extract from the architectural drawings showing existing roads (shaded purple) and proposed new vehicular accessways (shaded blue)

Landscape works

The proposal includes landscape works over the site. **Figure 41** provides an overview of the landscape scheme; and **Figure 42** provides detail at the centre of the site. The landscape plan shows tree and shrub planting, and a pedestrian network. Turf is implied by the areas of shaded green within the development area, but it is not specially referenced on the documentation. The area outside of the general area of redevelopment is to be retained as existing.

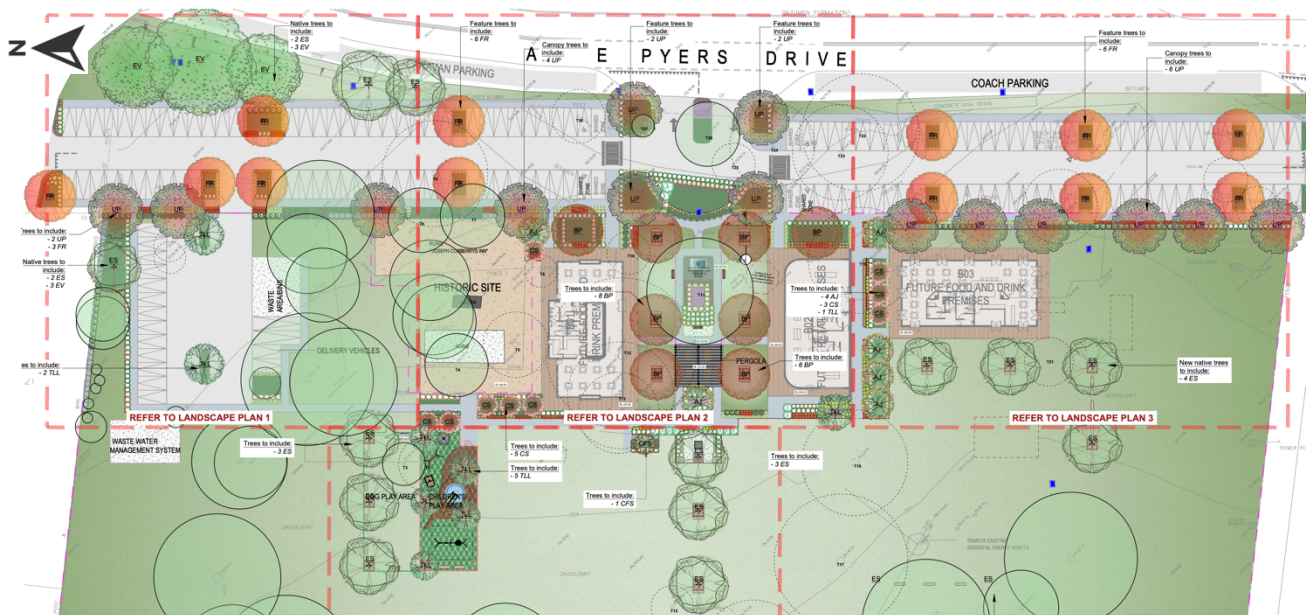


Figure 41: Extract from the landscape plans showing an overview of the proposed landscape works

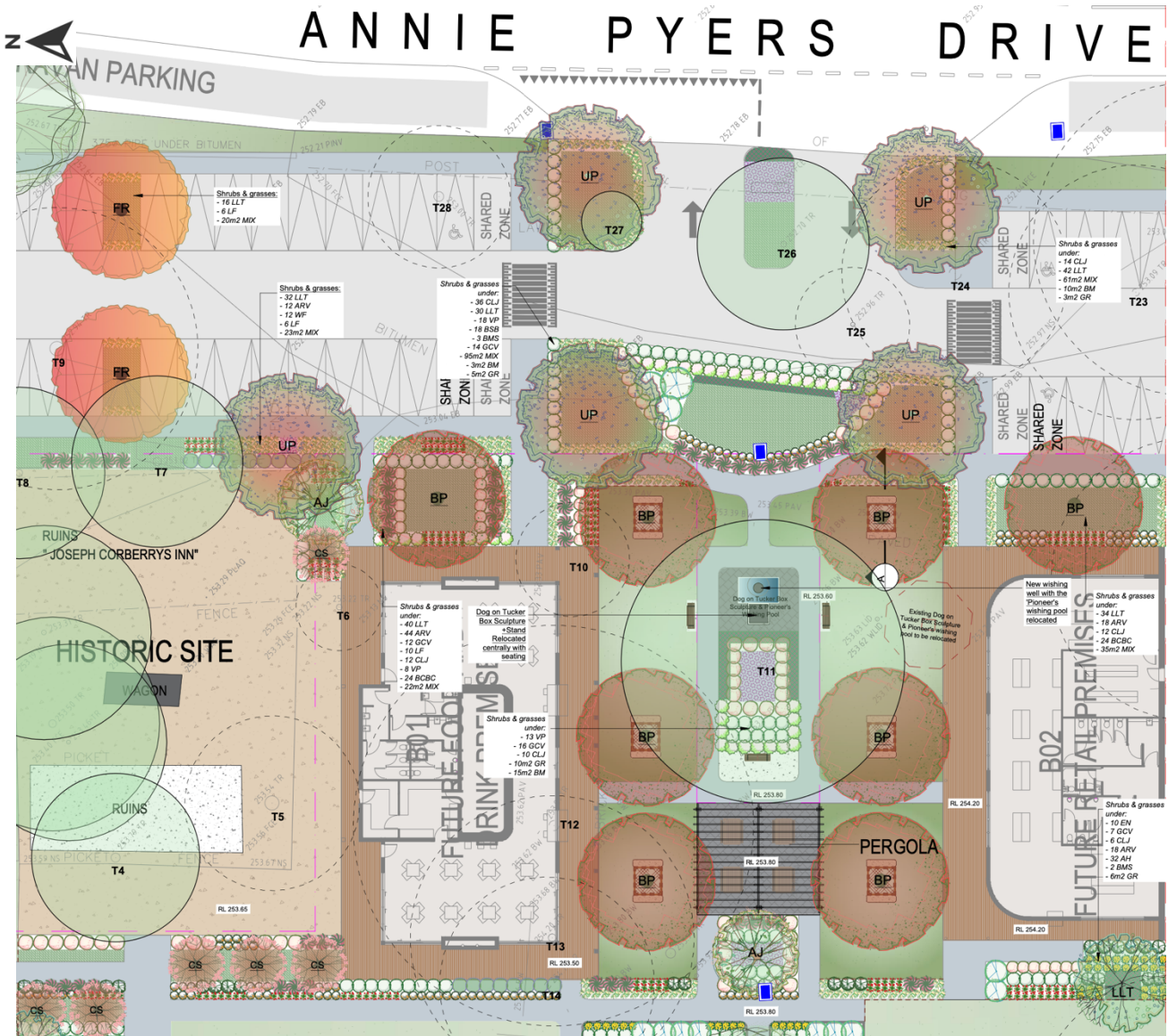


Figure 42: Extract from sheet 2 of the landscape plan set

Children's play area

A children's play area is proposed. The location of these works are shown in **Figure 43**, and the landscape detail of the area is shown on an extract from the landscape plan as **Figure 44**.

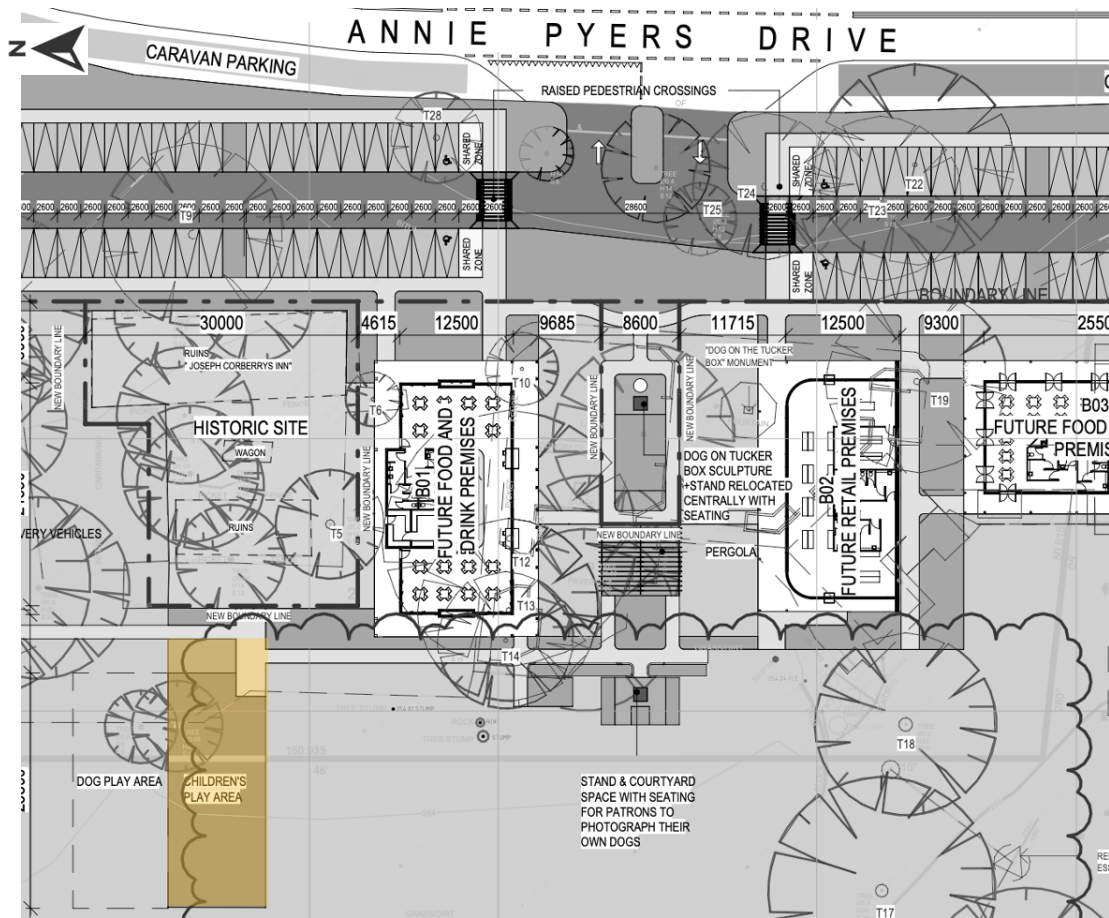


Figure 43: Extract from the architectural drawings showing the location of the children's play area

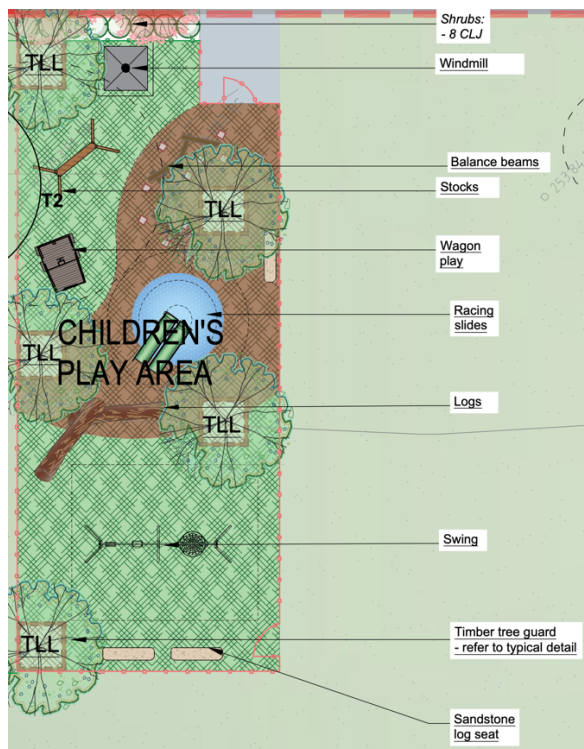


Figure 44: Extract from the landscape plans showing the detail of the children's play area

Subdivision

It is proposed to subdivide Lot 2 in DP 160191 and Lot 529B in DP 203601 to create three allotments as shown in the table below. An extract of the proposed subdivision layout is shown at **Figure 45**.

Lot	Land Area	Contains	Proposed Owner
Lot 01	25,162 sqm	The development site	Private (Applicant)
Lot 02	210 sqm	Dog on the Tuckerbox sculpture and wishing well	Council
Lot 03	1,250 sqm	Limestone Inn ruins	Council

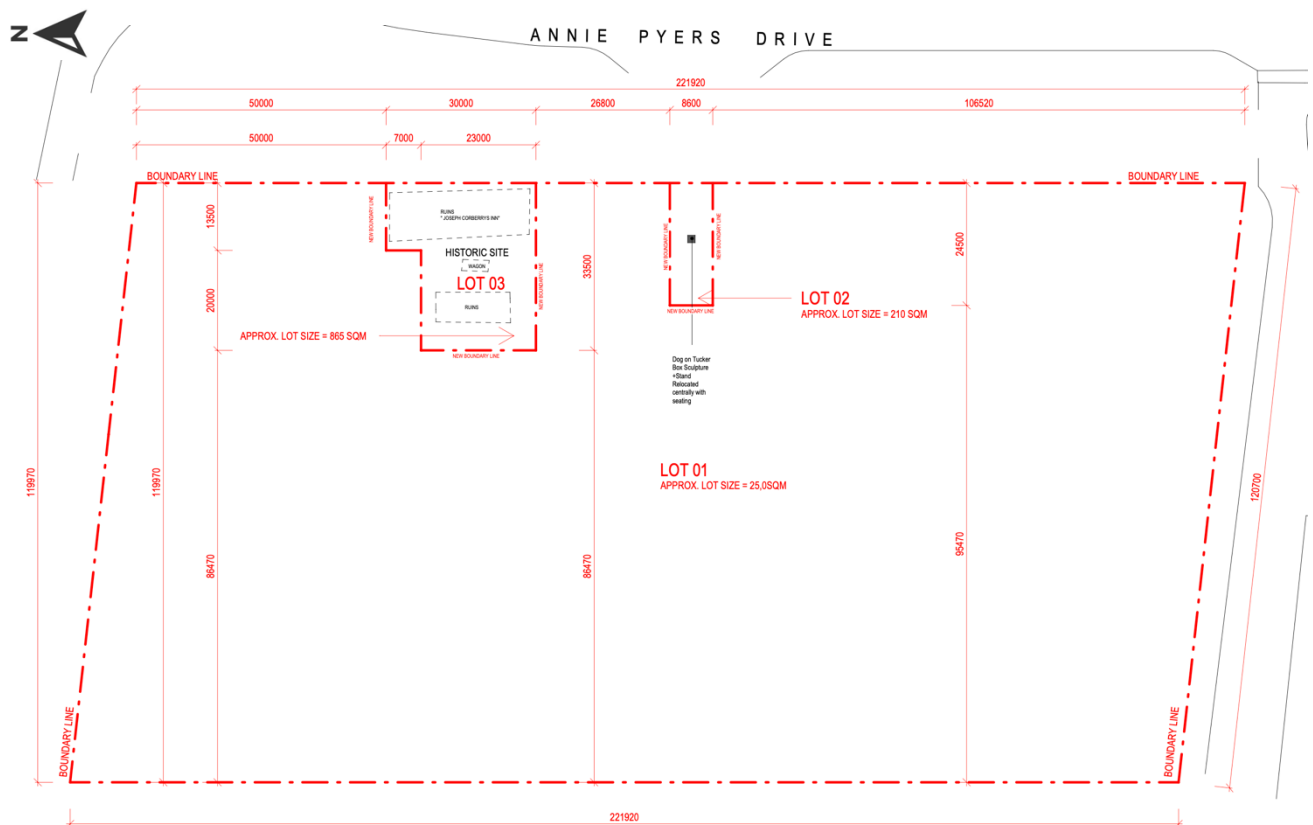


Figure 45: Extract from the architectural drawings showing proposed subdivision layout

Stormwater

A stormwater drainage concept plan submitted with the DA shows the proposed stormwater drainage strategy for the development – refer **Figure 46** below. The concept shows that stormwater would be collected over the catchments and directed to pits and discharged – via new pipework in Council's road reservation – to the existing drainage line at Five Mile Creek.

