



SECTION 4.55 MODIFICATION ASSESSMENT REPORT

Broken Hill City Library Refurbishment

252-256 Argent Street and 243-259 Blende Street, Broken Hill

DA MOD 6/2020 (PAN-265207)



EXECUTIVE SUMMARY

The application was publicly exhibited from 10 October 2022 and 27 October 2022.

As a result of the exhibition, nil submissions were received.

DA MOD 6/2020 has been examined having regard to the matters for consideration in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and is considered to:

- Comply with the relevant State Environmental Planning Policies;
- Comply with the Broken Hill Local Environmental Plan 2013;
- Comply with the Broken Hill Development Control Plan 2016;
- Have minimal impact on the natural and built environment;
- Have minimal and positive social or economic impact;
- Be a suitable development for the site; and
- Not be prejudicial to the public interest.

It is recommended that DA MOD 6/2020 be approved subject to conditions.

SUBJECT SITE AND LOCALITY

The site is located at 252-256 Argent Street and 243-259 Blende Street, Broken Hill. The subject site comprises four (4) allotments and is identified in the Locality Map below:



- **252 Argent Street** – The current Broken Hill Police Station comprising two main office buildings and a carpark. The demountable Police buildings are located behind the station and at the rear of the Police residence.



- **243 Blende Street** - The Police Residence is located on this site with other outbuildings and structures located towards the rear of the block.



- **256 Argent Street** -This site contains the existing Town Hall Façade



- **245-259 Blende Street** - The Charles Rasp Memorial Library and existing carpark is located on this allotment.



PROPOSED DEVELOPMENT

The proposed development involves modifications to the approved Development DA6/2022 for the Community Facility (Cultural Precinct, Library and Archive) determined by the Western Regional Planning Panel on the 2 April 2020.

The original Development Application was categorised as “Regionally significant development” under the former *State Environmental Planning Policy (State and Regional Development) 2011* because Broken Hill City Council was the applicant/proponent/owner of the development, and the capital investment value was more than \$5 million.

The proposed architectural modifications involve minor internal and external alterations to the approved built form which have arisen due to refinement of the detailed design as the project moves closer towards commencement of work.

A detailed schedule of the proposed modifications by Plan and Plan Reference Number is included in **Table 1** of this report. In essence, the main modifications include:

- Retention of the rear of the existing Police Station Building which was previously proposed to be demolished.
- The Town Hall addition and lift is deleted from the proposal. The existing steps are proposed to be demolished and a new walkway and accessible ramp is proposed to provide access to the ground floor of the Town Hall Building.
- Deletion of area identified as Archive Storage Room and replacement with Plant Room open to the sky.
- Area reduced in the Main Collection Library. Angled portion of façade made perpendicular to the main western façade.
- Change Children’s Library and Courtyard. Deletion of Ground Floor Staff Room.
- Paving and shading structure behind the Town Hall deleted from project. New asphalt to ramp up from existing to front of the southern Library façade.
- Deletion of car parking space in front of the mural (shown on original plans as a “Loading space” for the library).
- Alteration of the location of windows and deletion of the bin store. Changes to window design, new steel hood to window on the Northern Elevation.
- New window to relocated Wilyakali Room.
- Deletion of Plant Space above Archive Storage Room and door opening on the Eastern Elevation.
- New window opening in existing window on the Eastern Elevation.
- New window to existing archive stairwell on Western Elevation.
- Reduction in roof skylights from 6 to 3.

In addition to the architectural modifications, the applicant is seeking modifications to the following Conditions of Consent for DA6/2022 as part of this application:

- a) A **New Condition of Consent** : The submitted Landscape Plan seeks to modify the planned landscaping works affiliated with the Charles Rasp Memorial Building, Town Hall and Car Parking Layout based on current funding available. The modification includes a request for a new condition to defer the consideration of landscaping for the remainder of the 3 allotments at a later stage.
- b) Deletion of **Condition 33** which requires site consolidation. The justification provided is that development consent is not required for site consolidation, and this will occur after the construction of Stage 3.
- c) Deletion of **Condition 18** which requires the payment of Section 7.12 Developer Contributions. The justification provided is that the proposed development is a “Community Facility” and for the benefit of all citizens of Broken Hill. Consequently, as Council’s library is new community infrastructure Condition 18 should not apply.
- d) Deletion of **Condition 24** which requires any suspected contaminated soil to be tested and submitted to Broken Hill Council for determination as to whether any further investigation or remediation is required. The justification provided is that the proposal has been assessed against the provisions of *State Environmental Planning Policy (Resilience and Hazards) 2021* as part of the Section 4.55(2) amendment and is supported by the Asbestos Register Report by Carter Corporation Pty Ltd and by the *Geotechnical Site Investigation report* prepared by Civiltest Pty Ltd.
- e) **Modifications to the location of signage** – Signage Location Plans and Signage Design Plans were initially submitted with the modification application with no clear references in the Statement of Environmental Effects or Heritage Impact Statement as to what modifications were being proposed (after further enquiry it was confirmed that there were no proposed changes to the location or the design content of the approved signage. The only change proposed was the stage of construction in which the signs would be installed. As the applicant was not seeking consent for a Staged Consent, the timing for installation of signage is a matter for the appointed Principal Certifying Authority and the applicant, and outside the scope of this assessment).

The applicant has advised that they propose to stage the construction process in three stages to expedite the building of the library and archive (Refer to **Table 1**). The three stages also correspond to funding availability in accordance with Council’s adopted Contribution Plans.

As the original development consent was not granted to include staging, the modified stamped plans must relate to all four (4) allotments, irrespective of the intended Stages of Construction.

Whilst the intended Stages of Construction remain a matter between the applicant and the appointed Accredited Certifier and Principal Certifying Authority, it is detailed for information below:

Table 1. Construction Stages for the Community Facility (Cultural Precinct, Library and Archive)

Stage	To be Constructed
Stage 1	Partial demolition of the existing Charles Rasp Memorial Library Building fronting Blende Street
	Construction of the new Broken Hill Cultural Precinct, Library and Archive Development on 249 Argent Street.
Stage 2	Demolition of the demountable Police buildings on 252 Argent Street and 243 Blende Street and construction of the car park with access from Blende Street to the north of the police cottage.

