

**COUNCIL ASSESSMENT REPORT**  
WESTERN REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSWES-193    DA 23/038
<b>PROPOSAL</b>	The demolition of the existing “Coach House” shed and construction of a new coach house exhibition building, the construction of a colonnade, paved courtyard and outdoor exhibition with event and cinema capabilities and associated landscaping and site works.
<b>ADDRESS</b>	Lot 181, DP 1036962, 6 Nyngan Road Cobar
<b>APPLICANT</b>	Peter Vlatko, General Manager of Cobar Shire Council. ABN 71 579 717 155
<b>OWNER</b>	Cobar Shire Council
<b>DA LODGEMENT DATE</b>	16 August 2023
<b>APPLICATION TYPE</b>	Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Council related development over \$5 million
<b>CIV</b>	\$6,113,235.00 (Excl. GST)
<b>CLAUSE 4.6 REQUESTS</b>	Nil
<b>SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021.</i></li> <li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021.</i></li> <li>• <i>State Environmental Planning Policy (Resilience and Hazards) 2021.</i></li> <li>• <i>State Environmental Planning Policy (Industry and Employment) 2021.</i></li> <li>• <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021.</i></li> <li>• <i>Cobar Local Environmental Plan 2012.</i></li> </ul>
<b>TOTAL &amp; UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b>	Nil

**DOCUMENTS  
SUBMITTED WITH  
APPLICATION**

Documents as uploaded to NSW Planning Portal at lodgement:

- Architectural Package Dunn & Hillam Architects. Job No. 23\_305 Drawings dated 20/07/2023:
  - DA 01-000 Cover Sheet
  - DA 01-100 Site Plan
  - DA 01-101 Site Plan
  - DA 01-102 Roof Plan
  - DA01-103 Site Plan-Overflow Parking Management
  - DA01-201 Sections
  - DA01-301 Elevations North and South
  - DA01-302 Elevations East and West
- Civil package JHA Services Job No. 230209 Drawings C-DA June 2023 Rev P2
  - 000 P2 Civil Services Cover Sheet
  - 100 P2 Civil Services Site Plan
  - 101 P2 Civil Services Part Site Plan North
  - 102 P2 Civil Services Part Site Plan South
  - 300 P2 Civil Services Details Sheet
  - 500 Erosion and Sediment Control Plan
- Contour and Detail Plan by Langford and Rowe Surveyors Drawing No. 2018127R Rev A dated 06/06/2022.
- Traffic Impact Assessment prepared by Lyle Marshall & Partners. Job No. 1168-1-23. Report No. 31/22, July 2023.
- Arboricultural Impact Assessment prepared by Wade Ryan Contracting, Pages 1-14, Annexures 1 and 2, 14 July 2023
- Acoustic Report prepared by JHA Services, Project Number 220262, Revision P2, 17/07/2023.
- Site Contamination Investigation prepared by Barnson Pty Ltd Project No. 39598, Report Reference 39598 ER01\_B ER02, 18/07/2023.
- Statement of Environmental Effects prepared by SJB Planning Final Version 11 August 2023.
- Cobar Heritage Centre Landscape Design prepared by Somewhere Landscape Architects, Designers and Dreamers Project No. J669, 18/07/2023
- Cobar Museum External: Heritage Summary Report prepared by Peter Freeman Conservation Architect and Planners, Final Version, July 2023.

	<ul style="list-style-type: none"> <li>• Access Report prepared by Group DLA, Project No. GDL230240, Revision B, 19/07/2023.</li> <li>• Building Code of Australia 2022 Report prepared by Group DLA, Project No. GDL220243, Revision C, 19/07/2023.</li> <li>• Geotechnical Investigation Report prepared by Macquarie Geotech, Report No. B21595, Revision 01 Final, 17/08/2022.</li> <li>• The Great Cobar Museum Plan of Management prepared by Cobar Shire Council, Issue 02, 7/11/2022.</li> <li>• Council Related Development Application Conflict of Interest Policy – Management Statement prepared by Garry Ryman, Director of Planning and Environmental Services, 4/08/2023.</li> <li>• DA Estimate Reports prepared by AltusGroup Project No. 71130.103447.000 dated 18/07/2023.</li> <li>• Land owner's consent.</li> <li>• DA Estimate Report Addendum prepared by NSW Public Works, dated 11/08/2023.</li> </ul>
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)</b>	Not Applicable
<b>RECOMMENDATION</b>	Conditional Consent
<b>DRAFT CONDITIONS TO APPLICANT</b>	Final version of draft conditions provided to applicant
<b>SCHEDULED MEETING DATE</b>	
<b>PREPARED BY</b>	Garry Ryman
<b>DATE OF REPORT</b>	9 January 2024

## **EXECUTIVE SUMMARY**

The development application seeks consent for the demolition of the existing “Coach House” shed and construction of a new coach house exhibition building, the construction of a colonnade, paved courtyard and outdoor exhibition with event and cinema capabilities and associated landscaping and site works.

The subject land is known as 6 Nyngan Road, Cobar and is the site of the Great Cobar Museum. The original use of the main building was the Great Cobar Mines Mining Administration Office and is listed as a local heritage item.