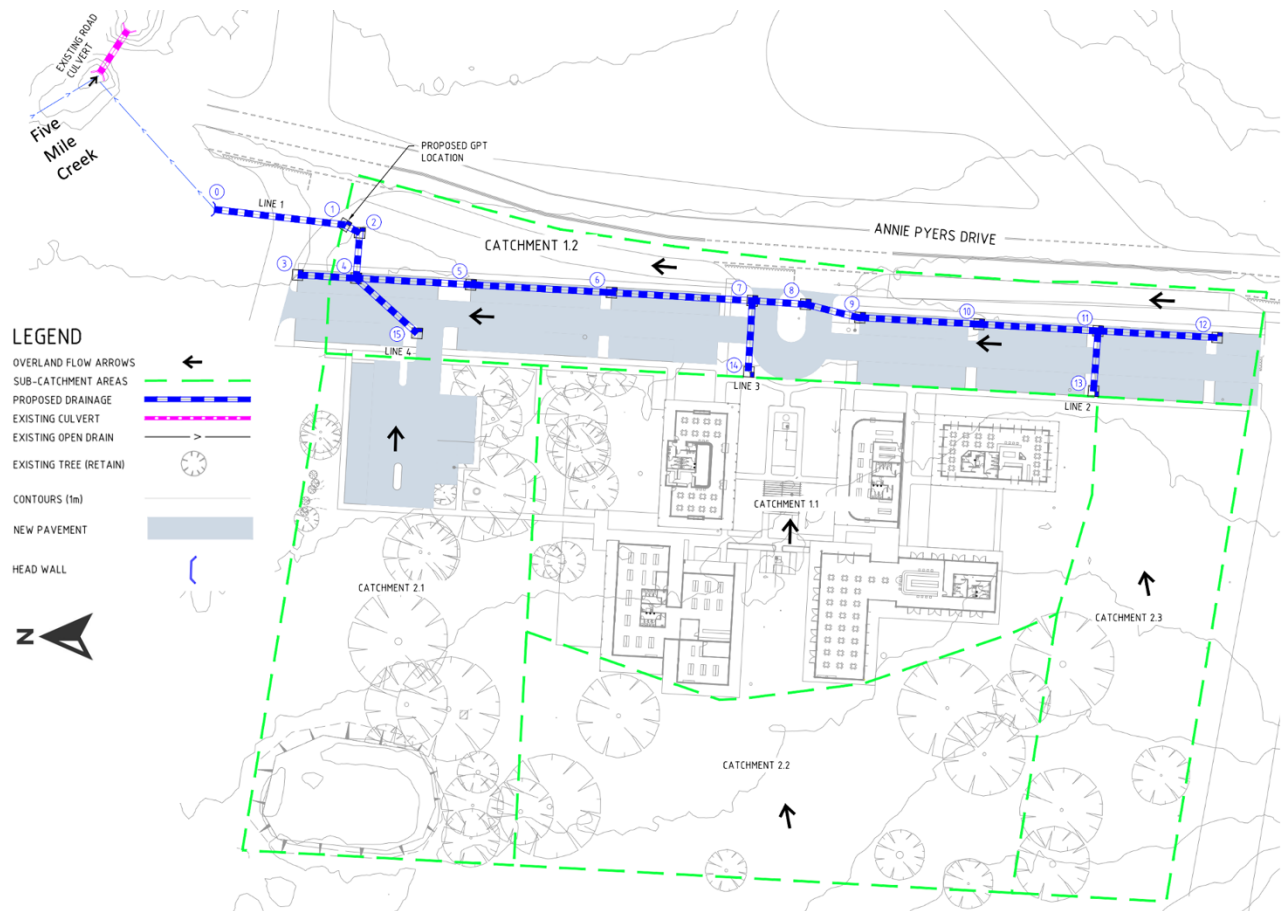


Figure 46: Extract from the submitted Drainage Layout And Concept Civil Plan

Water Supply

In relation to water supply for the proposed development, the Applicant is relying exclusively on the delivery of potable water by Council via its proposed new trunk water main that it intended to extend from Gundagai township to the site. The Statement of Environmental Effects submitted with the DA states the following:

As part of the Expression of Interest, it was noted that Council had funded the installation of a potable water supply which, at that time, was to be installed in 2019. We note that those works now form part of the 23/24 Annual Operational Plan. Council has provided a copy of the plans for the provision of the Water Supply as provided at Appendix P. The proposal has been designed on the basis of these plans.

The DA has been submitted with engineering drawings providing design information for the trunk water main, and an accompanying report prepared by Moloney & Sons engineers.

The DA relies exclusively on the provision of potable water supply by Council, and the Applicant has not provided any information relating to an interim water supply until such time that potable water is provided to the site by the proposed new trunk water main.

Refer to further consideration and assessment in relation to this matter in section 4 of this report.

4 Environmental Assessment

4.1 General requirements of the EP&A Act

4.1.1 Part 1: Preliminary

Section 1.7: Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

Section 1.7 states as follows:

This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment.

Part 7 of the Biodiversity Conservation Act 2016

The proposal involves removal of 24 trees on the site. The DA was submitted with a Tree Inventory (arborist report) and a Flora and Fauna Assessment.

The site is not mapped on the Biodiversity Values Map; and the amount of native vegetation proposed for removal is less than the 0.25ha threshold. It is considered that the proposed development would not significantly impact on any threatened species or ecological communities, therefore the Biodiversity Offset Scheme is not triggered.

It is not considered that the development is likely to significantly affect threatened species, populations or ecological communities.

Part 7A of the Fisheries Management Act 1994

The development is not a key threatening process under Fisheries Management Act 1994. The site contains no known threatened species or endangered ecological communities; has not been declared critical habitat; and is not in an area of outstanding biodiversity value. No impacts are anticipated.

4.1.2 Part 2: Planning administration

Section 2.22: Mandatory community participation requirements

Section 2.22 states as follows:

(1) [Part 1 of Schedule 1](#) sets out the mandatory requirements for community participation by planning authorities with respect to the exercise of relevant planning functions.

Note: The mandatory requirements include public exhibition for a minimum period, public notification requirements and the giving of reasons for decisions by planning authorities. The regulations under that Schedule may also require community consultation by applicants for consents or other approvals.

(2) Those mandatory requirements for community participation include any other forms of community participation that are set out in a community participation plan under this Division and that are identified in that plan as mandatory requirements.

The DA, as originally submitted, was such that Council was to be the consent authority (refer section 4.1.3 of this report for details). Accordingly, Council established that the DA was to be notified in accordance with the requirements for “council-related development application” under Clause 9B of Part 1, Schedule 1 (minimum of 28 days).

The DA was notified (local newspaper; Council website; and letters to neighbouring properties) from 21/09/2023 to 23/10/2023). A total of 3 submissions were received during the notification period; and 1 late submission was received on 12 November 2023.

Refer to section 4.2.8 of this report for summary of the submissions and consideration of the issues raised.

4.1.3 Part 4: Development assessment and consent

Section 4.5: Designation of consent authority

Section 4.5 states as follows:

For the purposes of this Act, the consent authority is as follows—

- (a) in the case of State significant development—the Independent Planning Commission (if the development is of a kind for which the Commission is declared the consent authority by an environmental planning instrument) or the Minister (if the development is not of that kind),*
- (b) in the case of development of a kind that is declared by an environmental planning instrument as regionally significant development—the Sydney district or regional planning panel for the area in which the development is to be carried out,*
- (c) in the case of development of a kind that is declared by an environmental planning instrument as development for which a public authority (other than a council) is the consent authority—that public authority,*
- (d) in the case of any other development—the council of the area in which the development is to be carried out.*

The cost estimate submitted with the original DA was such that Council was to be the consent authority. As a result of RFIs to the Applicant, a revised cost estimate was submitted that changed the consent authority to the Regional Panel (Southern Regional Planning Panel) pursuant to subsection (b) above. The relevant environmental planning instrument is State Environmental Planning Policy (Planning Systems) 2021 – refer further to section 4.2.1 of this report.

Section 4.10: Designated development

Section 4.10 states as follows:

- (1) Designated development is development that is declared to be designated development by an environmental planning instrument or the regulations.*
- (2) Designated development does not include State significant development despite any such declaration.*

Schedule 3 of the EP&A Regulation defines the various types of Designated Development. The proposal does not include any work that fall into the development types identified in Schedule 3. Accordingly, the proposal is not Designated Development.

Section 4.13: Consultation and concurrence

Section 4.13 includes the following:

(1) General If, by an environmental planning instrument, the consent authority, before determining the development application, is required to consult with or to obtain the concurrence of a person, the consent authority must, in accordance with the environmental planning instrument and the regulations, consult with or obtain the concurrence of the person, unless the consent authority determines to refuse to grant development consent.

Note: See also section 48 of the Dams Safety Act 2015 which requires the consent authority, before granting development consent for carrying out mining operations in a notification area declared under that section, to refer the application to Dams Safety NSW and to take into consideration any matters raised by Dams Safety NSW.

(2) However, if, by an environmental planning instrument, the Minister, before determining a development application, is required to obtain the concurrence of a person, the Minister is required only to consult with the person.

Essential Energy

The DA was referred to Essential Energy under Division 5, Part 2.3, Chapter 2, of State Environmental Planning Policy (Transport And Infrastructure) 2021. Essential Energy provided advice with advice and conditions to be included in any consent.

Transport for NSW

The DA was referred to Transport for NSW under Division 17, Part 2.3, Chapter 2, of State Environmental Planning Policy (Transport And Infrastructure) 2021.

The initial response from TfNSW did not support the proposed development due to concerns in relation to level of 'anticipated' additional traffic generation expected to be caused by the DA and the impacts on the safety of the two at-grade intersections of Annie Pyers Drive and the Hume Highway.

Following discussions between the Applicant and TfNSW, Council received instructions to amend the DA by deleting the proposed buildings from Stage 3. Those documents were provided to TfNSW and, on 11 July 2024, TfNSW advised that it has no objections to the proposed development.

Department of Planning and Environment (Biodiversity and Conservation Division)

The DA was referred to Department of Planning and Environment to seek feedback in relation to flora and fauna considerations.

The Department identified some inconsistencies in the submitted documentation. The applicant was notified of the inconsistencies and an amended Flora and Fauna assessment was submitted, which is considered to satisfactorily address the issues raised.

Section 4.14: Consultation and development consent—certain bush fire prone land

Section 4.14 includes the following:

(1) Development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land (being land for the time being recorded as bush fire prone land on a relevant map certified under section 10.3(2)) unless the consent authority—

(a) is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection prepared by the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (the relevant specifications and requirements), or

(b) has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.

Pursuant to Section 4.14, development consent cannot be granted for the carrying out of development on bushfire prone land unless Council is satisfied that the development conforms to Planning for Bushfire Protection 2019, or has been provided with a certificate by a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.

It is noted that the proposal is not subject to Section 100B of the Rural Fires Act, 1997, as it does not propose subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes; and does not involve development for a Special Fire Protection Purpose.

The Bushfire Assessment Report submitted with the DA considers the vegetation formation, effective slope, Forest Fire Danger Index (FFDI) and Asset Protection Zone (APZ) matters for the development and these have been determined in accordance with the Site Assessment Methodology under Planning for Bush Fire Protection 2019. The report concludes that there are no Bushfire Attack Level (BAL) construction related requirements that apply to the proposed development.

It is considered that the requirements of Section 4.14 have been satisfied.

Section 4.22: Concept development applications

Section 4.22 includes the following:

(1) For the purposes of this Act, a concept development application is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.

(2) In the case of a staged development, the application may set out detailed proposals for the first stage of development.

(3) A development application is not to be treated as a concept development application unless the applicant requests it to be treated as a concept development application.

The proposal has not been lodged as a Concept Development Application.

Section 4.33: Determination of Crown development applications

The proposal is not a Crown development.

Section 4.36: Development that is State significant development

The proposal is not State Significant Development.

Section 4.46: Integrated development

The proposal is not Integrated Development.

4.2 Section 4.15 considerations under the EP&A Act

4.2.1 Section 4.15(1)(a)(i): The provisions of any environmental planning instrument

State Environmental Planning Policies

The table below summarises the State Environmental Planning Policies (SEPPs) that are relevant to the DA. **Annexure B** contains an assessment of the proposal against the relevantly applicable provisions of the applicable SEPPS.

SEPP	Applies to proposal
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes: Chapter 2
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No
State Environmental Planning Policy (Housing) 2021	No
State Environmental Planning Policy (Industry and Employment) 2021	No
State Environmental Planning Policy (Planning Systems) 2021	Yes: Chapter 2
State Environmental Planning Policy (Precincts—Central River City) 2021	No
State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021	No
State Environmental Planning Policy (Precincts—Regional) 2021	No
State Environmental Planning Policy (Precincts—Western Parkland City) 2021	No
State Environmental Planning Policy (Primary Production) 2021	No
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes: Chapter 4
State Environmental Planning Policy (Resources and Energy) 2021	No
State Environmental Planning Policy (Sustainable Buildings) 2022	Yes: Chapters 2 and 4
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes: Chapter 2

Local Environmental Plans

Gundagai Local Environmental Plan 2011

The applicable LEP is the Gundagai Local Environmental Plan 2011(LEP). The relevant provisions of the LEP are discussed below.

Zoning and Permissibility

Part 2 of the LEP identifies that the subject site is zoned SP3 – Tourist – refer **Figure 47** below.



Figure 47: Zoning of the subject site – shown in white outline (Source: NSW Planning Portal)

The Land Use Tables for the SP3 - Tourist zone are as follows:

2 Permitted without consent

Nil

3 Permitted with consent

*Amusement centres; Aquaculture; Camping grounds; Car parks; Caravan parks; Cellar door premises; Community facilities; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; **Food and drink premises**; Function centres; Garden centres; Highway service centres; Home businesses; Home occupations; Information and education facilities; **Kiosks**; Markets; Passenger transport facilities; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Roads; Roadside stalls; Service stations; Sewerage systems; Signage; **Shops**; Tourist and visitor accommodation; Transport depots; Water supply systems*

4 Prohibited

Local distribution premises; Any development not specified in item 2 or 3

The proposed development seeks approval to construct three (3) new buildings for future intended use as food and drink premises and a shop / kiosk, and undertake the following ancillary works:

- Relocation of Dog on Tuckerbox Memorial;
- Construction of play area;
- Construction of car parking;
- Sewerage treatment works;
- Stormwater works;
- Tree removal works;
- Earthworks; and
- Landscape works.

The above uses for food and drink premises and a shop / kiosk, and the ancillary works, are permitted with consent as shown in the land use table above in bold and underline. Demolition and subdivision are also proposed and are permissible under Clauses 2.7 and 2.6 of the LEP, respectively – refer further below).

Component of proposal	Relevant LEP definition
Building 1	<p><u>food and drink premises</u> means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—</p> <p>(a) a restaurant or cafe,</p> <p>(b) take away food and drink premises,</p> <p>(c) a pub,</p> <p>(d) a small bar.</p> <p>(Note: DA identifies intended future use - depending on future use DA)</p>
Building 2	<p><u>shop</u> means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop and neighbourhood supermarket, but does not include food and drink premises or restricted premises.</p> <p><u>kiosk</u> means premises that are used for the purposes of selling food, light refreshments and other small convenience items.</p> <p>(Note: DA identifies intended future use - depending on future use DA)</p>
Building 3	<p><u>food and drink premises</u> means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—</p> <p>(a) a restaurant or cafe,</p> <p>(b) take away food and drink premises,</p> <p>(c) a pub,</p> <p>(d) a small bar.</p> <p>(Note: DA identifies intended future use - depending on future use DA)</p>

The objectives of the SP3 - Tourist zone are as follows:

- To provide for a variety of tourist-oriented development and related uses.
- To recognise and promote the cultural significance of the “Dog on the Tuckerbox” installation at the Five Mile.