Stage 3	Removal of all the fences between the properties and the landscaping of the whole site.
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PROPOSED MODIFICATIONS SCHEDULE

A detailed schedule of the proposed modifications *by Plan* are numbered and described in the **Table 2** below:

Table 2. Detailed Schedule of Proposed Architectural Modifications

Demolition Plan	
ID	Description of proposed modification
011	The Town Hall addition and lift is deleted from the proposal. The existing steps are proposed to be demolished and a new walkway and accessible ramp is proposed to provide access to the ground floor of the Town Hall Building
012	Retain the rear of the existing Police Station Building (previously proposed to be demolished).
Site Plan	
ID	Description of proposed modification
011	Deletion of area identified as Archive Storage Room and replacement with Plant Room open to the sky
012	Area reduced in the Main Collection Library. Angled portion of façade made perpendicular to the main western facade
013	Change Children's Library and Courtyard. Deletion of Ground Floor Staff Room.
014	Southern façade of library building shifts 6m towards Blende Street. New wall needed to separate Library Forecourt from Telstra Site.
015	Paving and shading structure deleted from project. New asphalt to ramp up from existing to front of the southern Library façade.
016	The Town Hall addition and lift is deleted from the proposal. The existing steps are proposed to be demolished and a new walkway and accessible ramp is proposed to provide access to the ground floor of the Town Hall Building
017	Retain the rear of the existing Police Station Building (previously proposed to be demolished).
018	Deletion of car parking space in front of the mural (shown on original plans as a "Loading space" for the library)
Proposed Ground Floor Plan	
ID	Description of proposed modification
011	Alteration of the location of windows and deletion of the bin store. Changes to window design, new steel hood to window.
012	Deletion of area as Archive Storage Room and replacement with Plant Room open to the sky.
013	New window to relocated Wilyakali Room.
014	Area reduced in the Main Collection Library. Angled portion of façade made perpendicular to the main western façade.
015	Change Children's Library and Courtyard. Deletion of Ground Floor Staff Room.
016	Southern façade of library building shifts 6m towards Blende Street. New wall needed to separate Library Forecourt from Telstra Site.
017	Paving and shading structure deleted from project. New asphalt to ramp up from existing to front of the southern Library façade.
018	The Town Hall addition and lift is deleted from the proposal. The existing steps are proposed to be demolished and a new walkway and accessible ramp is proposed to provide access to the ground floor of the Town Hall Building
019	Retain the rear of the existing Police Station Building (previously proposed to be demolished).

	demolished).
0110	Deletion of car parking space in front of the mural (shown on original plans as a "Loading space" for the library)
Proposed First Floor Plan	
ID	Description of proposed modification
011	Area reduced in the Main Collection Library. Angled portion of façade made perpendicular to the main western facade
012	Change Children's Library and Courtyard. Deletion of Ground Floor Staff Room.
Proposed First Floor Plan (Continued)	
ID	Description of proposed modification
013	Southern façade of library building shifts 6m towards Blende Street. New wall needed to separate Library Forecourt from Telstra Site.
ID	Description of proposed modification
014	The Town Hall addition and lift is deleted from the proposal. The existing steps are proposed to be demolished and a new walkway and accessible ramp is proposed to provide access to the ground floor of the Town Hall Building
015	Deletion of Plant Space above Archive Storage Room and door opening
016	New window opening in existing window
017	New window to existing archive stairwell.
Proposed Elevations	
ID	Description of proposed modification
	<i>North Elevation - Blende Street (Charles Rasp Memorial Library)</i>
019	Billboard artwork deleted from project. Wall still available for future artwork.
011	Alteration of the location of windows and deletion of the bin store. Changes to window design, new steel hood to window.
016	Deletion of car parking space in front of the mural (shown on original plans as a "Loading space" for the library)
	<i>West Elevation</i>
018	New window to existing archive stairwell
016	Deletion of car parking space in front of the mural (shown on original plans as a "Loading space" for the library)
012	Area reduced in the Main Collection Library. Angled portion of façade made perpendicular to the main western facade
013	Southern façade of library building shifts 6m towards Blende Street. New wall needed to separate Library Forecourt from Telstra Site.
014	Paving and shading structure deleted from project. New asphalt to ramp up from existing to front of the southern Library façade.
015	The Town Hall addition and lift is deleted from the proposal. The existing steps are proposed to be demolished and a new walkway and accessible ramp is proposed to provide access to the ground floor of the Town Hall Building.
	<i>South Elevation – Library & Argent Street</i>
013	Southern façade of library building shifts 6m towards Blende Street. New wall needed to separate Library Forecourt from Telstra Site.
	<i>North Elevation – Rear of Town Hall</i>
015	The Town Hall addition and lift is deleted from the proposal. The existing steps are proposed to be demolished and a new walkway and accessible ramp is proposed to provide access to the ground floor of the Town Hall Building.
	<i>Section – Library Garden</i>
011	Deletion of area as Archive Storage Room and replacement with Plant Room open to the sky
012	Area reduced in the Main Collection Library. Angled portion of façade made perpendicular to the main western facade
	<i>East Elevation - Library</i>
016	The Town Hall addition and lift is deleted from the proposal. The existing steps are

	proposed to be demolished and a new walkway and accessible ramp is proposed to provide access to the ground floor of the Town Hall Building.
015	Paving and shading structure deleted from project. New asphalt to ramp up from existing to front of the southern Library façade.
014	Southern façade of library building shifts 6m towards Blende Street. New wall needed to separate Library Forecourt from Telstra Site.
013	Change Children's Library and Courtyard. Deletion of Ground Floor Staff Room.
011	Deletion of area as Archive Storage Room and replacement with Plant Room open to the sky.
<i>East Elevation - Carpark</i>	
017	Retain the rear of the existing Police Station Building (previously proposed to be demolished).
<i>Long Site Section</i>	
018	New window to existing archive stairwell.
017	Deletion of car parking space in front of the mural (shown on original plans as a "Loading space" for the library)
<i>Long Site Section</i>	
Proposed Elevations (Continued)	
ID	Description of proposed modification
012	Area reduced in the Main Collection Library. Angled portion of façade made perpendicular to the main western facade
019	Reduction in roof skylights from 6 to 3
014	Southern façade of library building shifts 6m towards Blende Street. New wall needed to separate Library Forecourt from Telstra Site.
015	Paving and shading structure deleted from project. New asphalt to ramp up from existing to front of the southern Library façade.
016	The Town Hall addition and lift is deleted from the proposal. The existing steps are proposed to be demolished and a new walkway and accessible ramp is proposed to provide access to the ground floor of the Town Hall Building.
<i>Long Section through Children's Courtyard</i>	
016	The Town Hall addition and lift is deleted from the proposal. The existing steps are proposed to be demolished and a new walkway and accessible ramp is proposed to provide access to the ground floor of the Town Hall Building.
015	Paving and shading structure deleted from project. New asphalt to ramp up from existing to front of the southern Library façade.
012	Area reduced in the Main Collection Library. Angled portion of façade made perpendicular to the main western facade
013	Change Children's Library and Courtyard. Deletion of Ground Floor Staff Room.
011	Alteration of the location of windows and deletion of the bin store. Changes to window design, new steel hood to window.

SECTION 4.55(2) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Pursuant to Section 4.55 of the *Environmental Planning and Assessment Act 1979*, the following matters are of relevance to the consideration of this Modification to approved DA6/2022:

(2) Other modifications A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

The proposed development as modified is substantially the same development as the development for which consent was originally granted.

The proposed modifications seek to refine the architectural design and amend conditions of consent regarding the post consent obligations.

The “essence” of the original development remains. That is a “Community Facility” and the Cultural Precinct, Library and Archive are retained in the modified proposal, albeit slightly smaller in building footprint.

The essential form approved in the original consent remains in terms of height, building orientation, design and character as is the respectful relationship to the multiple heritage items on this site. Therefore, in quantitative and qualitative terms, the proposal is substantially the same as the original approval.

- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and***

Other than the referral to the Western Regional Planning Panel for determination, there is no other concurrence required from the Minister, public authority or approval body required for this application.