It is considered that the proposed development is consistent with these objectives in that:

- The proposal would provide for buildings that are intended for uses that would support tourist related activities in the 5 Mile Precinct; and
- The proposed works to the Dog on the Tuckerbox statue and wishing well would reinforce the cultural significance of the item and place.

LEP Provisions

Annexure B contains an assessment of the DA against the relevantly applicable clauses of the LEP.

4.2.2 Section 4.15(1)(a)(ii): The provisions of any draft environmental planning instrument

State Environmental Planning Policies (SEPPs)

There are no draft SEPP's which relate to this development.

Local Environmental Plan (LEP)

There are no draft LEP's which apply to this land.

4.2.3 Section 4.15(1)(a)(iii): The provisions of any development control plan

Gundagai Development Control Plan for the 5 Mile Precinct (including the Dog-on-the-Tuckerbox site)

Annexure B contains an assessment of the DA against the provisions of the DCP.

4.2.4 Section 4.15(1)(a)(iiia) Any planning agreement or draft planning agreement:

The developer has not entered into a planning agreement, nor has offered to enter into a draft planning agreement.

4.2.5 Section 4.15(1)(a)(iv): Matters prescribed by the Regulations

The following matters have been considered as prescribed by Regulations.

Section 61 Additional matters that consent authority must consider

Section 61 includes:

(1) In determining a development application for the demolition of a building, the consent authority must consider the Australian Standard AS 2601—2001: The Demolition of Structures.

The demolition of structures on the site would be required to comply with the Australian standard. A draft condition is recommended with any consent issued.

Section 66A Council-related development applications

Section 66A applies to a "council-related development application", which is defined under Schedule 1, Part 1, Clause 9B of the Environmental Planning and Assessment Act 1979 as follows:

council-related development application means a development application, for which a council is the consent authority, that is—

(a) made by or on behalf of the council, or

(b) for development on land, other than a public road within the meaning of the Local Government Act 1993—

(i) of which the council is an owner, a lessee or a licensee, or

(ii) otherwise vested in or under the control of the council.

The consent authority for the proposed development is the Southern Regional Planning Panel (refer section 4.1.3 of this assessment report) and, accordingly, the proposal is not a council-related development application.

4.2.6 Section 4.15(1)(b): The likely impacts of that development

Soil

Contamination

The applicant is seeking to undertake the remediation works as 'Category 2 remediation work', pursuant to Clause 4.11 of State Environmental Planning Policy (Resilience and Hazards) 2021. It is agreed that the proposed remediation works fall into Category 2.

It is considered that the findings of the preliminary investigation warrant the submission to Council of a Detailed Site Investigation and Remedial Action Plan in accordance with Clause 4.6(3) of the SEPP. This information would need to be submitted and assessed by Council prior to the issue of an active consent. The reason for this is to ensure that the site is capable of being remediated to the required standard.

Further relevant conditions would need to be imposed to ensure that a notice of completion of remediation work is submitted prior to the construction of any buildings on the site.

Subject to the above, it is considered that issues relating to contamination on the site can be suitably addressed.

Utilities

Wastewater

The proposal seeks installation of an Aerated Wastewater Treatment Systems (AWTS) with land application via drip or low-pressure spray irrigation. The proposed system has been based on an estimated volume of wastewater produced from the proposed development of 6,382 litres per day.

This system was proposed with the intention of servicing the proposed development prior to applicant deleting the buildings in stage 3. The deletion of the buildings has reduced the expected loads and increased the area available for treatment.

Council's consultant, Whitehead & Associates, reviewed (in letter dated 30 July 2024) the proposed sewer system in light of the amended DA and made the following conclusions:

The wastewater treatment and effluent disposal systems should be designed to manage a minimum daily hydraulic load of 3,360L/day which has been calculated on the basis of the number of vehicles visiting the site as outlined in the traffic study for Stages 1 and 2 of the development (only).

A sequencing batch reactor (SBR), aerated wastewater treatment system (AWTS) as proposed is an appropriate treatment system for a development of this type and should be able to manage odours adequately.

The treatment system should incorporate a balance tank and effluent holding tank as proposed.

A compliant effluent disposal area, sized by water balance using a DIR of 2.0mm/day to reflect the design limiting layer of the Category 6 medium clay subsoil, is 5,643m².

The capacity of the site is sufficient to accommodate the required effluent disposal area to the rear of the proposed buildings.

Irrigation should be subsurface to avoid the potential for human and animal contact with treated effluent at this public facing facility.

The irrigation area should incorporate appropriate signage to indicate that treated effluent is being irrigated.

Any further expansion of the site beyond the proposed Stages 1 and 2 would require expansion of the wastewater treatment system and effluent disposal areas and would require further approval.

Should proposed changes to the intersection on the Hume Highway result in increased visitor numbers arriving at this site in advance of other options in the locality, it is likely that an increase in effluent load will result. This review has considered the peak of 28 vehicles per hour outlined in the traffic study for Stages 1 and 2 only.

Should a deferred commencement condition be required, suitable wording would be:

Wastewater: In the light of the changed design and scale of the development, now comprising Stages 1 and 2 only, a revised wastewater report and land capability assessment should be prepared to reflect the revised design. The revised report should incorporate the recommendations of this review.

Based on the above, it is evident that the system proposed is acceptable subject to conditions to ensure that it incorporates features recommended in advice from Whitehead & Associates.

Potable water

The DA relies exclusively on the provision of potable water supply by Council. The position of Council (currently in a state of uncertainty with demergers pending) is that matters in relation to budgeting and programming of the potable water supply remain unknown, noting the following key points:

- There is no confirmed timeline on when the water supply will be completed and available for connection to the site;
- Some grant funding has been allocated for the project, however, it is unlikely to cover the full cost of the project; and
- There remains some uncertainty as to the total demand created by the proposed development, as the DA has not sought uses for the proposed buildings (and associated detailed information that would accompany such). Therefore, the precise scope of works required to provide adequate water supply remains unclear.

The applicant has proposed no alternative / interim water supply solution. Therefore, prior to an active consent being issued, the developer would need to enter into a formal agreement with the Council to ensure the provision and delivery of potable water to the development site. This agreement would need to clearly outline the responsibilities of both parties, including the design, construction, and maintenance of the water supply infrastructure, and must demonstrate compliance with all relevant standards and regulations. The reason for this is to ensure that the site is capable of being serviced by potable water.

In the event that an agreement cannot be reached within the deferred commencement period, the applicant would need to submit an amendment to the consent and propose a suitable alternative for the provision of potable water.

Electricity

The DA has been submitted with an Essential Energy Design Information pack, which identifies that the proposal (as originally submitted) would generate the need for new assets including a new substation. Given that the size of the proposal has been reduced by deleting the buildings in stage 3, the size requirements for the substation may change. A draft condition of consent is recommended imposed to ensure the necessary design requirements and approvals are in place prior to a construction certificate.

The DA was referred to Essential Energy. Other than general comments and requirements that can be included as conditions of consent, concern was raised that the proposal did not appear to be in excess of 15 metres from the existing Essential Energy power pole on the site. The architectural plans now show the proposed relocation of the pole to comply with the minimum 15 metre setback.

Stormwater drainage

The original DA documentation was referred to Council engineer who raised the following concerns:

- The downhill location of a stormwater collection pit from the originally proposed sewer pump out system (no longer applicable as a pump-out sewer if not proposed) ;
- Inadequate information in relation to stormwater pits and inlets on the documentation.

The applicant submitted amended stormwater documentation that shows capture of stormwater from the carparking area including pit schedule and driveable end wall with steel bars to prevent access.

The amended documentation states that the development changes on site would see an increase to the fraction impervious by 10% (having regard to net result of removal and construction of new buildings and landscaping) that would contribute a 0.18% increase to peak flows in the major and minor storm events.

Given that the size of the proposal has been reduced by deleting the buildings in stage 3, the impervious area has been further reduced.

Subject to conditions, it is considered that the revised documentation indicates that stormwater is able to be adequately captured on site and can be discharged without contaminants or causing erosion and sedimentation.

Water and air

Groundwater

Council sought advice from Whitehead & Associates in respect of potential groundwater impacts, including those on existing bore locations on the adjoining property to the north. **Figure 48** identifies the distances of those bores from the site, which has been estimated based on the identified locations of those bores (refer **Figure 49**) on the Water NSW website. The advice received from Whitehead & Associates is as follows:

No information on local groundwater bores was provided in the initial Land Capability Assessment (LCA) or the subsequent information provided. Typically this would be included, along with some explanation as to whether the proposed wastewater treatment system met the recommended buffer or setback distances or what mitigation measures were to be applied, if required.

The NSW Guidelines (DLG 1998) recommends a 250m buffer from a domestic groundwater well. Though not mentioned specifically, groundwater bores should be considered similarly. This requirement is considered overly conservative and more modern guidelines, including the Australian/New Zealand Standard AS/NZS1547:2012 and the, shortly to be published,

revised NSW Guidelines recommend risk assessed buffers of between 15 and 100m from groundwater bores. These latter figures are well supported by science, so 100m would be considered conservative. This presumes that the effluent is treated to secondary standard and disinfected, that irrigation is subsurface, and that the treatment system has in place a quarterly servicing and maintenance contract, all of which are proposed.

As a consequence, Bores GW404756 and GW404757, respectively located 184.2m and 102.9m from the NE corner of the DoTT site, are both more than the most conservative distance (100m) required by the guidelines and Standard, even without any risk mitigation being considered.

Other potential considerations are nutrient impacts on groundwater. Nutrient balances for nitrogen and phosphorus are typically presented as part of the LCA. In this case a satisfactory nitrogen balance was presented to demonstrate that nitrogen is adequately assimilated. No phosphorus balance was presented, but given the presence of extensive clay soils, phosphorus is unlikely to be a concern. Consequently, I am happy that both nitrogen and phosphorus will be assimilated in the land application area of 5,643m² I have recommended for the 3,360L/day load.

The conservative loading rate recommended (2mm/day) is appropriate to ensure that the hydraulic and nutrient loads can be assimilated within the designed land application area and not represent a risk to groundwater bores beyond the recommended buffers.

On the basis of the above advice, it is considered that the proposal is unlikely to have any unacceptable adverse impacts in relation to quality of groundwater.

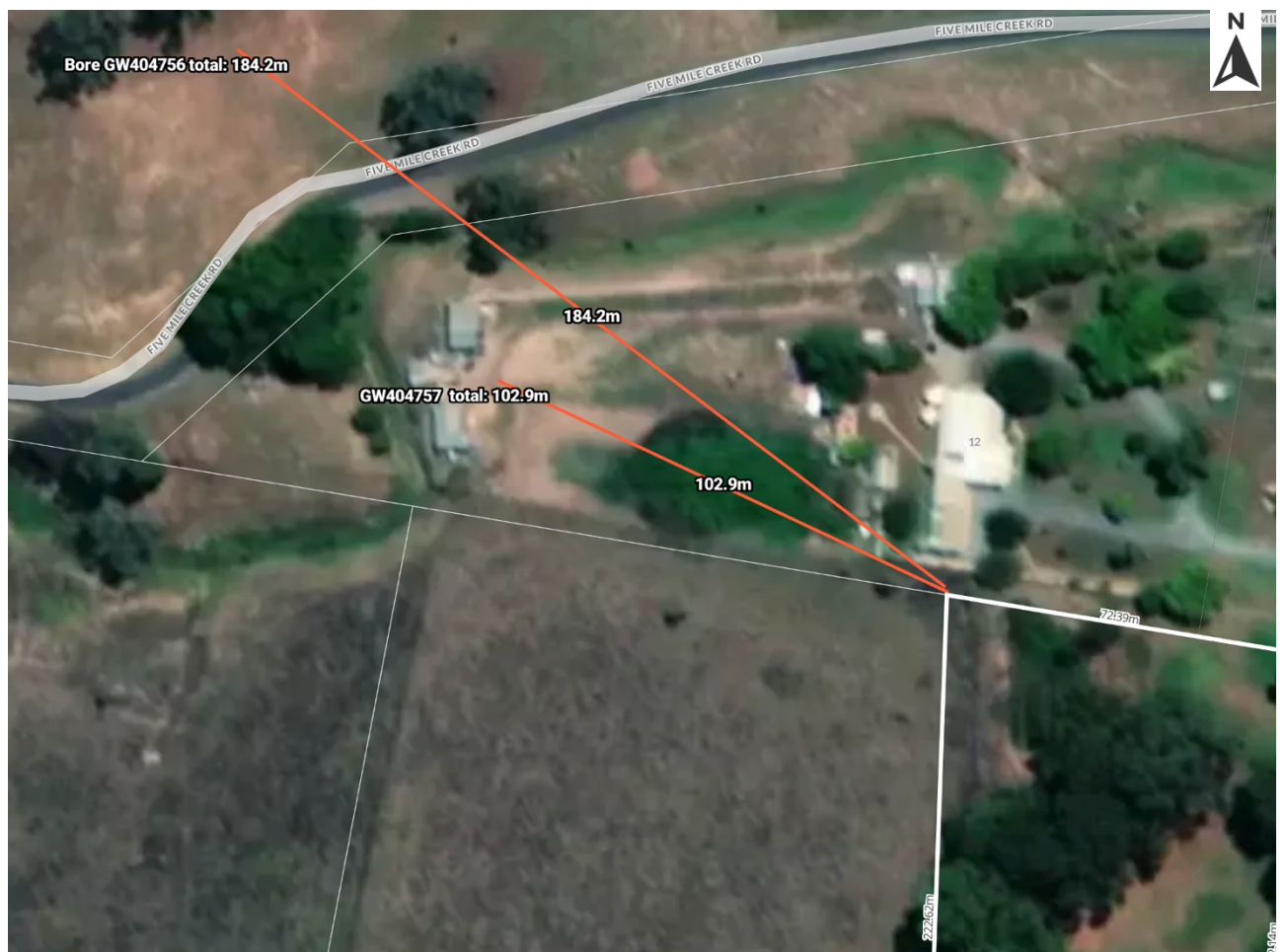


Figure 48: Distance between the northwestern corner of the site and the locations of the bores on the adjoining property to the north (Source: Landchecker)

MURRUMBIDGEE RIVER BASIN

All data times are Eastern Standard Time

Map



Figure 49: Locations of bores GW404756 and GW404757 on the adjoining property to the north (Source: Water NSW)

Odours

Council sought advice from Whitehead & Associates in respect of the potential for the proposed sewer system to produce odour impacts. The advice received from Whitehead & Associates is as follows:

An appropriately selected and sized wastewater treatment system should operate without adverse odour impact. In this case, appropriate consideration has been given to the non-domestic wastewater load generated by food premises. The ongoing satisfactory performance of the treatment system is dependent on regular (quarterly) servicing and maintenance. A condition of approval should be that a quarterly servicing and maintenance contract is required, with quarterly reporting of treatment system performance and effluent quality to Council. In addition, for all non-domestic premises, Council should require installation of a flow meter; with quarterly reporting of flow data to Council. This will enable Council to identify overloading, or any elements of unsatisfactory performance and seek that they be remedied promptly.

I understand that concerns over potential odours have been expressed by the owners of Lot 295 DP751421, 12 Five Mile Creek Road. This property appears to be >100m to the north of the proposed development. With this distance of separation, the likelihood of any odours dispersing is high. Review of prevailing wind direction data (www.weatherspark.com) indicates that the least common cardinal direction from which winds blow in the Gundagai region is from the south (i.e. towards the north), just ~5% of the time during a typical year, with winds blowing from between the south-west and south-east for just ~10% of the time.

Required elements of system selection and design (minimising odour generation) together with separation distance (>100m) and prevailing wind direction (<5-10% of the time) suggest that the risk of adverse odour impact at 12 Five Mile Creek Road is low.

As stated above, the potential for odour impact is low in respect of the adjoining property to the north. This conclusion is based on the proposed sewer system being 'appropriately selected and sized' and 'regular (quarterly) servicing and maintenance'. As discussed earlier in this section, the proposed system would be appropriately selected and sized (subject to conditions); and the proposed system would also be subject to draft conditions to ensure that an appropriate management schedule and practices are in place. It is considered that this would adequately address / mitigate odour impacts on the adjoining property and the future uses on the subject site.