- (c) it has notified the application in accordance with—***

- (i) the regulations, if the regulations so require, or
(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

Council's submission period commenced on Monday 10 October 2022 and concluded Thursday 27 October 2022. Letters were sent to adjoining neighbouring property owners in accordance with Council's notification requirements.

A Development Notice was also placed on site.

An advertisement containing details of the proposed modification were advertised in the *Barrier Truth* (Local Newspaper) on two occasions.

- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.***

No submissions were received.

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.***

A Section 4.15 assessment of the matters of consideration under the Environmental Planning and Assessment Act 1979 are provided in the following section of this report.

- (4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.**

According to Council's records, this modification is the first and only modification lodged with Broken Hill City Council to date.

SECTION 4.15 (1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Pursuant to Section 4.15 (1) of the *Environmental Planning and Assessment Act 1979*, the following matters are of relevance to the consideration of this Development Application.

(a) The provisions of:

(i) Environmental Planning Instruments

State Environmental Planning Policies

The following SEPPs are relevant to the assessment of the proposed development.

- **State Environmental Planning Policy (Planning Systems) 2021** - The proposed "Community Facility" meets the criterion for regionally significant development under Schedule 6 of the SEPP (formally Part 4 of State Environmental Planning Policy (State and Regional Development) 2011 which was repealed on the 1 March 2022) because Council is the proponent of the development, and the capital investment value is over \$5 million.

The application has been referred to the Western Regional Planning Panel for determination in accordance with the requirements of the SEPP. There are no additional matters for consideration generated by the proposed modification under the SEPP.

- **State Environmental Planning Policy (Resilience and Hazards) 2021** - Chapter 4 requires the consent authority to consider whether the land is contaminated and whether it is suitable in its contaminated state or requires remediation to be made suitable for the intended use (formally Clause 7 of State Environmental Planning Policy – Remediation of Land which has been repealed).

As part of the assessment of the original application, the site was deemed suitable for its intended use subject to the imposition of Condition 24 which required testing of subsoil material found on the site that is suspected of contamination from chemicals, asbestos, lead or the like during the demolition and construction phase. Condition 24 reads:

24. During demolition and construction, any subsoil material uncovered that is suspected of contamination from chemicals, asbestos, lead or the like shall be tested generally in accordance with the EPA Contaminated Sites Sampling Design Guidelines and the OEH Guidelines for Consultants Reporting on Contaminated Sites. The results of testing shall be submitted to Broken Hill City Council for determination of any further investigation and/or remediation action. Any remediation action must be carried out prior to the issue of an Occupation Certificate and supported by a Validation Report.

The proposed modification seeks to delete this condition. The justification provided in the Statement of Environmental Effects prepared by *Mersonn Pty Ltd* (August 2022) states:

"It is also proposed to delete Condition 24 given that consideration has been afforded under SEPP (Resilience and Hazards) 2021 under the s4.55(2) amendment application and is

supported by the Asbestos Register Report by Carter Corporation Pty Ltd and by the Geotechnical Site Investigation report prepared by Civiltest Pty Ltd”.

The applicant was afforded an opportunity to provide some additional information in relation to this matter and the following response was provided (Mersonn Pty Ltd):

“We provided the Geotechnical report which tested the soil and only found gravelly sand and clay fill which in turn lies over extremely weathered rock. In addition, we have attached Asbestos Register for the library”.

The request to delete this condition is not supported because the Asbestos Register Report by Carter Corporation Pty Ltd, dated 23 May 2017 was the report that recommended the additional testing prior to demolition and construction phases of the development which formed the basis for Condition 24.

Further, the Geotechnical Report undertaken in 2011 was undertaken for the purpose of investigating soil geology for the purpose of future footings and other structural requirements, not for the investigation of potentially contaminated soils.

In the absence of any lodged Preliminary Site Investigation Report, Detailed Site Investigation Report or updated Asbestos Report as part of this modification application, there is inadequate justification to support the deletion of the condition as part of this application. The jurisdictional test of the SEPP is not satisfied in the absence of this condition.

- **State Environmental Planning Policy (Transport and Infrastructure) 2021**

Section 2.47 Development likely to affect an electricity transmission or distribution network

There are no aspects of the proposed modification which would impact on electricity supply services under this section.

Section 2.122 Traffic generating development

The original development and the proposed modification is not Traffic generating development.

- **State Environmental Planning Policy (Industry and Employment) 2021**

Chapter 3 Advertising and Signage

No changes are proposed to the location, or the design content of signage approved in the original application. As the building footprint of the library has been reduced and the configuration of the carpark amended as part of this modification, a condition has been imposed requiring the stamped and approved *Signage Location Plan* and *Signage Designs prepared by MAAT* to be updated prior to the issue of the Construction Certificate to reflect the approved architectural changes.

Local Environmental Planning Policies

(ii) Draft Environmental Planning Instruments

There are no draft LEPs or draft SEPPs, that apply to the subject development.

(iii) Development Control Plans

- **Broken Hill Local Environmental Plan 2013**

The proposed development is best defined as a “Community Facility” which is defined as:

“Community facility means a building or place—

- (a) owned or controlled by a public authority or non-profit community organisation, and*
- (b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation”.*

The proposed modifications do not alter the definition of the end use and/or its permissibility in the *Zone B2 Local Centre Zone*. The extent to which the proposed modifications comply with the relevant provisions of the Broken Hill LEP 2013 are discussed in the **Table 4**.

Table 4. Broken Hill Local Environmental Plan 2013 Compliance Table

Broken Hill LEP 2013 Compliance Table			
Clause / Control	Requirement	Proposal	Complies?
2.3 - Zone Objectives	<ul style="list-style-type: none"> • To provide a range of retail, business, entertainment, and community uses that serve the needs of people who live in, work in and visit the local area. • To encourage employment opportunities in accessible locations. • To maximise public transport patronage and encourage walking and cycling. 	The proposal supports the community use objectives of the B2 Local Centre Zone as it involves minor modifications to the approved new Library. A refurbished and expanded library will serve the needs of the local community who live and visit B	Yes
2.6 - Subdivision	Subdivision is permissible with development consent	Development Consent was sought and granted for allotment Consolidation as part of DA6/2022. Condition 33 was subsequently imposed which required consolidation prior to the issue of the Occupation Certificate. The proposed modification seeks to Delete Condition 33.	Merit (1)
2.7 Demolition	Demolition is permissible with consent	Standard conditions for demolition were included on the original consent	Yes
4.1 Minimum subdivision size	Minimum allotment size of 230m ² .	The modification seeks to delete condition 33 which required site consolidation. Development consent is not required for consolidation where there are 2 or more existing lots	Yes

Broken Hill LEP 2013 Compliance Table			
Clause / Control	Requirement	Proposal	Complies?
		proposed to be formed into a single lot.	
5.10 Heritage Conservation	Requires development consent for alterations to heritage items	An amended Heritage Impact Statement has been submitted as part of the modification and Council's Heritage Adviser has reviewed the modification and provided comments. The amended HIS comments are detailed below and Council's Heritage Advisory comments are detailed later in this report.	Yes (2)
6.1 Earthworks	Requires development consent for earthworks and no detrimental impact on adjoining properties, environmental functions and processes and heritage items	No changes are proposed to the conditions imposed to mitigate the impact from earthworks required.	Yes
6.2 Essential services	Requires the consent authority to be satisfied as to the connection of essential services	No additional impacts on the provision of or existence of essential services as part of the modifications proposed.	Yes
6.3 Airspace operations	Requires the consent authority to be satisfied that the proposed development would not penetrate the Obstacle Limitation Surface or Procedures for Air Navigation Service Operations Surface of Broken Hill Airport	The proposal is still considered to be two storey in nature and building height is below the Broken Hill Airport OLS.	Yes

- (1) **Consolidation** - The proposed modification involves deleting Condition 33 which requires site consolidation prior to the issue of the Occupation Certificate. Condition 33 reads:

33. "Prior to the issue of an Occupation Certificate, evidence of the registration of a Plan of a Subdivision with Land and Property Information Services shall be provided to Broken Hill City Council. The required Plan of Subdivision shall consolidate Lots 51 and 52 DP 1014146, Lots 3 and 7 DP 759092 so as to create one consolidated allotment for the Community Facility. Alternatively, the required Plan of Subdivision can involve consolidation to create two lots to accommodate the Community Facility and Police Residence. All lots must comply with the minimum lot size provisions of Broken Hill Local Environmental Plan 2013 and ensure compliance under the Building Code of Australia".

The justification provided in the Statement of Environmental Effects prepared by Mersonn Pty Ltd (August 2022 states:

"It is noted that site consolidation does not require development consent and consequently Condition 33 will be deleted and the consolidation of the Lots will occur following Stage 3 completion".

As site consolidation is not a statutory requirement and can be subject of a separate application, the request to delete Condition 33 is supported as part of this application. As a default, Condition 32 requires rewording to delete the reference to the need for a Subdivision Certificate prior to Occupation. Condition 32 is to be reworded as follows;

"Prior to the occupation of the Community Facility an Occupation Certificate must be obtained from the Principal Certifying Authority for the development".

Reason: Subdivision no longer forms part of the subject application.

- (2) **Heritage Conservation** - A revised Heritage Impact Statement has been prepared by Paul Davies Pty Ltd dated 27 October 2022 which provides comments about the proposed modifications with respect to the heritage significance of the items:

"As mentioned earlier in this report, the Town Hall façade at 243 Argent Street, and the Police Station as locally listed heritage items, are considered to be part of a building group on the northern side of Argent Street in this locality which contribute to the National heritage values of Broken Hill.

As the proposal retains the Town Hall façade building and integrates it into the new Library, Archive & Community Hub building uses, and retains the Police Station building, this significance is retained, and the proposal will enable enhanced appreciation of the significance of the Town Hall building by reviving its use as part of the new development.

The LEP heritage listed Police Station and Police Residence buildings will be retained and adaptively reused (not part of this proposal), with later buildings to the rear of these demolished for the proposed car parking area for the new library, which will be accessed via the existing driveway from Blende Street (adjacent to the west of the Charles Rasp Memorial Library building).

Minor rectification works are proposed on the rear of the cell block building as a temporary resolution of the part of the building exposed after demolition of the rear additions. The revised proposal is for a slightly smaller facility to the rear with a revised design, however the overall form and approach to the building design remains consistent".

The modifications achieve the objectives of Clause 5.10(1) of the Broken Hill LEP 2013 because the heritage items of value in Broken Hill are retained and the heritage significance of the items preserved through the careful design and consideration of the fabric, settings and views considered to be of significance.

The conditions imposed on the original consent requiring a Demolition and Construction Environmental Management Plan (DCEMP) with Council for approval prior to any demolitions works commencing on the site so as to achieve full compliance with the recommendations of the Heritage Impact Statement prepared by Paul Davies Pty Ltd and to ensure community safety and minimal disruption to nearby businesses, roads and footpaths remains as a condition on the consent.

(iia) Any planning agreements or draft planning agreements

No Planning Agreements or Draft Planning Agreements relate to this modification.

Broken Hills Section 7.12 Contributions Plan

The proposed modification seeks approval from Council to delete Condition 18 which requires the payment of Section 7.12 Contributions in the amount of: \$203,000.00 (Subject to CPI Quarterly Adjustment at the time of payment).

The assessment report for the original development application stated that the condition was imposed in accordance with the requirements of the *Broken Hill Section 7.12 Contributions Plan*.

The applicant was asked to provide the justification for the deletion of this condition and the following response was provided:

“Furthermore, the proposed development is a community facility for the benefit of all citizens of Broken Hill and consequently, Condition 18 requiring the payment of a S7.12 Developer Contributions Plan is not required where the Council is building a public amenity or public service arising from the collection of S7.12 contributions.

It is noted Section 4 (Sub-clause 3) of the S7.12 Developer Contributions Plan states:

“Money required to be paid by a condition imposed under this section is to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension, or augmentation). The application of the money is subject to any relevant provisions of the contributions plan. Consequently, Condition 18 will be deleted”.

Section 7.12(1) of the Environmental Planning and Assessment Act 1979 states:

“7.12 Fixed development consent levies

*(1) A consent authority **may** impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development”.*

This clause states that it is the Council's discretion to impose, or not, a condition of consent requiring the payment of a contribution in accordance with its adopted Contribution Plan.

The ***Broken Hill Council Section 7.12 Contributions Plan*** does not specifically exempt community infrastructure or libraries from being exempt from the payment of the Section 7.12 Contributions.

The NSW Department of Planning's Section 7.12 fixed development consent levies **Practice Note** (February 2021) states the following:

“1.6 Are there exemptions to section 7.12 levies?

Councils may choose to exempt types of development from s7.12 levies. Such exemptions are at the discretion of the council. Considerations regarding exemptions are covered in detail in the s7.11 practice note, which indicates that exemptions have previously been given by councils for the following types of development:

- low income (affordable) housing*
- works undertaken for charitable purposes or by a registered charity*
- places of worship, public hospitals, police and fire stations*
- childcare facilities*
- libraries*
- other community or educational facilities.*

Exemption policies must be stated in the s7.12 contributions plan and be specific about the types of facilities to be exempted. Alternatively, Council must state the criteria that will be used to determine an exemption.

As the Broken Hill Section 7.12 Contributions Plan does not include any exemption clauses for libraries or other community facilities and/or the criteria that will be used to determine any exemptions, there is no statutory mechanism under the Contributions Plan itself to delete Condition 18.

Given that Section 7.12 of the EP&A Act 1979, states that Council may impose a condition, we consider that Council via the Western Regional Planning Panel has the authority to delete the Condition if it considers it appropriate to do so.

The deletion of the condition is supported based on the following reasons:

1. The development involves alterations and additions to a “community facility” under the care and control of Broken Hill Council. The development is being provided for the community of Broken Hill LGA;
2. To require Broken Hill Council to pay the Section 7.12 contributions for the proposed community facility is equivalent to making the “community” pay developer contributions towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation) from a development which essentially provides that to them through contributions funding.
3. Contravenes the purpose of the Contributions Plan and the intention of Section 7.12 under the EP& A Act 1979.

- **Broken Hill Development Control Plan 2016**

Broken Hill DCP 2016 applies to the land. The provisions of the development control plan which are triggered by the proposed modifications are discussed below

- **Chapter 4 Car Parking** - This section of the DCP specifies controls on the design and safety of car parks, the number of parking spaces (including parking for disabled persons) and landscaping requirements for car parks.