Access, transport and traffic

Traffic

The originally submitted DA did not receive the support of TfNSW due to the level of 'anticipated' additional traffic generation expected to be caused by the DA and the impacts on the safety of the two at-grade intersections of Annie Pyers Drive and the Hume Highway. It is important to note that the level of additional traffic generation is 'anticipated' because the DA has not sought uses for the proposed buildings (and associated detailed information that would accompany such) – but erection of buildings only, with indicated intended future uses that would be subject to separate DAs.

In response to these concerns, the applicant amended the DA by deleting the proposed buildings from stage 3. The amended DA was referred back to TfNSW and the response was that no objections are raised to the amended DA. Comments from TfNSW included the following:

A review of information previously provided with respect to the proposed development demonstrated that the traffic generation associated with the initial two stages would have an acceptable impact on the intersections of Annie Pyers Drive and the Hume Highway. Any further development of the site may require traffic mitigation measures to be implemented at these intersections and would be subject to a separate application.

On the basis of the above, the proposed development is considered to be within the threshold of acceptable traffic impacts, and any additional development on the site would likely need to address the existing traffic issues at the two intersections of Annie Pyers Drive and the Hume Highway.

Access

The proposed access design and arrangement are considered to be generally acceptable. The Council's engineer has recommended conditions to be included with any approval to ensure that design issues are resolved to comply with the relevant requirements.

Car parking

The proposal seeks to provide for a total of 145 standard parking spaces and 16 coach and caravan parking spaces. It is noted that this quantum of parking was not reduced when the DA was amended by deleting the buildings from stage 3 and, therefore, is considered to be well in excess of what is required to service the proposed development.

The table below uses the RMS Guide to Traffic Generating Developments to calculate the car parking demand generated by the proposal (as amended).

Proposed Building No.	Future intended use	Proposed GFA	RMS rate ¹	Spaces required
1	Food and drink premises	316 sqm	12 spaces / 100 sqm GFA	37.92 (38)
2	Retail premises	278 sqm	4.58 spaces / 100 sqm GFA ²	12.73 (13)
3	Food and drink premises	300 sqm	12 spaces / 100 sqm GFA	36.0 (36)
Total				87

¹ Based on the rates specified in the RMS Guide to Traffic Generating Developments (2002)

² Taking into consideration the recommended ratio of 0.75:1 for GLA to GFA noted in The Guide.

The above table demonstrates that the future landuses in the proposed buildings will generate parking demand for 87 parking spaces. This is 58 parking spaces more than is required to service the proposed intended future uses in the buildings.

The car parking, as currently proposed, has been designed to remove all but two (2) trees on the Council Road reservation area – a total of 15 trees are proposed for removal. Given that the quantum of parking proposed is well beyond that needed to service the proposed development, it is considered that the parking area on Council's road reservation should be redesigned to provide less parking and retain more of the existing trees. The submitted Arborist report indicates that some of those trees are not in optimum health, but it is considered that some could be retained until they see out the remainder of their useful life at which point new trees can be planted to replace them. The basis of this consideration is that the existing trees on the Council's road reservation are considered to have a very significant contribution to the amenity and character of the site, and should be retained to the greatest extent possible. A draft condition of consent is recommended that requires the applicant to redesign the parking area on the Council Road reservation area to accommodate for less vehicles and more tree retention.

The Council's engineer has recommended draft conditions to be included with any approval to ensure that some design issues are resolved to comply with the relevant requirements.

The DA does not clearly identify where EV charging vehicle spaces are to be located. The 13 proposed EV parking area on the northern end of 37 Annie Pyers Drive are considered to be a logical location for these.

Similarly to standard vehicle parking, the proposed parking for coaches and caravans has not been reduced since the proposal was amended by deleting the building in stage 3. Nonetheless, it is considered that as this nominated parking does not involve any works that would cause adverse impacts, no change is considered necessary for this parking.

Vegetation

Of particular significance on the site are the number of mature trees. The trees on Council Road reservation are mostly being removed. A number of trees on 37 Annie Pyers Drive are also being removed to make way for the proposed buildings and new landscaping.

The trees in Council's road reservation are considered to be major benefit to the area. As discussed under car parking above, it is considered desirable to redesign the parking area to accommodate more existing trees and plant more trees to improve and maintain the amenity of the area.

There are some native trees on 37 Annie Pyers Drive that are nominated for removal unnecessarily – they were to make way for the buildings now deleted in stage 3. A draft condition is recommended to ensure their retention.

Heritage

The following Statement of Significance is available for the site on the State Heritage Inventory:

The Dog on the Tuckerbox Memorial is symbolic of Gundagai's pioneering past and the hardworking teamsters who camped at the Five Mile in the 19th century. The Dog entered into Australian folklore through an anonymous teamster's song published as 'Bullocky Bill' c.1880 and was further popularised by Jack Moses in his 1920 version. The sculpture was produced by Frank Rusconi for the 1932 Back to Gundagai Celebrations as a symbol of the district's pioneers and is evidence of the community's efforts to promote its history and culture. The memorial is a fine example of Rusconi's work and evidence of the skill of the talented monumental mason and sculptor. The item is held in high esteem by the people of Gundagai as well as the wider community as a symbol of the spirit of the district's pioneers, as well as of the hardworking teamsters who stopped at the Five Mile'.

The following Statement of Significance was extracted from the Heritage Inventory Sheet for the Limestone Inn Ruins:

The remains of the Limestone Inn or Australian Arms (sometimes known as the 'Five Mile' Inn due to its location) is able to demonstrate vernacular construction using local materials. It is significant for its association with a robbery committed in 1861 by John Malloy, alias Walsh or 'Jack in the boots'. It is possible that the remains of the inn and site can yield information about the operation of inns in the Gundagai Shire in the mid-19th century.

Whilst the Limestone Inn ruins remain in situ, the Dog on the Tuckerbox statue was shifted to its current position in 1950s. Therefore, its significance lies less in its current location and more in its physical form and association with the place generally.

Council's heritage consultant, Noel Thomson, has prepared advice on the proposed development and its potential impact on heritage significance. The advice is supportive of the proposal subject to conditions, which include:

- A photographic archival recording of the 'Limestone Inn ruins' site and the 'Dog on the Tuckerbox' be undertaken prior to issue of the Construction Certificate and before work commences on site and after completion of the works.
- Fully detailed drawings of the 'Dog on the Tuckerbox' + 'Wishing Well' and immediate surrounds to be submitted to Council and be to the approval of the heritage advisor prior to issue of the Construction Certificate.
- An archaeological assessment undertaken by a suitably qualified and experienced archaeologist to be prepared for the 'Limestone Inn ruins', with recommendations on management of the relic and be submitted to Council prior to issue of the Construction Certificate.

Noel Thomson also advises the following in relation to the Limestone Inn ruins:

Recommendation is for an archaeological assessment to be prepared for the 'Limestone Inn ruins' site, with this assessment not intended to provide comprehensive data but to identify appropriate management including the need for further investigation and assessment. The assessment would need to address:

- *the identification of historical themes*

- a review of available historical information
- some historical research – the significance of the relics
- a field survey / site inspection with preliminary conclusions
- what options have been considered to avoid disturbance to retain the relics
- an analysis of client needs and objectives / management recommendations
- management advice that is consistent with the significance of the archaeological relic/s.

If the archaeological assessment identifies that an archaeological excavation program is appropriate and no other option is viable, an archaeological research design and excavation methodology will also be needed. Excavation involves disturbance and excavation of relics and must therefore be carried out in accordance with a research design and an excavation permit issued by the Heritage Council of New South Wales.

These recommendations are considered appropriate and should be considered by Council for implementation, as it would be retaining ownership of that part of the site under the proposed subdivision. It is considered unreasonable to impose these requirements on the applicant given that there is a high level of uncertainty as to the archaeological assessment and its outcomes.

Site design and internal design

The proposed development is generally consistent with the adopted master plan for the site – refer **Figure 50** below, which provides an overlay of the proposed development onto the adopted masterplan.

It is considered that the general arrangement of the proposed development would have a positive contribution to the area and its intended uses.

Generally the design of the proposed buildings is considered to be acceptable. Buildings 1 and 2 are designed with the same architectural style, and Building 3 has a different, more traditional, architectural style. Given that Buildings 1 and 2 flank the central courtyard space – with Building 3 to the south – this variation in style is considered to be acceptable as they would interpret as different parts of the site. The materials and colours proposed are considered to be appropriate in the context.

No detailed information has been provided in relation to the proposed pergola structure. A draft condition of consent is recommended to require the applicant to submit detailed information in relation to its design, materials and colours.

Refer to consideration relating to car parking – it is recommended that changes be made to the parking area in Council's road reserve.

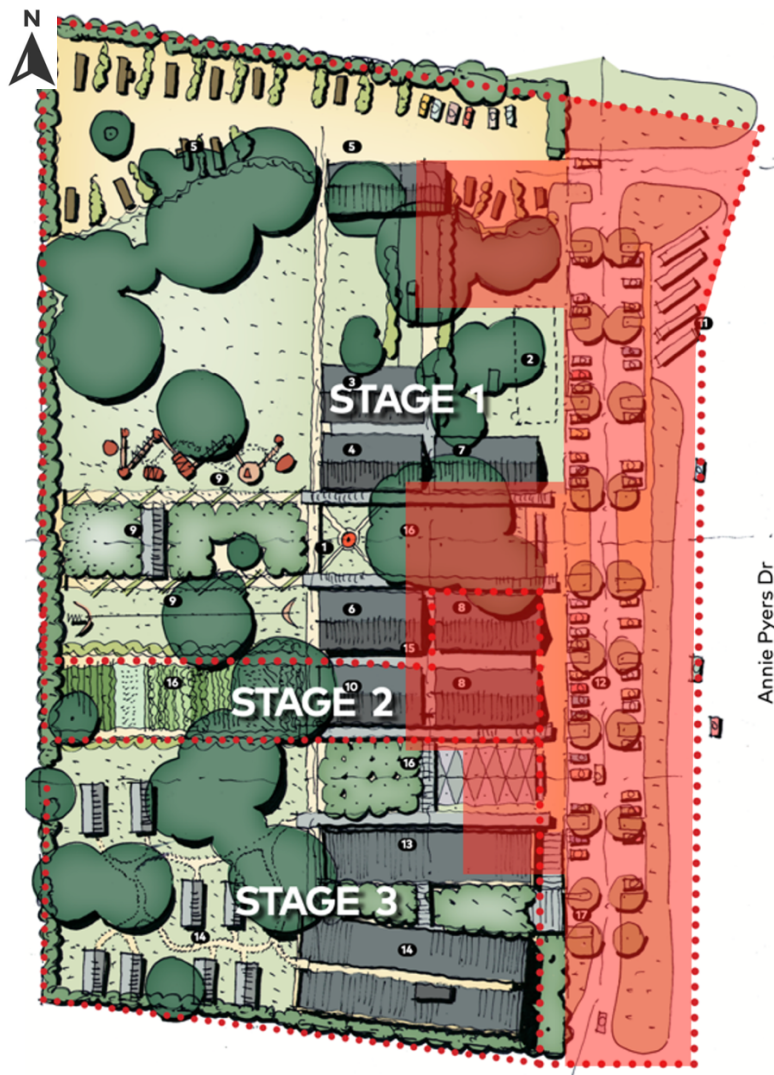


Figure 50: Adopted Masterplan showing overlay of proposed development area (shaded red)

Context and setting

The proposed development would be appropriate in its surroundings given the profile of the 5 Mile Precinct as a roadside tourist destination. The site is a well-established place with extensive history. The adjoining land uses are mixed but the proposal is generally compatible.

Public domain

A key component (car parking) of the proposed development requires the use of Council's road reservation. As discussed under consideration of car parking earlier in this report, consideration needs to be given to minimising impacts on the public domain and maintaining amenity. It is considered that the proposed parking is well above the requirement, and excessive - and potentially unnecessary - tree removal is proposed to accommodate for parking.

A draft condition of consent is recommended that requires the applicant to redesign the parking area on the Council Road reservation area to accommodate less vehicles and more tree retention. It is considered that this is necessary to retain the existing 'park like' public domain and aesthetic, and minimise unnecessary adverse impacts on this space.

Waste

The applicant has submitted no information relating to waste management, other than the identification of a waste storage area on the architectural drawings. The proposed waste storage area is located in the northern parking area, and has an area of 99 sqm. This area was added to the drawings prior to the deletion of the buildings in stage 3, and has not changed. In terms of area, it is relatively generous and it is likely that it would be able to adequately cater to a variety of bin sizes needed for the intended future uses on the site. In terms of accessibility to the proposed buildings, it is connected by a proposed pathway along the western side of the buildings – which is ideal to ensure that waste transfer is not in the main publicly active areas.

Future DAs for use of the proposed buildings would need to include waste generation information to ensure that the proposed waste storage area is able to accommodate waste needs for those future uses.

The Council's engineer has recommended conditions to be included with any approval to ensure that some design issues are resolved to comply with the relevant requirements.

A draft condition of consent is recommended to ensure that the waste storage area is appropriately screened and is managed to ensure cleanliness and control of odours.

Noise and vibration

The originally submitted DA was accompanied by an acoustic assessment, as the original DA included potentially noise generating land uses including a pub. For that original development, the report finds that the calculations and predictions from the acoustical modelling show that the level of noise emission from the potential operation of the overall development can readily satisfy the EPA's and Council's standard noise goals for commercial developments at all nearby receptor locations.

The amended DA – deleting buildings from stage 3 – has significantly reduced the scope of the development (including deleting the pub) and consequently would result in lesser noise impacts.

As the specifics of future land uses on the site is unknown, an assessment for noise impact cannot be undertaken with accuracy. Consideration of potential noise impacts would need to be undertaken as part of future separate DA for uses in the buildings.

Natural and technological hazards

Naturally occurring asbestos

The site is identified as having low risk of naturally occurring asbestos – refer **Figure 51** below. The presentation of naturally occurring asbestos, in possibly thin and/or sporadic veins, prevents preliminary geotechnical investigations from being a reliable measure of risk or likelihood that NOA may be encountered during works. As such, a condition shall be placed on any consent advising the proponent of the possible risk and the requirements applicable if asbestos is encountered during works. Further, a condition shall be applied to any consent detailing the requirements for management of any importation or exportation of any soil from the site during construction. The condition shall require classification of excavated material removed from the site in accordance with EPA's Waste Management Guidelines and provision of records to the principal certifier detailing volume of material removed and details and location of disposal.



Figure 51: Geological Units showing LOW asbestos potential on the site – white border (Source: ArcGIS Online)

Safety, security and crime prevention

The following provides consideration under the principles of crime prevention through environmental design (CPTED).

- Surveillance: The design has clear sightlines between public and private places, and it is considered that the centrally located main activity area would provide good casual surveillance.
- Access Control: The character of the area and the design proposed do not warrant the need for clear delineation between accessible and non-accessible areas. The proposed site would remain generally accessible, which is part of the appeal of the place. However, it is noted that the irrigated area for the waste water treatment would likely need to have restricted access. A draft condition of consent is recommended as part of the wastewater design.
- Territorial Reinforcement: The proposed subdivision – ensuring that Council retains ownership of the Dog on the Tuckerbox memorial and Limestone Inn ruins – would reinforce the sense of public ownership to the site.

- Space Management: Given the various intended uses and functions of the site, it would be desirable to require that a plan of management be prepared for the site. The intention of the plan would be to ensure that the site is maintained and cared for to a high standard for health, amenity and aesthetic reasons. This is considered to be a particular importance given that the site would be made up of private and community ownership. A draft condition is recommended with a consent.

Given the above, it is considered that the proposal would be acceptable in terms of any potential impacts in relation to safety, security and crime.

Economic and economic impact in the locality

The proposed redevelopment of the site would likely have substantial economic and social benefits, as the appeal of the place – linked to Dog on the Tuckerbox iconic poem / folklore - would be rejuvenated. Refer to detailed discussion under the 'public interest' section later in this report.