As no car parking rate was provided under Table 5.1 of the DCP for “Community facilities or libraries”, the original development application was accompanied by a Traffic and Parking Report prepared by ARUP (5 December 2019) and a merit assessment undertaken as to the number of on-site car parking spaces which would be needed to support the proposed development. Visitor numbers were used to determine the number of car spaces which would be needed on a typical day.

The development was approved with a total of 36 on-site car parking spaces.

As a result of the proposed modifications, the car park configuration has been slightly changed and some changes to the provision of spaces proposed. An amended Traffic and Parking Report was prepared by ARUP (5 August 2022) in support of the proposed modifications and additional information provided upon Council request on the 8 November 2022.

The table below compares the number of car parking spaces approved vs those proposed as part of this modification:

Type of parking	Approved DA	Modified Application
Public spaces	28	27
Disabled car parking spaces	2	1
Loading bay for Library Archive	loading bay in front of the mural for the Outback Service	Car Space No.1 to be designated as a Shared Loading Bay and Public Car Space
Police Station Car Parking Spaces	4	4
Total	34 spaces plus loading bay	32 spaces and 1 car space in the car park designed as a "Loading Bay"

The applicant was asked to address the reduction in the number of car parking spaces and deletion of the designated loading bay:

"In the original DA it was proposed that part of the rear of the Existing Police Station would be demolished, which enable a more generously sized car park. In order to allow for a similar number of car parks to be provided the car parking was reorganised.

The loading bay was to provide access to the Outback letter box as in the previous DA it was located in the archive section of the building. It is now located in the main library close to the entrance and parking for volunteers will be from the car park.

It is expected that all additional loading and the majority of deliveries will occur by van utilising the car park. An occasional truck will use Blende Street to access the library for larger deliveries".

The loss of one car space as part of the modification is not considered to result in a substantial or significant impact on the surrounding locality. The impacts of the one less car space are considered negligible due to the time-limited nature of the car spaces within the car park and the availability of on-street parking within walking distance from the site.

In terms of the car parking layout and compliance with AS2890.1 Part 1: Off-Street Parking and AS2890.6 2009 Off Street Parking for People with Disabilities, the following conditions are recommended which are supported by Council's Development Engineer (as discussed under the Referral section of this report):

- The layout and configuration of the car park must comply with AS2890.1 Part 1: Off-Street Parking and AS2890.6 2009 Off Street Parking for People with Disabilities.
- A second car parking space for persons with disabilities must be provided within the carparking area and nominated on the Architectural Plans lodged with the Application for the Construction Certificate. The car space nominated for this purpose must comply with AS2890.6 2009 Off Street Parking for People with Disabilities.

Reason: To ensure compliance with the Australian Standards for car parking layout and provision of parking for persons with a disability.

As the nominated Loading Bay in the original application has been deleted, the applicant has proposed to utilise Car Space No.1 as a shared Loading Bay space and public car space for the proposed development.

As the Loading vehicle for the Outback Service is a Van, car space no.1 would be able to provide this dual function. The following condition is therefore recommended:

- Car space no.1 is to be nominated as a dual functioning public car space and designated Loading Bay for the Outback Service. Details are to be included on plans lodged with the application for the Construction Certificate. The car space is to be adequately sign marked to indicate the days of the week and hours it is intended to function as a Loading Bay, with all other times being available for public parking.

Reason: To ensure compliance with the Broken Hill DCP 2013 and that sufficient space is made available for loading and unloading of goods on-site.

All other conditions relating to the approved car park remain unaltered by the proposed modifications.

- **Chapter 5 – Outdoor Advertising:** This section of the DCP references that signage and advertising must comply with the SEPP (Industry and Employment) 2021. The extent of compliance with the provisions of the SEPP has already been discussed earlier in this report.
- **Chapter 6 – Land Contamination:** this section of the DCP references the provisions in Chapter 4 of the SEPP (Resilience and Hazards). As discussed earlier in this report, the request to delete Condition 24 is not supported because no additional information was submitted with the modification which would alleviate the precautionary approach taken with the imposition of that condition.
- **Chapter 7 – Tree Preservation:** No significant trees are proposed to be removed or altered.
- **Chapter 8 – Heritage Conservation:** The Town Hall Façade building, Charles Rasp Memorial Library, Police Station, and Police Residence are all listed as heritage items. There are also several heritage items in the vicinity of the site and the site is located in the Argent Street Heritage Conservation Area under the Broken Hill LEP 2013.

The design considerations for heritage items in this section of the DCP are as follows:

- *To conserve items of environmental heritage and maintain appropriate settings and views.*
- *To retain evidence of historic themes of development evident in Broken Hill through the proper care and maintenance of individual items of environmental heritage and Heritage Conservation Areas.*
- *To provide guidelines for alterations and additions which complement and do not detract from the heritage significance of individually listed heritage items and Heritage Conservation Areas.*
- *To protect those items and areas of value to the local community.*
- *To encourage new development, which complements existing heritage items and conservation areas in a current day context.*

The following planning controls apply for alterations and additions to heritage items:

- *Alterations and additions must not adversely impact the significant features of the heritage item.*
- *Changes must maintain the significant form, proportion, scale, details and materials of the item.*
- *Extensions must not compete with the integrity, scale or character of the item. Extensions can best meet this requirement if separation from the original building is maximised and they are designed in a simple, unobtrusive style and size.*
- *Alterations and additions must be located so as to reduce their visibility and prominence from any point in the street or adjoining streets, and the height must not be seen above the main ridgeline of the building.*
- *New side additions may be permitted where:*
 - *They are sympathetic to the character and design of the existing building, having regard to the form, bulk, materials and details of the existing building without attempting to reproduce exactly those elements and decorative details in particular;*
 - *They are not in front of or obscuring the street elevation of the existing building;*
 - *They are set back a greater distance from the street than the existing building;*
 - *They are lower or equal to the height of the majority of the existing building; and*
 - *They are compatible with the existing building in terms of wall height proportions and roof form.*
- *Ancillary buildings on the same site as an individual heritage item must be located in a place that does not obscure the significant elements.*
- *Alterations to alleviate aircraft, rail or road noise must not detract from the streetscape values of individual buildings by removing or covering significant building fabric or details.*
Solar water heater storage tanks, solar panels, ventilators, air-conditioning units, satellite dishes and antennae and the like must not be located on the principal roof elevations of heritage items.

As discussed earlier in this report, an amended Heritage Impact Statement was prepared by Paul Davies and submitted as part of the modification application. The amended statement of heritage impact concludes that the proposed modifications are acceptable given their minor nature. The amended Heritage Impact Statement also concludes that the factors contributing to the heritage significance of the items and conservation area remain unaffected by the proposed modifications.

(iv) *The Regulations (to the extent that they prescribe matters for the purpose of this paragraph)*

The only relevant prescribed matter under Clause 61 of the *Environmental Planning and Assessment Regulation 2021* (and the repealed EP& Regulation 2000) is the consideration of *Australian Standard AS2601-2001: The Demolition of Structures*.

Condition 26 of the Development Consent DA6/2022 requires compliance with the Australian Standard in terms of the management of potential asbestos during demolition and no changes are proposed to this condition as part of the modification.