Construction matters

A construction management plan would need to be prepared to ensure that the proposed redevelopment of the site has minimal impact on adjoining properties and the public domain. Specifically, the plan would need to detail how car parking and access into, out of, and around the site would be managed during the construction period. It would also be desirable that the construction schedule minimises the period for which access to the Dog on the Tuckerbox statue is restricted. A condition of consent is recommended to address these - and other construction related - matters.

Cumulative impacts

The proposal is unlikely to result in any unacceptable cumulative impacts, unless a further proposal is sought to undertake further development on the site in accordance with the adopted masterplan. These matters would need to be considered separately should a future DA be submitted for additional or expanded development.

4.2.7 Section 4.15(1)(c): The suitability of the site for the development

The proposed development is permissible with consent and is consistent with the objectives of the zone. Given that the site has been neglected for several years and is in serious need of rejuvenation, redevelopment could be seen as necessary to restore the site's appeal and functionality. It is considered that the proposed development would result in the site being more attractive to visitors and ensuring its preservation for the future.

There are no constraints posed by adjacent developments that would prohibit the development, given the size of the property, the likely impacts and the setbacks proposed. It is considered that the air quality and microclimate are appropriate for the development, and there are no hazardous landuses or activities nearby, and ambient noise levels are suitable for the development.

The site attributes are conducive to the proposed development and, subject to appropriate conditions, there are no environmental constraints that would make the site unsuitable for the development.

4.2.8 Section 4.15(1)(d): Any submissions made

The DA was notified from 21/09/2023 to 23/10/2023). A total of 3 submissions were received during the notification period; and 1 late submission was received on 12 November 2023. These are considered below.

Issues raised	Consideration of Issues Raised
The location of the sewer system and its potential to cause impacts in relation to odour.	Council's consultant, Whitehead and Associates, has advised that an appropriately selected, sized and maintained wastewater treatment system should operate without adverse odour impact. Refer to section 4.2.6 of this report for consideration in relation to odours.
Concerns that the proposed sewer system will have an adverse impact on ground water quality (a bore is located on the adjoining property to the north).	Council's consultant, Whitehead and Associates, has advised that the bores (GW404756 and GW404757) located on the adjoining property to the north are both more than the most conservative distance (100m) required by the guidelines and Standard. Refer to section 4.2.6 of this report for consideration in relation to groundwater.
The local roads should be upgraded.	Council has recently been upgrading Annie Pyers Drive near its southern intersection with the Hume Highway. Any further required maintenance or upgrading works would be assessed as the need arises.
Concerns about car accidents at the intersection of Annie Pyers Drive and the Hume Highway.	TfNSW has been consulted throughout the DA process and was the key driver in the DA being amended by deleting the buildings in stage 3, resulting in TfNSW having no objections to the proposal in relation to traffic at the Hume Highway intersections. Refer to section 4.2.6 of this report for consideration in relation to TfNSW comments.
The wishing well helps with financial contribution to the local Gundagai District hospital. Concerns that the relocated statue will involve a smaller wishing well and result in reduced revenue.	The importance of the wishing well's role in contributing to the finances of the local hospital is important. A draft condition of consent is recommended to ensure that the wishing well is of at least the same size as the current wishing well. Refer to section 4.2.6 of this report for consideration in relation to heritage.
The Dog on the Tuckerbox Recreational Trail is a walking/cycling/horse riding trail connecting the township of Gundagai to the Dog on the Tuckerbox site. The proposed development does not show how the trail is to be incorporated into the development site.	The recreation trail is a valuable facility for residents and tourists. A draft condition of consent is recommended to ensure that the works on Council's road reserve are amended to clearly identify how the trail is to be Incorporated into the design. Refer to section 4.2.6 of this report for consideration in relation to site design.
The location and potential for the sewer system to adversely impact on the amenity of the Recreational Trail and the setting of the heritage item in terms of odours.	Council's consultant, Whitehead and Associates, has advised that an appropriately selected, sized and maintained wastewater treatment system should operate without adverse odour impact. Refer to section 4.2.6 of this report for consideration in relation to odours.

4.2.9 4.15(1)(e) - The public interest

The proposed development has a high-level of public interest in the following respects.

Preservation of Historical Significance

The Dog on the Tuckerbox is more than just a statue; it symbolises the pioneering spirit and resilience of early Australian settlers. It is considered that the proposed development preserves this iconic image and historical significance. The proposed memorial relocation has been well considered, ensuring that the new location maintains and enhances its prominence and accessibility. It is considered that the proposal ensures that the public's attachment to the original site is acknowledged and respected. The notification process for the DA has resulted in submissions that have been considered as part of this assessment.

Enhancing Visitor Experience

The introduction of buildings with proposed uses for food and drink premises and a shop would enhance the visitor experience, making the site more appealing and accessible to a broader audience. This could drive increased tourism, benefitting the local economy.

The proposed subdivision would ensure that the Dog on the Tuckerbox Memorial and Limestone Inn ruins are retained in Council ownership. This would enable opportunities for Council to explore opportunities such as interpretive displays that could add educational value to the site, providing visitors with deeper insights into the history and significance of the Dog on the Tuckerbox and the Gundagai region.

Balancing Development and Conservation

The design of new structures is considered to be sympathetic to the site's rural and historical character. The proposed architectural styles, materials, and landscaping would be compatible with the existing environment, ensuring that the development enhances rather than detracts from the area's charm.

The proposed development would have acceptable impact subject to imposition of appropriate conditions to ensure that environmental impacts are mitigated and managed.

Economic and Social Benefits

The proposed development would revitalise the site and has the ability to serve as a significant economic boost for Gundagai, attracting more visitors and creating jobs. The development would provide long-term economic benefits to the local community while preserving the site's historical folklore and value.

The proposal ensures that the site remains accessible and enjoyable for both locals and tourists. The proposal ensures that the key components of the site (Dog on the Tuckerbox Memorial and Limestone Inn ruins) are retained in public ownership.

Respecting Public Sentiment

The Dog on the Tuckerbox is a much-loved symbol. It is considered that the proposed development would not undermine the sentimental and historical value of the site. The proposal respects the legacy of the site while providing modern amenities that meet contemporary needs of tourists and travellers on the Hume highway.

4.3 Other Matters

4.3.1 Section 7.11 and 7.12 Contributions Policies

Section 7.12(2) of the EPA Act, states that “a consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 7.11”. Accordingly, Council can only require payment of either a 7.11 or 7.12 contributions.

Section 7.11 Contributions Plans

Gundagai Contribution Plans - Development Generating Heavy Vehicle Usage of Local Roads

This Plan was adopted by Council on 8 September 2015 and applies to the site. The Plan states as follows as to what type of development it applies to:

The contribution will offset the cost to Council of the accelerated deterioration of a local road caused by heavy vehicles associated with a particular development. Such developments include extractive industries and transport related industries, but can include any development that generates a high number of heavy vehicle movements on local roads.

The Plan is not applicable to the proposed development. Accordingly, no contributions are payable under this Plan.

Section 7.12 Contributions Plans

CGRC Section 7.12 Fixed Development Consent Levy Contributions Plan 2018

The Cootamundra-Gundagai Regional Council Section 7.12 Fixed Development Consent Levy Contributions Plan 2018, applies to the land and the development. The table below sets out the contribution payable.

Proposed Cost of the Development	Maximum Percentage of the Levy
Up to \$100,000	Nil
\$100,001-\$200,000	0.5 %
\$200,001 +	1 %

4.3.2 Section 64 water and sewer contributions policies

There are no water or sewer contribution plans that apply to the former Gundagai LEP.

4.3.3 Disclosure of political donations and gifts

The application and notification process did not result in any disclosure of Political Donations and Gifts.

5 Conclusion and Recommendation

5.1 Conclusion

The proposed redevelopment of the Dog on the Tuckerbox site is permissible with consent in the SP3 – Tourist zone and is consistent with the objectives of the zone. The proposal is compliant with the provisions of the applicable State Environmental Planning Policies, Gundagai Local Environmental Plan 2011 and the Gundagai Development Control Plan For The 5 Mile Precinct.

The proposal satisfies the relevant heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act, 1979.

The proposed development is considered to be compatible with the form of development in the area, and no appreciable adverse environmental impacts would occur as a result of approving the proposed development.

After consideration of all relevant matters, it is considered that there are no valid town planning impediments to the granting of consent for the development as proposed.

Accordingly, the DA is recommended for approval as set out below.

5.2 Recommendation

That the DA be approved with a 'deferred commencement', pursuant to Section 4.16(3) of the Act, subject to the recommended consent conditions contained in **Annexure C**.

5.2.1 Deferred commencement

A 'deferred commencement', pursuant to Section 4.16(3) of the Act, is recommended to ensure that outstanding matters relating to the following are appropriately addressed prior to the issue of an active consent:

- Contamination: To ensure that any potential contamination on the site is properly identified and assessed, and it is demonstrated that the site can be made safe and suitable for its intended use.
- Wastewater: To ensure that the proposed development is equipped with a wastewater system that meets all relevant standards and recommendations by Council's consultant, Whitehead & Associates.
- Potable Water: To ensure that a formal agreement is in place between Council and the developer to secure the delivery of a reliable potable water supply to the proposed development.

5.2.2 Active consent conditions

A number of conditions are recommended for inclusion with an active consent (refer **Annexure C**) to address the following specific issues that have been identified in the assessment of the proposal:

- Redesign of the proposed car parking area on Council's road reserve to provide for less parking and retain more of the existing trees. The redesign will also need to clearly identify how the Dog on the Tuckerbox Recreational Trail is to be incorporated into the design.

- Include conditions provided by Council's engineer to address compliance with the relevant standards in respect of car parking and vehicle manoeuvring.
- Identify the proposed location and number of EV charging car parking spaces.
- Retain existing gum trees (T15, 17 and 18) that are located within the footprint area of the now deleted buildings in stage 3.
- Include the conditions as recommended by Council's heritage consultant, Noel Thomson. Require that a detailed design be provided for the new wishing well associated with the Dog on the Tuckerbox statue to ensure that its size is at least equivalent to the size of the existing wishing well.
- Detailed design of the proposed pergola including proposed materials and colours.
- A construction and demolition management plan addressing all relevant matters including staging; how car parking and access into, out of, and around the site will be managed (including continued access along Annie Pyers Drive) during the construction period; and how the construction schedule will minimise the period for which access to the Dog on the Tuckerbox statue is restricted.
- Plan of management for the entire site addressing a range of relevant matters and including roles and responsibilities of the relevant stakeholders in the site (Council and the future private landowner).
- Detailed design of the proposed waste storage area to clearly show appropriate screening and identify initiatives for ensuring cleanliness and control of odours.
- Compliance conditions in relation to the ongoing operation of the wastewater system to ensure odour control is managed and enforceable.
- Flora and Fauna conditions as recommended in the Flora and Fauna Assessment, prepared by East Coast Ecology, dated 15 April 2024.
- The relevant conditions as recommended in the advice provided by Essential energy.
- Archaeology conditions as recommended in the Aboriginal Heritage Due Diligence Assessment, prepared by Access Archaeology, dated 21 May 2023.

Annexure A. Schedule of submitted documentation

Submitted Documentation: DA 2023/116

Document (Title)	Initial submission	First RFI Response	Second RFI Response	Delete Stage 3	Wastewater reply
<u>Acoustic Report</u> (Environmental Noise Assessment)	Prepared by Harwood Acoustics Dated 1 September 2023				
<u>Archaeology Report</u> (Aboriginal Heritage Due Diligence Assessment)	Prepared by Access Archaeology Dated 21 May 2023				
<u>Architectural Plans</u>	Prepared by SN Architects Dated 18 August 2023	Prepared by SN Architects Dated 11 December 2023	Prepared by SN Architects Dated 12 March 2024	Prepared by SN Architects Dated 1 July 2024	
<u>Bushfire assessment</u> (Bushfire Assessment Report)	Prepared by CAF Consulting Dated 20 August 2023	Prepared by CAF Consulting Dated 24 January 2024			
<u>Contamination report</u> (Preliminary Site Investigation)	Prepared by Environmental Consulting Services Dated 22 August 2023				
<u>Cost Estimate</u> (DA Design Estimate)	Prepared by WTP Australia Dated 30 August 2023	Prepared by WTP Australia Dated 30 August 2023	Prepared by WTP Australia Dated 14 April 2024		
<u>Cut and Fill Depths</u>		Prepared by Bereza Surveying Undated			
<u>Electricity Supply Information</u> (Design Information Pack)	Essential Energy Design Information Pack Dated 5 September 2023				
<u>Flora and Fauna Assessment / Biodiversity</u> (Flora and Fauna Assessment)	Prepared by East Coast Ecology Dated 21 August 2023	Prepared by East Coast Ecology Dated 25 January 2024	Prepared by East Coast Ecology Dated 15 April 2024		

Document (Title)	Initial submission	First RFI Response	Second RFI Response	Delete Stage 3	Wastewater reply
<u>Heritage Impact Statement</u> (Statement of Heritage Impact)	Prepared by Heritage 21 Dated 22 August 2023	Prepared by Heritage 21 Dated 25 January 2024			
<u>Landscape plans</u>	Prepared by Conzept Landscape Architects Dated 17 August 2023	Prepared by Conzept Landscape Architects Dated 24 January 2024	Prepared by Conzept Landscape Architects Dated 16 April 2024	Prepared by Conzept Landscape Architects Dated 27 June 2024	
<u>Site survey plan</u>	Prepared by C.M.S. Surveyors Dated 1 February 2010		Prepared by C.M.S. Surveyors Dated 22 March 2024		
<u>Statement of Environmental Effects</u>	Prepared by Ethos Urban Dated 31 August 2023	Prepared by Total Town Planning Services Dated 27 January 2024	Response to RFI - Total Town Planning Services Dated 15 April 2024		
<u>Stormwater Management</u> (Civil and Drainage Infrastructure Report)	Prepared by Spiire Australia Dated 21 August 2023	Prepared by Spiire Australia Dated 26 January 2024			
<u>Traffic Report</u> (Transport Assessment)	Prepared by JMT Consulting Dated 21 August 2023	Prepared by JMT Consulting Dated 23 January 2024	Prepared by JMT Consulting Dated 11 April 2024		
<u>Arborist report</u> (Tree Inventory)	Prepared by Mark D. McCrone Dated August 2023	Prepared by Mark D. McCrone Dated January 2024			
<u>Wastewater report</u> (Land Capability Assessment)	Prepared by DM McMahon Earth Science Dated 22 August 2023	Prepared by DM McMahon Earth Science Dated 26 January 2024	Prepared by DM McMahon Earth Science Dated 11 March 2024 Prepared by Suncoast Waste Water Management Dated 25 March 2024		Prepared by DM McMahon Earth Science Dated 25 July 2024 Prepared by Suncoast Waste Water Management Dated 26 July 2024
<u>Water Supply plans</u>	Prepared by Moloney & Sons Dated 4 September 2020		Prepared by Moloney & Sons Dated 12 March 2024		

Annexure B. EPI and DCP Assessment table

Contents

State Environmental Planning Policies

1

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

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State Environmental Planning Policies

Chapter / Part / Clause		Assessment	Compliance
STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021			
Chapter 2 Vegetation in non-rural areas			
Part 2.1 Preliminary			
2.1 Aims of Chapter			
2.2 Definitions			
2.3 Land to which Chapter applies			
1)	<p>This Chapter applies to the following areas of the State (the non-rural areas of the State)—</p> <p>a) land in the following local government areas—</p> <p>Bayside, City of Blacktown, Burwood, Camden, City of Campbelltown, Canterbury-Bankstown, Canada Bay, Cumberland, City of Fairfield, Georges River, City of Hawkesbury, Hornsby, Hunter's Hill, Georges River, Inner West, Ku-ring-gai, Lane Cove, City of Liverpool, Mosman, Newcastle, North Sydney, Northern Beaches, City of Parramatta, City of Penrith, City of Randwick, Rockdale, City of Ryde, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Waverley, City of Willoughby, Woollahra.</p> <p>b) land within the following zones under an environmental planning instrument—</p> <p>Zone RU5 Village, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone R5 Large Lot Residential, Zone B1 Neighbourhood Centre, Zone B2 Local Centre, Zone B3 Commercial Core, Zone B4 Mixed Use, Zone B5 Business Development, Zone B6 Enterprise Corridor, Zone B7 Business Park, Zone B8 Metropolitan Centre, Zone E1 Local Centre, Zone E2 Commercial Centre, Zone E3 Productivity Support, Zone E4 General Industrial, Zone E5 Heavy Industrial, Zone IN1 General Industrial, Zone IN2 Light Industrial, Zone IN3 Heavy Industrial, Zone IN4 Working Waterfront, Zone MU1 Mixed Use, Zone IN4 Working Waterfront, Zone SP1 Special Activities, Zone SP2 Infrastructure, Zone SP3 Tourist, Zone SP4 Enterprise, Zone SP5 Metropolitan Centre, Zone RE1 Public Recreation, Zone RE2 Private Recreation, Zone C2 Environmental Conservation, Zone C3 Environmental Management, Zone C4 Environmental Living, Zone W3 Working Waterways or Zone W4 Working Waterfront.</p>	<p>The Chapter is applicable to the subject site, as the land is within the SP3 Tourist zone.</p>	Yes

Chapter / Part / Clause		Assessment	Compliance
2)	This Chapter does not apply to national park estate and other conservation areas, or State forestry land, referred to in section 60A (b) and (c) of the Local Land Services Act 2013. However, this Chapter applies to land that is any such national park estate and other conservation area only because it is a declared area of outstanding biodiversity value under the Biodiversity Conservation Act 2016.	Not Applicable.	Not applicable
2.4 Relationship to other planning instruments			
2.5 Maps			
Part 2.2 Clearing vegetation in non-rural areas			
2.6 Clearing that requires permit or approval			
1)	A person must not clear vegetation in a non-rural area of the State to which Part 2.3 applies without the authority conferred by a permit granted by the council under that Part.	The DA seeks to remove trees for the proposed development.	Yes
2)	A person must not clear native vegetation in a non-rural area of the State that exceeds the biodiversity offsets scheme threshold without the authority conferred by an approval granted by the Native Vegetation Panel under Part 2.4.	The proposal does not involve clearing of native vegetation that exceeds the biodiversity offsets scheme threshold. Refer to section 4.1.1 of the DA Assessment Report for further discussion.	Yes
3)	Subsection (2) does not apply to clearing on biodiversity certified land under the Biodiversity Conservation Act 2016, Part 8.	Not applicable. The site is not on biodiversity certified land.	Not applicable
4)	Clearing of vegetation is not authorised under this section unless the conditions to which the authorisation is subject are complied with.	Noted.	Not applicable
5)	Subsection (4) extends to a condition that imposes an obligation on the person who clears the vegetation that must be complied with before or after the clearing is carried out.		
6)	For the purposes of the Act, section 4.3, clearing vegetation that requires a permit or approval under this Chapter is prohibited if the clearing is not carried out in accordance with the permit or approval.		
2.7 Clearing that does not require permit or approval			
2.8 Clearing permitted without development consent			

Chapter / Part / Clause		Assessment	Compliance
Part 2.3 Council permits for clearing of vegetation in non-rural areas			
2.9 Vegetation to which Part applies			
1)	This Part applies to vegetation in any non-rural area of the State that is declared by a development control plan to be vegetation to which this Part applies.	The Council does not have a DCP that declares vegetation applicable under this Part.	Not applicable
2)	A development control plan may make the declaration in any manner, including by reference to any of the following— a) the species of vegetation, b) the size of vegetation, c) the location of vegetation (including by reference to any vegetation in an area shown on a map or in any specified zone), d) the presence of vegetation in an ecological community or in the habitat of a threatened species.		
3)	This Part also applies to vegetation in a non-rural area of the State that, immediately before the commencement of this subsection, was— a) declared by a development control plan to be vegetation to which State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Part 3 applies, or b) prescribed by a development control plan under the standard instrument set out in the Standard Instrument (Local Environmental Plans) Order 2006, clause 5.9, as in force immediately before 25 August 2017.		
2.10 Council may issue permit for clearing of vegetation			
2.11 Miscellaneous provisions relating to permits			
2.12 Appeal to Land and Environment Court			

Chapter / Part / Clause		Assessment	Compliance
STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021			
Chapter 2 State and regional development			
Part 2.4 Regionally significant development			
2.19 Declaration of regionally significant development: section 4.5(b)			
1)	Development specified in Schedule 6 is declared to be regionally significant development for the purposes of the Act.	<p>Schedule 6 includes the following:</p> <p><u>3. Council related development over \$5 million</u></p> <p>Development that has an estimated development cost of more than \$5 million if—</p> <p>(a) a council for the area in which the development is to be carried out is the applicant for development consent, or</p> <p>(b) the council is the owner of any land on which the development is to be carried out, or</p> <p>(c) the development is to be carried out by the council, or</p> <p>(d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).</p> <p>The proposal is regionally significant pursuant to (b), in that:</p> <ul style="list-style-type: none"> Council is the current owner of the subject site; and The submitted cost estimate report nominates a Capital Investment Value of \$5,225,805 (excluding GST). 	Yes
2)	<p>However, the following development is not declared to be regionally significant development—</p> <p>a) complying development,</p> <p>b) development for which development consent is not required,</p> <p>c) development that is State significant development,</p> <p>d) development for which a person or body other than a council is the consent authority,</p> <p>e) development within the area of the City of Sydney.</p>	The proposed development is not any of the types described.	Not applicable

Chapter / Part / Clause		Assessment	Compliance
STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021			
Chapter 4 Remediation of land			
4.1 Object of this Chapter			
4.2 Notes			
4.3 Definitions			
4.4 Land to which this Chapter applies			
4.5 Maps			
4.6 Contamination and remediation to be considered in determining development application			
1)	A consent authority must not consent to the carrying out of any development on land unless— a) it has considered whether the land is contaminated, and b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The applicant is seeking to undertake the remediation works as 'Category 2 remediation work' (work not needing consent). The required remediation works, therefore, have not been included in the DA. The Applicant has submitted a preliminary site investigation with the DA, which states that the service station is considered to be a significant potential source of soil and groundwater contamination, but also concludes that the site can be made suitable for the proposed development.	Yes
2)	Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.		
3)	The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.	A Detailed Site Investigation and Remedial Action Plan will be required to be provided to Council prior to an active consent being issued. A 'notice of completion of remediation work' (in accordance with Clause 4.15 of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021) will be required to be provided to Council prior to building works commencing.	Yes

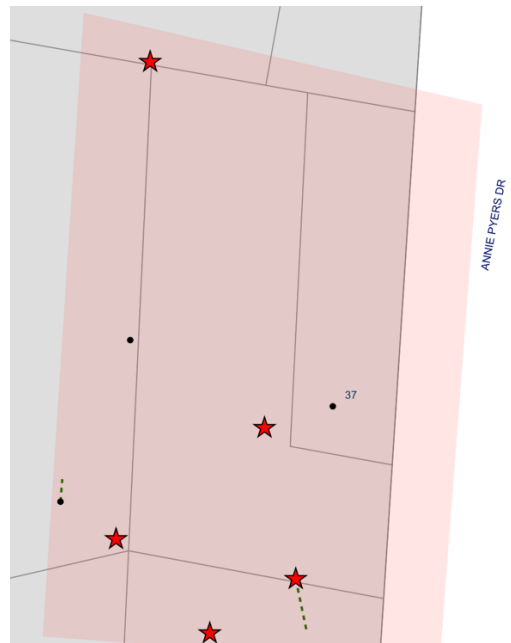
Chapter / Part / Clause		Assessment	Compliance
4)	<p>The land concerned is—</p> <p>a) land that is within an investigation area,</p> <p>b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</p> <p>c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—</p> <p>(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</p> <p>(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</p>	Noted.	Yes
4.7 Remediation work permissible			
1)	A person may carry out a remediation work in accordance with this Chapter, despite any provision to the contrary in an environmental planning instrument, except as provided by section 4.16(3).	The applicant is seeking to undertake the remediation works as 'Category 2 remediation work' (work not needing consent).	Yes
2)	A person must not carry out a category 1 remediation work except with the consent of the consent authority.		
3)	A person may carry out a category 2 remediation work without the consent of the consent authority.		
4)	A person who carries out a remediation work must ensure that section 4.13 (if it applies) and sections 4.14 and 4.15 are complied with in relation to the work.	Relevant conditions will be imposed with a consent.	Yes

Chapter / Part / Clause	Assessment	Compliance
4.8 Category 1 remediation work: work needing consent		
<p>For the purposes of this Chapter, a category 1 remediation work is a remediation work (not being a work to which section 4.11(b) applies) that is—</p> <ul style="list-style-type: none"> a) designated development, or b) carried out or to be carried out on land declared to be a critical habitat, or c) likely to have a significant effect on a critical habitat or a threatened species, population or ecological community, or d) development for which another State environmental planning policy or a regional environmental plan requires development consent, or e) carried out or to be carried out in an area or zone to which any classifications to the following effect apply under an environmental planning instrument— <ul style="list-style-type: none"> (i) coastal protection, (ii) conservation or heritage conservation, (iii) habitat area, habitat protection area, habitat or wildlife corridor, (iv) environment protection, (v) escarpment, escarpment protection or escarpment preservation, (vi) floodway, (vii) littoral rainforest, (viii) nature reserve, (ix) scenic area or scenic protection, (x) wetland, or f) carried out or to be carried out on any land in a manner that does not comply with a policy made under the contaminated land planning guidelines by the council for any local government area in which the land is situated (or if the land is within the unincorporated area, the Minister). 	<p>The DA:</p> <ul style="list-style-type: none"> a) Is not designated development; b) Is not land declared to be critical habitat; c) Is not likely to have a significant effect on a critical habitat or a threatened species, population or ecological community; d) Does not involve development that requires consent under another SEPP. e) In respect of the reference to ‘conservation or heritage conservation’ under (e), the applicant has stated the following in terms of justification that the remediation works do not fall under category 1. <i>In this instance the zone of the site is SP3 Tourist pursuant to Gundagai Local Environmental Plan 2011, accordingly the zone is not a conservation zone. Similarly, the site contains a heritage item but is not within a heritage conservation area. Throughout legislation heritage items and heritage conservation areas are treated differently due to heritage items being discreet entities with an assessment of significance attached (and therefore able to have each element identified and managed) whilst heritage conservation areas have contributory elements, an overall aesthetic appeal and a wider significance than that of an individual heritage item.</i> <i>Accordingly, the site contains an item of environmental heritage as listed in Schedule 5 of the Gundagai Local Environmental Plan whose remediation elements are able to be managed to not be negatively impacted by remediation works. The site is not within a conservation zone nor is it within a heritage conservation area as reference by clause 4.8 (e)(ii) of the Hazards SEPP 2021.</i> It is considered that this demonstrates that the heritage aspects of the site are not captured under this clause. f) The proposed remediation work will be conditioned to comply with the requirements. 	Yes

Chapter / Part / Clause	Assessment	Compliance
4.9 Consent authority in relation to remediation works		
4.10 Refusal of consent to category 1 remediation work		
4.11 Category 2 remediation work: work not needing consent		
<p>For the purposes of this Chapter, a category 2 remediation work is—</p> <p>a) a remediation work that is not a work of a kind described in section 4.8(a)–(f), or</p> <p>b) a remediation work (whether or not it is a work of a kind described in section 4.8(a)–(f)) that—</p> <p>(i) by the terms of a remediation order, is required to be commenced before the expiry of the usual period under the Contaminated Land Management Act 1997 for lodgment of an appeal against the order, or</p> <p>Note: The usual period for lodgment of an appeal is 21 days or a period prescribed instead by regulations made under the Contaminated Land Management Act 1997.</p> <p>(ii) may be carried out without consent under another State environmental planning policy or a regional environmental plan (as referred to in section 4.16(4)), or</p> <p>(iii) is carried out or to be carried out by or on behalf of the Director-General of the Department of Agriculture on land contaminated by the use of a cattle dip under a program implemented in accordance with the recommendations or advice of the Board of Tick Control under Part 2 of the Stock Diseases Act 1923, or</p> <p>(iv) is carried out or to be carried out under the Public Land Remediation Program administered by the Broken Hill Environmental Lead Centre.</p>	<p>The proposed remediation work is not remediation work that is not a work of a kind described in section 4.8(a)–(f).</p>	<p>Yes</p>
4.12 Remediation work that is ancillary to other development		
4.13 Prior notice of category 2 remediation work		
4.14 Guidelines and notices: all remediation work		
4.15 Notice of completion of remediation work		
4.16 Relationship to other environmental planning instruments		
4.17 Application of SEPP to certain development at Barangaroo subject to Part 3A approvals		
4.18 Clean-up notice remediation—special provision		

Chapter / Part / Clause	Assessment	Compliance
4.19 Perpetual care arrangements required for development at former zinc and lead smelter and fertiliser production site at Boolaroo, Lake Macquarie		

Provision	Assessment	Compliance
STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022		
Chapter 4 Miscellaneous		
4.1 Repeal		
4.2 Savings and transitional provisions		
1) This policy does not apply to the following— a) a development application submitted on the NSW planning portal but not finally determined before 1 October 2023, b) an application for a complying development certificate lodged on the NSW planning portal but not finally determined before 1 October 2023, c) a development application for BASIX development or BASIX optional development submitted on the NSW planning portal on or after 1 October 2023, if the BASIX certificate that accompanies the development application was issued before 1 October 2023, d) an application for a complying development certificate for BASIX development or BASIX optional development lodged on the NSW planning portal on or after 1 October 2023, if the BASIX certificate that accompanies the application was issued before 1 October 2023, e) an application for modification of a development consent under the Act, section 4.55 or 4.56 submitted on the NSW planning portal but not finally determined before 1 October 2023, f) an application for modification of a development consent under the Act, section 4.55 or 4.56 submitted on the NSW planning portal on or after 1 October 2023, if the development application for the development consent was submitted on the NSW planning portal before 1 October 2023.	The subject DA was lodged on 20 September 2023. Therefore the Policy does not apply pursuant to 1(a).	Not applicable
2) Section 2.1(1) does not, until the end of 30 September 2024, apply to relevant BASIX development if the contract to carry out works for the relevant BASIX development is entered into on or before 30 September 2023.		
3) Subsection (2) applies only to a contract in a form that complies with the Home Building Act 1989, Part 2 or 2A.		
4) On and from 1 October 2024, section 2.1(1) applies to relevant BASIX development, regardless of when the contract to carry out the works was entered into.		
5) In this section: <u>relevant BASIX development</u> means BASIX development involving the erection of a dwelling house or dual occupancy.		