25. *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

- **Crime Prevention through Environmental Design** - The Plant Room has been amended on the ground floor plan so that it is open to sky and no longer enclosed by a roof. It is enclosed by two solid walls with small windows and what appears to be a security fence/roller door or the like. The proposed doorway leading from the plant area into the archive storage room may pose a risk for unauthorised access given that the

walls could be scaled with some assistance. A condition has been imposed requiring security for this section of the building to be explored to prevent opportunities of crime or unauthorised access into Archive Storage Room.

The Crime Risk Assessment undertaken by NSW Police of the modified proposal resulted in the same “low risk” score as the original design.

- **Temporary disruption during construction** - Whilst there may be some temporary disruption during the construction of the precinct, the benefits proposed at the completion of this development are considered to far outweigh any temporary inconveniences like the temporary shortfall of parking whilst the Library and Town Hall construction works are being undertaken.

As mentioned earlier, the applicant proposes to Stage the construction into three phases to minimise the impact on the community and enable the continued use and operation of the buildings for as long as practical.

- **Access for persons with a disability** –An Access Review Report was prepared by Funktion, dated August 2022 and submitted with the modification. The findings of the report were:

“Having reviewed the listed drawings, it is our opinion that at this stage of the design, the access provisions for people with physical and sensory disabilities in the proposed new Broken Hill Library can comply with the functional accessibility requirements of BCA (2019) Amendment 1 sections D3, E3.6 and F2.4; AS1428.1, AS1428.4.1, AS2890.6, AS1735.12 and the Disability (Access to Premises - Buildings) Standards 2010 for accessibility and equity. With the implementation of the recommendations, the provision of access for people with a disability in the proposed refurbished and new facilities can provide continuous accessible paths of travel and the equitable provision of accessible facilities to provide inclusive design to meet the anticipated requirements of staff and visitors”.

The recommendations of the Access Review Report have been conditioned as part of this consent.

26. Suitability of the site for the development

The site accommodates the existing library and community meeting spaces. The site has capacity to support the proposed Community Facility without creating adverse impacts on the site or adjoining land.

The proposed modified development is of slightly smaller scale, however the main essence of what was envisioned as part of the community precinct is still being provided.

The upgrades proposed ensure the longevity of the heritage significance of the buildings and context in which they are located and create a new way for the community to interact and enjoy this precinct.

27. Submissions made in accordance with this Act or the regulations

No submissions were received during the neighbour notification or advertisement period.

28. Public Interest

The proposal involves the provision of new public facilities and amenities for the benefit of the Broken Hill Community. As mentioned earlier in this report, it would not be in the public interest

to charge the \$203,000.00 Section 7.12 Contributions required by Condition 18 as the development is for the purpose of community infrastructure and owned by Council.

Referrals

Council's Heritage Advisor

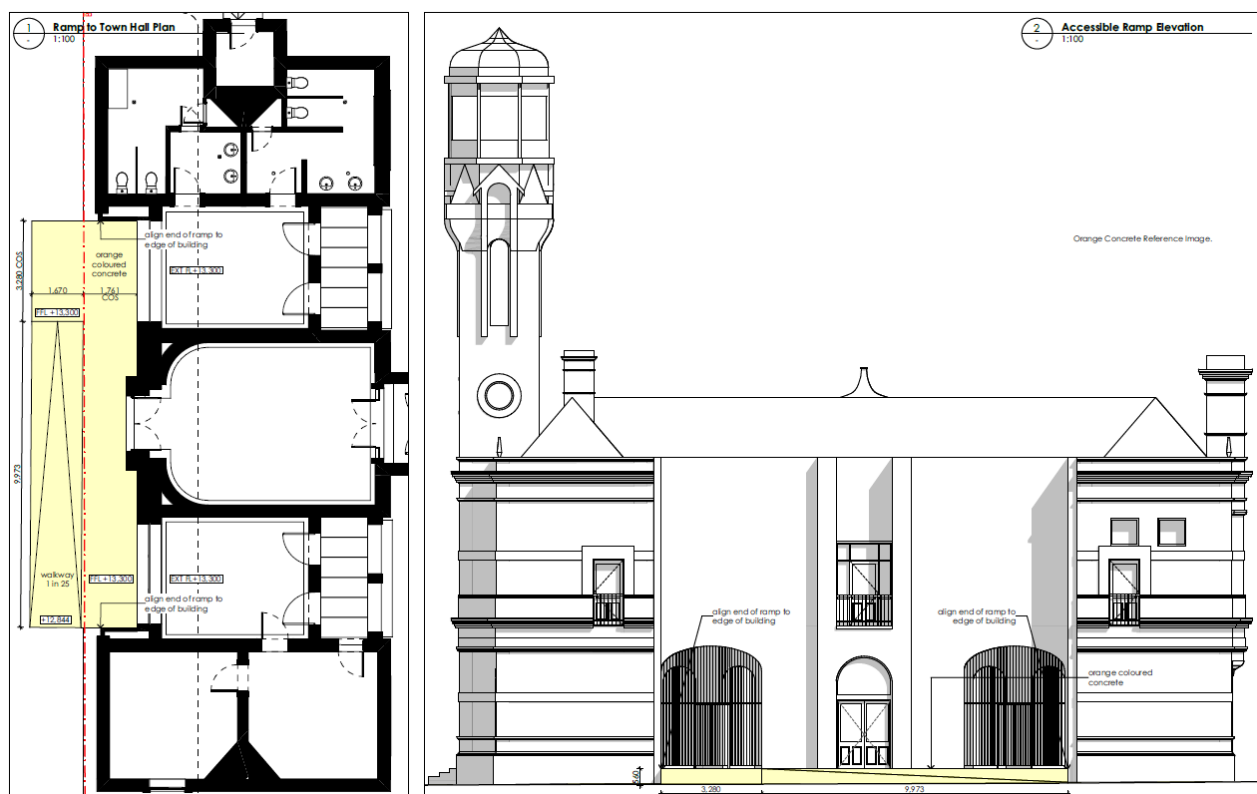
Council's Heritage Advisor was referred the modification on two occasions following an initial request for more information.

Detailed below are the issues and questions raised as part of the referral process (related to heritage issues only) and the responses or conditions proposed to address those issues.

Town Hall Rear Elevation

Additional detail of the Town Hall Rear Elevation was requested to better understand the location and relationship of the disabled access ramp and with the Town Hall building.

The following additional architectural detail was provided:



This detail was deemed to be sufficient for the purpose of understanding the proposed work. No further concerns were raised in relation to the need for additional plans.

Rising Damp

Concern was raised by the Heritage Advisor about potential rising damp which could be created by abutting a concrete slab against the base of the wall of the Heritage Town Hall rear facade.

As this is a construction and treatment issue, the following condition is proposed:

- *Prior to the issue of the Construction Certificate, advice and/or construction detail plans are to be obtained from a qualified and practicing Heritage Architect detailing how to treat and/or construct the disabled access ramp against the town hall rear façade to prevent rising damp from occurring. Details to be provided with the application for the Construction Certificate.*

Reason: To preserve the heritage fabric and significance of the Town Hall Building.

Colour Orange

Concern was raised over the proposed use of the colour orange for the concrete of the ramp. The Heritage Advisor recommended that a shade of grey be used instead to better blend in with the existing colours of the building and stone at the base of the façade.

The following condition is recommended to address this issue:

- *Prior to the issue of the Construction Certificate, a colour palette including a 'Shade of Grey' instead of Orange for the proposed concrete of the disabled access ramp is to be provided to the satisfaction of Council's Heritage Advisor. The selected and approved colour is to be provided to the appointed Principal Certifying Authority.*

Reason: To ensure the colour and fabric of the new additions retains the heritage significance of the Town Hall Building.

Slate Steps

Concern was raised about the potential removal of the existing slate steps leading into the Town Hall Building to accommodate the disabled access ramp. As such this matter was referred to the applicant's Heritage Architect and the following response provided:

"The rear entry to the hall is not original, steps and the like were added when the hall was demolished as previously the floor level would have been at foyer level. I can't see an issue of changing this area."

As the slate tiles were a late addition and do not contribute to the heritage significance of the Town Hall, the removal to accommodate the disabled access ramp is not considered an issue.

Request for the detail of the ramp to be a reserved matter

The Heritage Advisor suggested that the details of the disabled access ramp should be a deferred matter to consider in more detail the design of the ramp.

As detailed earlier in this report, sufficient detail has been provided in relation to the disabled access ramp and as such there is no need to defer the consideration of the item.

To comply with the Disability Discrimination Act and ensure compliance with Council's local planning controls, the disabled access ramp must form part of this consent. To do otherwise would be in contravention of the objects of the Environmental Planning and Assessment Act and the Disability Discrimination Act.

Connecting Awning

A question was raised as to whether a connecting awning formed part of the proposed development near the access ramp. Based on the review of the plans lodged and through discussion with the applicant, no connecting awning is proposed as part of the development in this portion of the site.

This information was shared with the Heritage Advisor and no further action was required.

Fencing

The Heritage Advisor asked whether the fencing to be demolished would be replaced as part of the development. Based on review of the plans and discussions with the applicant, the Heritage Advisor was informed that no new fencing is proposed between the existing allotments as the site is intended to be used as a consolidated parcel in the future and open up linkages within and between the sites of this library precinct.

No further action was required.

Intended use for the Town Hall Building

Additional information was requested about the new uses proposed within the Town Hall Building. The Heritage Advisor was informed that this is outside the scope of the current application and any future adaptive reuse or the like would be subject to a separate application or if none is required, undertaken in accordance with the relevant SEPP as a Council owned building.

Signage

The Heritage Advisor raised concerns about the proposed modifications to the approved signage given that the Heritage Impact Statement made no reference to the proposed changes and/or its potential impact on the heritage significance of the site.

As detailed earlier in this report, following further enquiries into this matter, the applicant confirmed no changes were being proposed to the location or content of signage, only the stage of construction at which they would be installed.

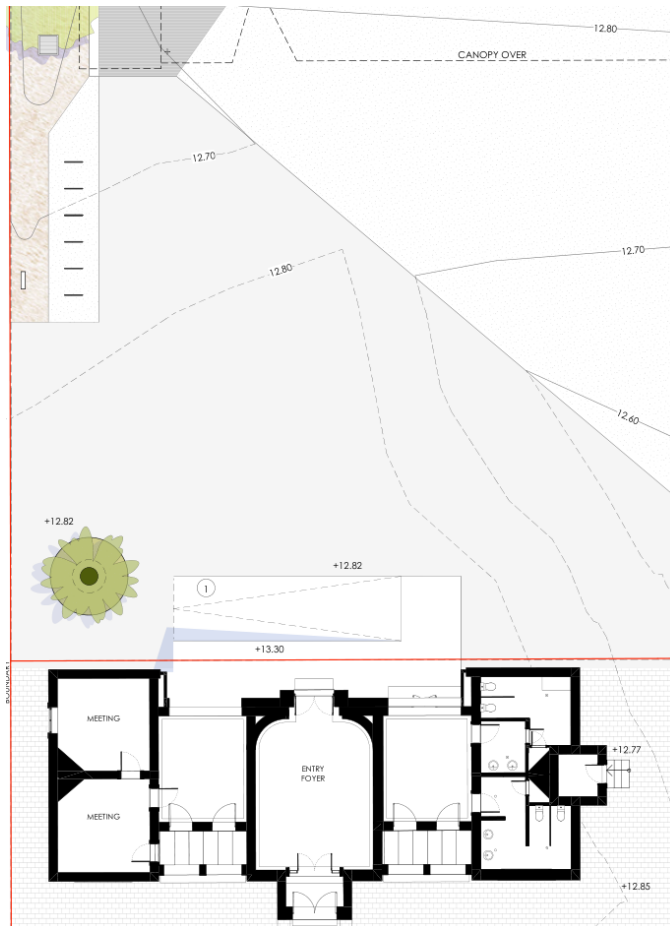
As the applicant is not seeking to modify the immediate consent to a Staged DA, the staging of construction is a matter between the applicant and the Principal Certifying Authority and outside the scope of this Section 4.55 Modification.

To ensure the stamped approved Signage Location and Signage Detail plans contain the most up to date architectural plans the following condition has been imposed:

Prior to the issue of the Construction Certificate, the approved stamped plans titled 'Signage Location Plans and Signage Design Plans, prepared by MAAT' be updated to reflect the architectural building changes and car parking layout changes approved as part of DA Mod 6/2020.

Proposed landscape treatment behind the Town Hall

The Heritage Advisor raised concern about the lack of landscaping detail to the open space behind the Town Hall Façade. As shown in the **Figure** below, there is a tree and bike rack proposed in this space only. The concern raised was that without landscaping (for example: Detailing of paving, any seating, shading devices and tree planting etc.), this space could be hot and an unfriendly space for users.



The stamped approved Landscape Plans (prepared by Sue Barnsley Design Dated October 2019), indicate that the open space behind the Town Hall was initially proposed to incorporate a stage, canopy and an active “Water Play” area.

As a result of the estimated construction costs and funding available for the Stage 1 construction, the applicant has advised that the stage, canopy, and water play area were considered no longer financially viable.

Upon further enquiry, the applicant concedes that better landscaping can be provided in this space, however the type of landscaping treatment and provision of furnishings will be unknown until additional funding is released for the project.

To address the concerns raised by the Heritage Advisor (which are supported) and take into consideration the staged release of funding associated with this project, the following condition is proposed:

- *Prior to the issue of the Construction Certificate, the landscaping detail proposed to the open space behind the Town Hall must be provided to the satisfaction of Council’s Heritage Advisor. Written evidence of the Heritage Advisor’s satisfaction with the end design for this space must be submitted with the application for the Construction Certificate.*

Reason: *To ensure that the open space provided achieves the requirements under the Broken Hill Local Environmental Plan 2013 and Development Control Plan 2016*

As the application is not a Staged DA or Consent, deferring the details of the landscaping for the remaining 3 allotments to a later stage is not supported. The Landscaping approved as part of the

original development was a critical component of the Section 4.15 assessment, especially given the heritage significance of the site and its surrounds.