Provision	Assessment	Compliance
STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021		
Chapter 2 Infrastructure		
Part 2.3 Development controls		
Division 5 Electricity transmission or distribution		
Subdivision 2 Development likely to affect an electricity transmission or distribution network		
2.48 Determination of development applications—other development		
<p>1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—</p> <ul style="list-style-type: none"> a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower, b) development carried out— <ul style="list-style-type: none"> (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or (ii) immediately adjacent to an electricity substation, or (iii) within 5m of an exposed overhead electricity power line, c) installation of a swimming pool any part of which is— <ul style="list-style-type: none"> (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool, d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned. 	<p>The site contains electricity infrastructure are shown below and is, therefore, subject to this clause.</p> 	Yes

Provision		Assessment	Compliance
2)	Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must— a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and b) take into consideration any response to the notice that is received within 21 days after the notice is given.	The DA was referred to Essential Energy. On 19 February 2024, Essential Energy provided advice with conditions.	Yes
3)	Subsection (2) does not apply to development specified in subsection (1)(b) if the development involves only one or more of the following— a) internal alternations to a building, b) a change of use of an existing building, c) a change to the hours of operation specified in the development consent, d) a subdivision that does not involve construction work.	Not applicable	Not applicable
Division 17 Roads and traffic			
Subdivision 2 Development in or adjacent to road corridors and road reservations			
	2.119 Development with frontage to classified road		
1)	The objectives of this section are— a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.	The subject site does not have frontage to a classified road.	Not applicable

Provision		Assessment	Compliance
	2.122 Traffic-generating development		
1)	This section applies to development specified in Column 1 of the Table to Schedule 3 that involves— (a) new premises of the relevant size or capacity, or (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.	The subject site is within close proximity to the intersection of Annie Pyers Drive and the Hume Highway, and the proposal includes development described in Column 3 of the Table to Schedule 3.	Yes
2)	In this section, relevant size or capacity means— (a) in relation to development on a site that has direct vehicular or pedestrian access to any road (except as provided by paragraph (b))—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.		
3)	A public authority, or a person acting on behalf of a public authority, must not carry out development to which this section applies that this Chapter provides may be carried out without consent unless the authority or person has— (a) given written notice of the intention to carry out the development to TfNSW in relation to the development, and (b) taken into consideration any response to the notice that is received from TfNSW within 21 days after the notice is given.	Not applicable.	Not applicable

Provision	Assessment	Compliance
<p>4) Before determining a development application for development to which this section applies, the consent authority must—</p> <p>(a) give written notice of the application to TfNSW within 7 days after the application is made, and</p> <p>(b) take into consideration—</p> <p>(i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and</p> <p>(ii) the accessibility of the site concerned, including—</p> <p>(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and</p> <p>(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and</p> <p>(iii) any potential traffic safety, road congestion or parking implications of the development.</p>	<p>The DA was referred to Transport for NSW (TfNSW) for comment several times through the DA process. On 11 July 2024, TfNSW advised that it has no objections to the proposed development.</p> <p>Refer to the DA Assessment Report for further discussion on these matters.</p>	Yes
<p>5) The consent authority must give TfNSW a copy of the determination of the application within 7 days after the determination is made.</p>		

Local Environmental Plans

Part / Clause		Assessment	Compliance
GUNDAGAI LOCAL ENVIRONMENTAL PLAN 2011			
Part 1 Preliminary			
<u>1.1 Name of Plan</u>			
<u>1.1AA Commencement</u>			
<u>1.2 Aims of Plan</u>			
1)	This Plan aims to make local environmental planning provisions for land in that part of the Cootamundra-Gundagai Regional local government area to which this Plan applies (in this Plan referred to as Gundagai) in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.	Noted.	Not Applicable
2)	<p>The particular aims of this Plan are as follows—</p> <p>(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,</p> <p>(a) to retain the distinctive character of Gundagai town in its riparian setting,</p> <p>(b) to protect Gundagai's crop and pasture lands and vineyards from adverse environmental impacts,</p> <p>(c) to protect environmentally sensitive land and important fauna and flora,</p> <p>(d) to protect, conserve and enhance Gundagai's rich indigenous and non-indigenous cultural heritage,</p> <p>(e) to encourage economic growth, employment creation and business opportunities in the rural, village and urban areas of Gundagai,</p> <p>(f) to maintain Sheridan Street as Gundagai town's primary area for business, civic and cultural uses and visitor services,</p> <p>(g) to encourage the renewal and consolidation of older residential areas close to the Gundagai town centre to provide appropriate housing that meets the needs of the community,</p> <p>(h) to ensure that all development in Gundagai is required to comply with the principles of ecologically sustainable development.</p>	<p>The proposal is considered to be consistent with the aims of the LEP, particularly:</p> <ul style="list-style-type: none"> The proposal will have no unacceptable impacts in relation to flora and fauna; The proposal provides an acceptable response in relation to the heritage aspects of this site; Proposal will encourage economic activity and improve the profile of the 5 Mile Precinct. 	Yes

Part / Clause		Assessment	Compliance
1.3 Land to which Plan applies			
1.4 Definitions			
1.5 Notes			
1.6 Consent authority			
	The consent authority for the purposes of this Plan is (subject to the Act) the Council.	Pursuant to Section 4.5 of the Act, the consent authority is the Southern Regional Planning Panel. Refer to section 4.1.3 of the DA Assessment Report.	Yes
1.7 Maps			
1.8 Repeal of planning instruments applying to land			
1.8A Savings provision relating to development applications			
1.9 Application of SEPPs			
1.9A Suspension of covenants, agreements and instruments			
Part 2 Permitted or prohibited development			
2.1 Land use zones			
2.2 Zoning of land to which Plan applies			
2.3 Zone objectives and Land Use Table			
2.4 Unzoned land			
2.5 Additional permitted uses for particular land			
2.6 Subdivision—consent requirements			
1)	Land to which this Plan applies may be subdivided, but only with development consent.	The submitted DA seeks consent to subdivide the land.	Yes
2)	Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.	Not applicable.	Not applicable

Part / Clause	Assessment	Compliance
2.7 Demolition requires development consent		
The demolition of a building or work may be carried out only with development consent.	The submitted DA seeks consent to undertake demolition works.	Yes
2.8 Temporary use of land		
2.9 Canal estate development prohibited		
Part 3 Exempt and complying development		
3.1 Exempt development		
3.2 Complying development		
3.3 Environmentally sensitive areas excluded		
Part 4 Principal development standards		
4.1 Minimum subdivision lot size		
4.1AA Minimum subdivision lot size for community title schemes		
4.2 Rural subdivision		
4.2A Erection of dwelling houses on land in certain rural and residential zones		
4.2B No strata subdivision in certain rural zones		
4.3 Height of buildings (not adopted)		
4.4 Floor space ratio (not adopted)		
4.5 Calculation of floor space ratio and site area (not adopted)		
4.6 Exceptions to development standards		
Part 5 Miscellaneous provisions		
5.1 Relevant acquisition authority		
5.2 Classification and reclassification of public land		

Part / Clause	Assessment	Compliance
<u>5.3 Development near zone boundaries</u>		
<u>5.4 Controls relating to miscellaneous permissible uses</u>		
<u>5.5 Controls relating to secondary dwellings on land in a rural zone (not adopted)</u>		
<u>5.6 Architectural roof features (not adopted)</u>		
<u>5.7 Development below mean high water mark (not adopted)</u>		
<u>5.8 Conversion of fire alarms</u>		
<u>5.9 Dwelling house or secondary dwelling affected by natural disaster (not adopted)</u>		
<u>5.9AA (Repealed)</u>		
<u>5.10 Heritage conservation</u>		
1) <u>Objectives</u> The objectives of this clause are as follows— (a) to conserve the environmental heritage of Gundagai, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	The proposal is considered to be consistent with the objectives of the clause, particularly: <ul style="list-style-type: none"> The proposed works to the dog on the Tuckerbox Memorial are considered to have acceptable impacts; The proposal will ensure that the dog on the Tuckerbox memorial and the Limestone Inn ruins are retained in Council ownership for future management and conservation; The proposal will have no impacts in relation to archaeological sites or aboriginal heritage. 	Yes

Part / Clause	Assessment	Compliance
<p>2) <u>Requirement for consent</u></p> <p>Development consent is required for any of the following—</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—</p> <p>(i) a heritage item,</p> <p>(ii) an Aboriginal object,</p> <p>(iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</p> <p>(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,</p> <p>(d) disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(e) erecting a building on land—</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,</p> <p>(f) subdividing land—</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.</p>	<p>Schedule 5 of the LEP identifies the following heritage item on the site:</p> <p><u>Item No:</u> I3</p> <p><u>Item name:</u> Dog on the Tuckerbox Memorial (Dog on the Tuckerbox Memorial and Limestone Inn Ruins)</p> <p><u>Item address:</u> 37 Annie Pyers Drive</p> <p><u>Property description:</u> Lot 2, DP 160191</p> <p><u>Significance:</u> Local</p> <p>The submitted DA seeks consent to relocate the Dog on the Tuckerbox Memorial and subdivide the land. Accordingly, these activities require consent pursuant to subclauses (a), (b), (e) and (f).</p>	Yes

Part / Clause	Assessment	Compliance
<p>3) <u>When consent not required</u></p> <p>However, development consent under this clause is not required if—</p> <p>(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—</p> <p>(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and</p> <p>(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or</p> <p>(b) the development is in a cemetery or burial ground and the proposed development—</p> <p>(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and</p> <p>(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or</p> <p>(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or</p> <p>(d) the development is exempt development.</p>	<p>Not applicable.</p>	<p>Not applicable</p>
<p>4) <u>Effect of proposed development on heritage significance</u></p> <p>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p>	<p>It is considered that the proposal will have acceptable impacts in relation to the heritage significance of the Dog on the Tuckerbox Memorial and Limestone Inn Ruins. The existing location of the Dog on the Tuckerbox statue is not significant, and so its new proposed location will not adversely affect its significance. No works are proposed to the Limestone Inn Ruins, and the proposed development will not adversely affect their heritage interpretation. Refer to section 4.2.6 of the DA Assessment Report for detailed discussion.</p>	<p>Yes</p>

Part / Clause	Assessment	Compliance
<p>5) <u>Heritage assessment</u></p> <p>The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>A Statement of Heritage Impact was submitted with the DA.</p>	<p>Yes</p>
<p>6) <u>Heritage conservation management plans</u></p> <p>The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.</p>	<p>The proposed development includes subdivision of the land to create 3 new allotments, two of which are to be retained in Council ownership. Those two proposed lots contain the proposed relocated Dog on the Tuckerbox sculpture and wishing well, and the Limestone Inn ruins. The Applicant has not submitted any ongoing conservation management initiatives for these two spaces. It is considered that given Council is to be the owner of these spaces, it is in the best position to prepare any conservation management initiatives for these spaces, to meet its own needs, at a later date.</p>	<p>Yes</p>

Part / Clause	Assessment	Compliance
<p>7) <u>Archaeological sites</u></p> <p>The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies)—</p> <p>(a) notify the Heritage Council of its intention to grant consent, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p>	<p>The LEP defines archaeological site as:</p> <p><i>a place that contains one or more relics.</i></p> <p>An Aboriginal Heritage Due Diligence Assessment was submitted with the DA. The assessment confirms the location of an isolated Aboriginal artefact (DTB4. It is an isolated quartz artefact on the northern boundary of the study area at the base of a stand of Poplar trees.</p> <p>The proposed car parking area is located in the vicinity of DTB4, but not in its 'place'.</p> <p>The assessment recommends that the project may proceed subject to conditions. It includes a specific requirement for installation of isolated site fencing with a minimum 5 metre distance from DTB4, and that works crews must be advised of its existence and the importance of not breaching the visible barrier. The assessment also concludes that an Aboriginal heritage impact permit (AHIP) is not required.</p>	Yes
<p>8) <u>Aboriginal places of heritage significance</u></p> <p>The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—</p> <p>(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and</p> <p>(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.</p>	<p>The LEP defines aboriginal place of heritage significance as:</p> <p><i>an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the Heritage Map, that is—</i></p> <p><i>(a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or</i></p> <p><i>(b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.</i></p> <p>CGRC Council does not have an adopted Aboriginal heritage study.</p>	Not applicable

Part / Clause		Assessment	Compliance
9)	<u>Demolition of nominated State heritage items</u> The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item— (a) notify the Heritage Council about the application, and (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.	Not applicable. Dog on the Tuckerbox Memorial is a locally listed item only.	Not applicable
10)	<u>Conservation incentives</u> The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that— (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.	Not applicable.	Not applicable
<u>5.11 Bush fire hazard reduction</u>			
<u>5.12 Infrastructure development and use of existing buildings of the Crown</u>			
<u>5.13 Eco-tourist facilities (not adopted)</u>			
<u>5.14 Siding Spring Observatory—maintaining dark sky (not adopted)</u>			
<u>5.15 Defence communications facility (not adopted)</u>			

Part / Clause		Assessment	Compliance
<u>5.16 Subdivision of, or dwellings on, land in certain rural, residential or conservation zones</u>			
<u>5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations (not adopted)</u>			
<u>5.18 Intensive livestock agriculture</u>			
<u>5.19 Pond-based, tank-based and oyster aquaculture</u>			
<u>5.20 Standards that cannot be used to refuse consent—playing and performing music</u>			
5.21 Flood planning			
1)	The objectives of this clause are as follows— (a) to minimise the flood risk to life and property associated with the use of land, (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change, (c) to avoid adverse or cumulative impacts on flood behaviour and the environment, (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.	The site is not located in a flood planning area.	Not applicable
2)	Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development— (a) is compatible with the flood function and behaviour on the land, and (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and (d) incorporates appropriate measures to manage risk to life in the event of a flood, and (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.		
<u>5.22 Special flood considerations (not adopted)</u>			
<u>5.23 Public bushland (not adopted)</u>			

Part / Clause		Assessment	Compliance
<u>5.24 Farm stay accommodation (not adopted)</u>			
<u>5.25 Farm gate premises (not adopted)</u>			
Part 6 Additional local provisions			
<u>6.1 Biodiversity protection</u>			
<u>6.2 Land protection</u>			
<u>6.3 Water protection</u>			
1)	The objective of this clause is to maintain the hydrological functions of riparian land, waterways and aquifers, including protecting the following— (a) water quality, (b) natural water flows, (c) the stability of the bed and banks of waterways, (d) groundwater systems.	The proposal is considered to satisfy the objectives of this clause, in that it will have no unacceptable impact in relation to water quality or groundwater systems.	Yes
2)	This clause applies to land identified as “sensitive land” on the Natural Resources Sensitivity Water Map.	The site is mapped as “Sensitive Land” on the Natural Resources Sensitivity Water Map.	Yes
3)	Before determining a development application for development on land to which this clause applies, the consent authority must consider any adverse impact from the proposed development on the following— (a) the water quality of receiving waters, (b) the natural flow regime, (c) the natural flow paths of waterways, (d) the stability of the bed, shore and banks of waterways, (e) the flows, capacity and quality of groundwater systems.	The nearest watercourse is Five Mile Creek, which is located some 94 metres to the north of the site. Accordingly, the proposed development will not have any impact on that waterway in terms of natural flow regime, natural flow path, or stability of the river bed and shore. The submitted concept stormwater drainage shows collection of water via pits with a dispersal point at the creek. To address stormwater quality, the submitted stormwater documentation shows that stormwater quality products (gross pollutant traps and pit filters) are to be installed to maintain the quality of the waterway. Notification of the DA has resulted in a submission that raised concern with regards to a potential impact on groundwater from the proposed sewer system. Refer consideration under subclause (4) below.	Yes

Part / Clause		Assessment	Compliance
4)	Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that— (a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.	Notification of the DA has resulted in a submission that raised concern with regards to a potential impact on groundwater from the proposed sewer system. It is considered that the proposed waste water system is unlikely to have any appreciable impact on the water quality obtained from those bores. Refer further to section 4.2.6 of the DA Assessment Report.	Yes
6.4 (Repealed)			
6.5 Earthworks			
1)	The objectives of this clause are as follows— (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, (b) to allow earthworks of a minor nature without requiring separate development consent.	The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	Yes
2)	Development consent is required for earthworks unless— (a) the work is exempt development under this Plan or another applicable environmental planning instrument, or (b) the work is ancillary to other development for which development consent has been given.	The proposed earthworks are ancillary to the proposed development.	Yes

Part / Clause	Assessment	Compliance
<p>3) Before granting development consent for earthworks, the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</p> <p>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</p>	<p>The LEP defines earthworks as <i>excavation or filling</i>. In relation to earthworks associated with the proposal:</p> <ul style="list-style-type: none"> • It is unlikely that any detrimental effect will result on drainage patterns or soil stability; • Will not affect future uses or redevelopment of the land; • Is unlikely to produce excavation material that will need to be exported from the site; • No adverse impact will result on the amenity of adjoining properties; • The proposal will not have any adverse impact in relation to relics; • The site is not located in a drinking water catchment. <p>Refer to Clause 4.6 for assessment of Water Protection.</p>	<p>Yes</p>

Part / Clause	Assessment	Compliance
6.6 Essential services		
<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required—</p> <ul style="list-style-type: none"> (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable road access. 	<p><u>Water</u></p> <p>The Applicant is relying exclusively on the delivery of potable water by Council via its proposed new trunk water main that it intended to extend from Gundagai township to the site. A condition of consent will be recommended to ensure the infrastructure delivery and timing is confirmed. Refer further to section 4.2.6 of the DA Assessment Report.</p> <p><u>Electricity</u></p> <p>The DA is submitted with information that demonstrates that adequate electricity capacity is available.</p> <p><u>Sewage</u></p> <p>The DA proposes an Aerated Wastewater Treatment Systems (AWTS) with land application via drip or low-pressure spray irrigation. The proposed system has been based on an estimated volume of wastewater produced from the proposed development of 6,382 litres per day. The proposed system has been reviewed by Whitehead & Associates, who were engaged by Council to review the proposed system for adequacy and impact. Whitehead & Associates concludes that the site is capable of accommodating the AWTS and required disposal area. A condition of consent will be recommended to ensure the detailed design of the system is to the satisfaction of Council. Refer further to section 4.2.6 of the DA Assessment Report.</p> <p><u>Stormwater</u></p> <p>The submitted stormwater drainage concept plan shows that stormwater will be collected over the catchments and directed to pits and discharged – via new pipework in Council's road reservation – to the existing drainage line at Five Mile Creek.</p> <p><u>Road Access</u></p> <p>The site is serviced by Annie Pyers Drive.</p> <p>On the basis of the above, it is considered that the essential services are available (or are capable of being made available) when required.</p>	Yes

Development Control Plans

Section / Clause	Assessment	Compliance
GUNDAGAI DEVELOPMENT CONTROL PLAN FOR THE 5 MILE PRECINCT (INCLUDING THE DOG-ON-THE-TUCKERBOX SITE)		
1. Introduction; name of plan		
<p>The Dog-on-the-Tuckerbox site in the locality known as the "Five Mile" is Gundagai Shire's 'flag-ship' site, famous nationally and internationally. It acts as the northern gateway to Gundagai town and has long been a well-known rest point for travellers on the Hume Highway which links Sydney and Melbourne.</p> <p>In recognition of its cultural and tourist significance and its landmark role on the Hume, the Shire Council has prepared the present document. It may be cited as the "Gundagai Shire Development Control Plan for the 5-Mile Precinct".</p> <p>It is a DCP pursuant to s72 of the Environmental Planning and Assessment Act 1979 and the provisions of the Environmental Planning and Assessment Regulation 1980,</p>	Noted.	Not applicable
2. Commencement		
This Plan comes into force on 13 March 2007.	Noted.	Not applicable
3. Aims and objectives		
<p>The general aim of this Plan is to provide land owners and developers with guidelines to assist them in preparing plans for future development and activities at the site; and to provide the Council with a set of criteria to assist in the assessment of development applications.</p> <p>The particular aim of the Plan is to ensure that future development at the site:</p> <ul style="list-style-type: none"> • is of a high design standard commensurate with the site's prominent position on a national highway; • is designed having regard to the site's heritage and tourism significance; • is consistent with the Council's adopted planning strategy and Local Environmental Plan in the course of preparation. 	The proposal is considered to satisfy the aims, in that the design of the proposal is of a good standard and the development will reinforce the heritage significance of the site.	Yes

Section / Clause		Assessment	Compliance
4. Land to which the plan applies			
	The Plan applies to all the land within the area marked as the Five Mile Precinct on Figure 2. Figure 1 shows the precinct in relation to Gundagai town. Figure 3 shows existing development at the Five Mile. Figure 4 is an aerial view of the locality.	The Plan applies to the site.	Yes
5. Relationship to other local plans			
	Until the gazettal of the Gundagai Shire Local Environmental Plan (in course of preparation) this DCP will stand as the sole local planning instrument governing development at the Five Mile site. State government policies and controls will apply to the extent that they are relevant in particular circumstances.	Noted.	Not applicable
6. Requirements applying to applications for subdivision and development			
Site analysis			
	<p>A site analysis comprises a drawing or drawings, with explanatory notes, whose purpose is to identify the salient characteristics of the site in question in order to assist the design process. A careful site analysis will ensure that landscaping, drainage, building design and orientation, access and other design issues are dealt with in an informed way.</p> <p>As a minimum, Council requires the site analysis to provide the following:</p> <ul style="list-style-type: none"> a) A plan of the site as existing, to a scale of 1 :200, giving site dimensions, area, northpoint, existing development including buildings, roadworks, drainage and services; existing landscaping (trees over 5m in height and /or 4m in canopy spread); contours at 1m intervals and/or spot levels; location of any heritage and archaeological items; extent and location of any environmentally sensitive areas; general location of buildings and key structures on adjoining sites. b) A concise written statement explaining the content of the site plan, together with a description of the visual character and overall landscape context and including discussion of the relationship of the site to the Hume Highway. 	The submitted architectural drawing set includes a site analysis that contains the required information.	Yes

Section / Clause	Assessment	Compliance
Statement of environmental effects		
<p>Under s79c of the Environmental Planning and Assessment Act 1979, all development applications must demonstrate that environmental considerations have been addressed in their preparation. Council requires evidence of this effort by way of a Statement of Environmental Effects, professionally prepared and presented.</p> <p>The SEE must make reference to all relevant environmental issues and impacts likely to be associated with the proposed development. and provide evidence as to measures to be taken to minimise likely adverse impacts. Such issues and matters should include:</p> <ul style="list-style-type: none"> • an explanation as to how the design meets the objectives of this DCP; • a statement of heritage impact in the event that a heritage item exists on the site or an adjacent site; a statement providing expert evidence that any plant or landscape species chosen for the development are suited to the site and local climate; proposed mitigation measures for dealing with negative environmental impacts. <p>With regard to solar access principles and energy efficiency, the Council encourages applicants to take such matters into account in preparing their proposals; and the Council will assess such information in its consideration of those proposals.</p>	<p>The submitted Statement of Environmental Effects – and accompanying DA documentation - contains the required information.</p>	<p>Yes</p>
Plans		
<p>As a minimum, the following plans are required:</p> <ol style="list-style-type: none"> Location plan - scale 1: 1000 Survey of site showing existing development, services, etc - scale 1:200 Site plan showing proposed development and landscaping- scale 1:200. If the proposal involves the removal of any existing mature trees they must be identified on the plans. Architectural and engineering plans, elevations and sections - scale 1: 100 One or more perspective images - birds' eye view, plus ground level view from the frontage road. <p>Depending on the complexity and scale of the proposal, Council may require a stormwater management plan, a thermal assessment, shadow diagrams, traffic report, and expert heritage assessment. Applicants should seek Council's advice as to these and other requirements prior to lodging an application.</p>	<p>The submitted architectural drawing set contains the required information. The DA was also accompanied by stormwater management plan, traffic report, and expert heritage assessment, as required.</p>	<p>Yes</p>

Section / Clause	Assessment	Compliance
7. Matters to be considered by the Council in assessing development applications		
<u>Environmental and heritage context</u>		
<p>The Dog on Tuckerbox site is listed on the NSW State Heritage Inventory (SHI No. 1680082) and will be scheduled in the Council's Local Environmental Plan in course of preparation. The heritage significance (if any) of the wider precinct has yet to be identified. However, the entire precinct is well known both nationally and internationally, and its close relationship to the town and Shire is a long standing one.</p> <p>A brief report from a recognized heritage consultant may be required to confirm that any proposed development is consistent with this DCP and will not degrade or destroy items of heritage significance.</p> <p>Applications for development within the precinct should demonstrate a capacity to enhance its heritage associations, its value as a tourism attraction, and its landscape setting in this prominent Hume Highway location.</p>	<p>A Statement of Heritage Impact was submitted with the DA. The Statement contains an assessment of the significance of the dog on the Tuckerbox Memorial and Limestone Inn Ruins, and undertakes an assessment of the impact of the proposal on the significance of those items. The Statement concludes that the proposal would result in a 'neutral' impact.</p> <p>The DA was reviewed by Council's heritage consultant, Noel Thomson, who has deemed the proposal acceptable in respect of heritage impacts.</p> <p>Refer to section 4.2.6 of the DA Assessment Report for further discussion.</p>	Yes
<u>Land use; consistency with Council planning strategies</u>		
<p>Council seeks to encourage developments which can create local employment, contribute to income from tourism, and which in land use terms are consistent with Council's adopted planning strategy and LEP (in course of preparation).</p> <p>Council will not support proposals for development in the following categories:</p> <ul style="list-style-type: none"> • Industrial • hazardous industry • above-ground liquid fuel storage • vehicle maintenance and repair workshops • waste storage and management • uses which in the opinion of the Council are likely to generate unacceptable environmental impacts. 	<p>The proposal does not involve any of the described development types.</p>	Yes

Section / Clause	Assessment	Compliance
<u>Access and parking arrangements</u>		
At the concept stage and before lodging their proposals, applicants are encouraged to consult with the Roads and Traffic Authority regarding access to and egress from the site. Council may rely on advice from the RTA regarding engineering design requirements and appropriate standards for on-site parking provisions. RTA approval will be sought for developments which are considered to be traffic generators; and RTA advice will be taken into account by the Council when considering such applications.	<p>The DA was referred to Transport for NSW (TfNSW) for comment several times through the DA process. On 11 July 2024, TfNSW advised that it has no objections to the proposed development.</p> <p>The extent of car parking provided is considered to be in excess of what is needed to service the proposed development. This is because when the Applicant amended the proposal by deleting buildings, the car parking design was not changed. By way of condition, the car parking design can be modified to better reflect the car parking demands of the proposed development.</p> <p>Refer to the DA Assessment Report for further discussion on these matters.</p>	Yes
<u>Architectural and landscape design quality</u>		
Because of the historic, environmental and tourist attractions of the Five Mile Precinct, and its location on Australia's busiest national highway, Council expects the highest possible quality in architecture and landscape design. No mature tree is to be removed without the permission of Council.	<p>It is considered that the proposed buildings display good architectural design. The proposed landscape design responds to the arrangement of buildings and provides a central 'avenue' that provides a well-designed setting for the relocated Dog on the Tuckerbox memorial.</p> <p>Refer to section 4.2.6 of the DA Assessment Report for further discussion.</p>	Yes
<u>Water</u>		
Proposals must comply with Council's current standards and requirements regarding supply and storage of potable water, treatment of stormwater and waste water, treatment of sewage, and access to groundwater (if any). Council will require an assessment (by a recognized waste water engineer or other expert approved by Council) of any building envelope or nominated effluent disposal area to determine the capability of the site to absorb septic effluent.	<p>The proposed development is relying on the delivery of potable water by Council's proposed trunk supply.</p> <p>The submitted stormwater drainage concept is considered adequate to avoid any adverse impact.</p> <p>The DA proposes an Aerated Wastewater Treatment Systems (AWTS) with land application via drip or low-pressure spray irrigation. The proposed system has been based on an estimated volume of wastewater produced from the proposed development of 6,382 litres per day. The proposed system has been reviewed by Whitehead & Associates, who were engaged by Council to review the proposed system for adequacy and impact. Whitehead & Associates concludes that the site is capable of accommodating the AWTS and required disposal area.</p> <p>Refer to section 4.2.6 of the DA Assessment Report for further discussion.</p>	Yes

Section / Clause		Assessment	Compliance
<u>Utility services</u>			
	Applicants must satisfy themselves that the proposed development can be connected to local utility lines and that capacity is adequate. All costs associated with augmentation arising from additional demand generated by the proposed development must be borne by the applicant. Council encourages proposals which involve the use of solar power as an alternative energy source.	The DA is submitted with information that demonstrates that adequate electricity capacity is available. Refer to section 4.2.6 of the DA Assessment Report for further discussion.	Yes
<u>Flora; fauna; noxious weeds</u>			
	Intending developers must consider the likely impact of their project on existing flora and fauna on the site and in the general area. Compliance with the Threatened Species Conservation Act 1995 is a requirement. Depending on the site characteristics and the nature of the proposal, Council may require a preliminary flora and fauna assessment by a suitably qualified expert to determine the likely impact of the development. Council must be consulted prior to the commencement of any works to ensure that adequate measures are in place to control noxious weeds.	The Flora and Fauna Assessment submitted with the DA adequately demonstrates that the proposal will have an acceptable impact in relation to flora and fauna. Refer to section 4.2.6 of the DA Assessment Report for further discussion.	Yes
<u>Waste management</u>			
	Adequate provisions must be made for on-site storage and management of all solid and liquid waste generated by the proposed development. Developers will be required to demonstrate that disposal options are in place prior to final completion of all development works.	The extent of operational waste is not known at this stage, as the DA does not include uses for the proposed buildings. The submitted architectural drawings show a waste storage area located at the car parking area on 37 Annie Pyers Drive, which is considered to be adequately sized to accommodate for future uses. Refer to section 4.2.6 of the DA Assessment Report for further discussion.	Yes
<u>Signage</u>			
	Council recognizes the importance of signage as a means of attracting tourist visitation. Applicants are required to consult with Council prior to lodgement of a development application to determine the most appropriate location(s) and format for outdoor signage and advertising, both on and off the site. RTA consent will be required for the latter.	The applicant has not proposed any signage in the DA.	Not applicable

Section / Clause	Assessment	Compliance
<u>Relationship to neighbouring properties and Hume Highway</u>		
The site is exposed to heavy traffic levels and is prominent in the approach views from the north and south, and from nearby properties. Thousands of vehicles and their occupants pass by each day. Council seeks to encourage designs which will recognize these relationships and enhance the overall visual attractiveness of the precinct.	The proposal is considered to be acceptable in respect of its relationship with neighbouring properties. Refer to section 4.2.6 of the DA Assessment Report for consideration of submissions.	Yes
<u>Contaminated land</u>		
Before design commences, applicants are to satisfy themselves as to the extent of site contamination (if any) and consult with Council regarding any necessary remediation works. Such remediation is to be carried out to the satisfaction of Council and the Department of Environment and Conservation prior to development commencing on site.	A Detailed Site Investigation and Remedial Action Plan will be required to be provided to Council prior to an active consent being issued. A 'notice of completion of remediation work' (in accordance with Clause 4.15 of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021) will be required to be provided to Council prior to building works commencing.	Yes
<u>Subdivision</u>		
Proposals for subdivision will be considered on their merits having regard to the extent to which they are consistent with the objectives of this DCP.	The proposed subdivision has been designed to enable Council to retain the Dog on the Tuckerbox memorial and the Limestone Inn ruins. The subdivision design is considered to be appropriate.	Yes
<u>Existing development</u>		
In the case of proposals which involve the use of existing structures and facilities or additions and alterations to such structures and facilities, the Council seeks to discourage development or uses which have the potential to degrade or adversely affect the visual environment and general setting of the site.	The proposal does not seek to retain any existing structures. The Dog on the Tuckerbox memorial is to be relocated.	Yes
8. Pre-lodgement consultation		
In order to assist applicants at the final design stage, Council strongly recommends that a prelodgement meeting be arranged. At that meeting, the applicant will be required to show in sketch form the general planning and design intentions for the site, and to demonstrate that the requirements of this DCP are fully understood and can be met at the final design stage.	A pre-DA meeting was held on 1 February 2023.	Yes

Section / Clause		Assessment	Compliance
9. Contributions			
	Council may require a developer to make a contribution to the cost of upgrading public facilities, pursuant to Council's levy arrangements pursuant to Section 94A of the EPA Act..	Contributions are payable under The Cootamundra-Gundagai Regional Council Section 7.12 Fixed Development Consent Levy Contributions Plan 2018.	Yes
10. Advertised development			
	Council retains the right to notify, by way of public advertisement in the local press, the owners of adjoining properties, government agencies and the general public - such notification to include a brief description of the proposed development and an invitation to make a submission thereon. Such submissions will be taken into account by Council in its assessment of the proposal.	The DA was publicly notified from 21/09/2023 to 23/10/2023.	Yes

Annexure C. Conditions of consent