It is recommended that (with the exception of the changes to proposed to the landscaping to the area behind the Town Hall and Carparking layout i.e. Lot 51 & 52 DP1014146) the original landscaping approved as part of the 2019 Landscaping Plans remain in effect until such time as the applicant knows what specific changes will be necessary.

The following condition is proposed:

“Prior to the issue of the Construction Certificate:

- (a) The landscaping detail proposed to the open space behind the Town Hall must be provided to the satisfaction of Council’s Heritage Advisor. Written evidence of the Heritage Advisor’s satisfaction with the end design for this space must be submitted with the application for the Construction Certificate (ie. Lot 51 & 52 DP 1014146).*
- (b) The Landscaping for the remaining 3 allotments must remain as per the Landscape Plan prepared by Sue Barnsley Design dated October 2019. The building footprint for the Charles Rasp Library Building, Town Hall and carpark may be updated to reflect the architectural modifications approved as part of this consent (DA MOD 6/2020)”.*

Development Engineer

The application was referred to the Council’s Development Engineer and no objections or concerns were raised regarding the stormwater solution.

Comments about the car park were as follows:

“The proposed carpark is 90-degree parking which is considered appropriate, and I would recommend the following:

- Having more than one disabled car park,*
- Space width, space length, Aisle width and Module width to be as per Australian Standards AS/NZS2890.1:2004 or AS/NZS 2890.6-2009*

Other than that, the carpark design is okay subjected to the future traffic consultant design conformation”.

The Civil Plans which contain the Stormwater Design prepared by JHA Consulting Engineers dated 20 July 2022 and lodged with the proposed modification indicate that the Lot containing the Police Cottage and Police Station are “Subject to a Future Development”. This is incorrect, as the Development Consent relates to all four (4) allotments, not just the allotments part of the Stage 1 Construction Phase.

As no changes are proposed to the Stormwater Design Solution approved as part of the original DA, a condition has been imposed to simply require the Stormwater Plans/Civil Plans to be updated prior to the issue of the Construction Certificate to capture the architectural changes to the building and car park configuration approved as part of this modification. The following condition is proposed:

- The approved Stormwater Concept Plan prepared by JHA Consulting Engineers, dated September 2019 must be updated to reflect the architectural building changes and carpark layout configuration changes approved as part of this Modification (DA MOD 6/2020).*

Reason: To ensure that the Stormwater Solution relates to all four (4) allotments which form part of the legal consent for DA6/2020 as amended.

As discussed earlier in this report, the original consent is not a staged consent and so the approved plans associated with this modification must relate to all four (4) allotments, not just the lots scheduled for the Stage 1 construction.

Building Considerations Report

The following comments provided by the Building Surveyor are discussed below:

- *Conditions pertaining to AS2601-2001: The Demolition of Structures must be specified as a condition of consent.*

Comment: Condition 3 of the Development Consent covers this requirement.

- *Conditions requiring the safe removal of any asbestos identified in the Asbestos Register Report by Carters Asbestos Management should be included in the Schedule of Conditions.*

Comment: This report was considered an approved as part of the Original Development Application. There are multiple conditions on the original consent which remain unaltered by the modification proposed which cover asbestos management.

- *Library building is to be extensively altered and extended requiring large scale demolition. There is no reason why the entire building should not be brought into compliance with the current BCA (apart from the existing superstructure of the building that is to remain).*

Comment: Compliance with the BCA was considered as part of the original DA and a BCA Report prepared by Steve Watson & Partners dated 26 November 2019. The BCA Report was stamped as approved as part of the original DA.

The proposed modifications involve reducing the size of the building and as such, these comments are considered outside the scope of this assessment. Prescribed conditions of consent also require compliance with the BCA.

- *General comments were provided that no building setbacks were provided on the architectural plans for the existing buildings to allow an accurate assessment of the spread of fire in relation to a possible change of use.*

Comment: No change of use is proposed as part of this modification and as such these comments are not considered relevant to this assessment.

Some general comments were made about parking, however the request for referral comments was in relation to Building Considerations only. The acceptability of car parking has been discussed at length earlier in this report.

NSW Police

The application was referred to NSW Police for come regarding crime prevention and safety. The following comments were provided:

I have reassessed the revised development plans for the Broken Hill Library, Archive and Cultural Hub sent to me via email on the 15th September 2022.

After review of the changes to the development, the Crime Risk Assessment returned a score of LOW Risk again. I noted that the revised traffic flow has been changed and from the original plans and this changed improves the safety of pedestrians on Argent Street, Broken Hill.

I have attached the original Crime Risk Assessment completed in February 2020, the same requirements and risks are unchanged as per this assessment”.

No further consideration or action was required.

CONCLUSION

The proposed modifications to the approved Community Facility (Cultural Precinct, Library and Archive) have been assessed against the relevant matters for consideration under both Section 4.55 and Section 4.15 of the Environmental Planning and Assessment Act 1979. In summary the outcomes of the requested modifications as described in the proposal section of this report is recommended as follows:

- Architectural modifications - The proposed Architectural Modifications described earlier in this report are supported subject to the imposition of recommended conditions as part of this report.
- New Condition of Consent requiring a Consolidated Landscape Plan across the entire site. Landscaping in its entirety could not be deferred to a later stage because it forms part of the scope of the original assessment and determination. Conditions were imposed requiring the applicant to obtain the approval of the Heritage Advisor regarding the intended landscaping works behind the Town Hall (Lot 51 & 51 DP 1014146) and retain the landscaping approved in the 2019 Landscaping Plans for the remaining 3 allotments.
- Deletion of Condition 33 which requires site consolidation. This request was supported because site consolidation is not mandatory and could be considered as part of a separate application or Exempt Development if applicable.
- Deletion of Condition 18 which requires the payment of Section 7.12 Developer Contributions. This request was supported because even through the Section 7.12 Contributions Plan does not specifically exempt community facilities or libraries from the payment of contributions, Section 7.12 of the EP& A Act 1979 gives the consent authority the discretion to apply the contributions or not. In this case, as a community facility is proposed by Council for the benefit of the public, contributions need not apply.
- Deletion of Condition 24 which requires any suspected contaminated soil to be tested and submitted to Broken Hill Council for determination: This request was not supported as no additional studies were submitted to support the precautionary approach taken through the imposition of this condition in the first instance.
- Signage – No modifications were proposed to signage location or content. A condition was imposed to require the architectural plans of the modified buildings and structures to be included on the signage plans lodged with the application for the Construction Certificate.

The assessment concludes that the modifications proposed are of minimal environmental impact and relate substantially to the same development for which consent has been granted.

No significant detrimental impacts have been assessed on the natural or built environment of the site and surrounding area. Whilst the proposed library is a little smaller than originally anticipated, the main essence of what was envisioned (in terms of a new library facility and supporting infrastructure) for the Broken Hill Community is still delivered.

The modifications proposed do not reduce the heritage significance of the buildings involved and still retain the elements of significance in both the Town Hall and Charles Rasp Library Building.

No objections or other submissions were received during the public exhibition period and the

development is assessed as being in the public interest of the Broken Hill community.

A Summary Schedule of Modified Conditions approved as part of DA MOD 6/2020 is provided in **Annexure 'A'**.

It is recommended that CONSENT be granted, subject to the conditions for Development Application DA MOD 6/2020, in **Annexure 'B'**.