The site is located at the eastern end of the Cobar town centre and is surrounded by a mix of land uses including;

- mining on adjoining land;
- public park;
- caravan parking area;
- pub with accommodation;
- town centre;
- residential areas buffered by other uses to north, south west and west and
- industrial development to the east.

The assessment report recommends granting of conditional consent. Key matters identified in the assessment include;

- Council related development application.
- Permissibility relies on the flexible zone provision in the local environmental plan.
- The proposed building is not an entertainment venue.
- Proposal relies on off-site parking.
- Proposal does not include any proposed work on or over a public road.
- There are no legislated agency referrals or concurrencies.
- No public or neighbour submissions.
- No development standard variations.
- Maximum daily range of operating hours 8.00am – 10.00pm.

## **1. THE SITE AND LOCALITY**

### **1.1 The Site**

The site is located at 6 Nyngan Road, Cobar and is legally described as Lot 181 in DP1036962.

Key features of the site include;

- Approximate area 1.12 hectares.
- Mixed zone E1 and E4
- Identified as local heritage item.
- Current use museum and visitor information centre.
- Original use of main building: Mining Administration Office Great Cobar Mines.

### **1.2 The Locality**

The site is located at the eastern end of the Cobar town centre and is surrounded by a mix of land uses as described below:

- Land adjoining the site is mining related.

- Site is located about 280m west of the Kidman Way and Barrier Highway intersection.
- Opposite the site to the north is the Cobar Miners Heritage Park and Miners Memorial.
- Immediately to the north west within the town centre is a day use caravan parking area and pub with motel accommodation.
- Further to the north beyond the pub is the start of a residential area.
- To the south and south east of the site are mining related activities.
- The distance between the existing pavilion building (coach house) to be demolished and the closest dwelling to the south west is about 330m.
- To the north east of the site are industrial land uses.

Refer to the Site and Locality Plan included in Attachment B

## **2. THE PROPOSAL AND BACKGROUND**

### **2.1 The Proposal**

The application was lodged on 16 August 2023 and involves:

- Demolition of the existing “Coach House” exhibition and storage building, fencing, internal pathways and an internal low-height retaining wall.
- Construction of a new single storey “Coach House” exhibition building comprising:
  - a) Paved forecourt;
  - b) Foyer;
  - c) 220m<sup>2</sup> exhibition room; and
  - d) “Underground mine” experience room with seating and a digital screen projecting footage of Cobar’s mines.
- Construction of an open, concrete and micro mesh colonnade exhibition space comprising:
  - a) A raised, accessible walkway beneath an open concrete and micro mesh colonnade structure;
  - b) A 15-metre-high periscope;
  - c) A small lookout oriented to the south-west; and
  - d) Various mining exhibitions, such as perforated metal screen with digitally printed historic images and/or mining objects.
- Construction of a long, curved retaining wall extending up to 3 metres in height and separating the proposed slag fill site from the south eastern perimeter of the colonnade.
- New external courtyard and multipurpose amphitheatre with bench seats, projector and visual display screen on the existing Blacksmith’s workshop.
- Upgrades to existing bathroom facilities not involving any water supply or sewerage work.
- Installation of accessible pathways and portholes through to the historic mine site comprising historic exhibits including historic machinery objects and multi-media imagery displays.
- Landscaping works.
- Associated services and stormwater works.

## 2.2 Background

Pre-lodgement discussions were held in respect of:

- Calculating the capital investment value of the development and
- Cobar Shire Council Conflict of Interest Policy - Council-Related Development Applications.

Both of the above items were satisfied on lodgement of the application.

Following the Panel Briefing held on 17 October 2023 the applicant has submitted the following additional information in support of the application.

- Record of consultation with the local Ngiyampaa traditional owners and Cobar Local Aboriginal Land Council which forms part of the Aboriginal cultural assessment consideration in respect of the development.
- A revised set of civil service drawings, containing all works associated with the application within the flexible zone provision area.
- Advice confirming proposed range of operating hours for all proposed activities will be Monday to Saturday inclusive, 8.00am to 10.00pm and Sunday, 8.00am to 5.00pm.

Refer to Attachment B for the additional information documents.

## 2.3 Site History

In June 2020 development consent (2020/LD-0001) was granted to carry out alterations and additions to the then Great Cobar Heritage Centre and Visitor Information Centre buildings, including the demolition of the freestanding “Coach House” shed and construction of a new exhibition shed to house external exhibits.

Work was completed on the main museum building and the adjacent amenities building in July 2021. The museum building was renamed as the “Great Cobar Museum”. The demolition and replacement of the freestanding shed building did not proceed under this 2020 consent. Cobar Shire Council was the consent authority in respect of Development Application 2020/LD-0001 and Building Certificates Australia was the Principal Certifier for the project.

## 3. STATUTORY CONTEXT

### 3.1 Relevant Legislation

#### Local Government Act 1993

The development site is classified as operational land.

The proposed work does not require any approvals under s68. It is noted that the project does not include any water supply, sewerage or stormwater drainage work. The proposed work detailed in the civil services drawings is not captured by the legislated definition of storm water drainage work.

***“stormwater drainage work” means the construction, alteration, extension, disconnection, removal, maintenance, repair, renewal, flushing, cleansing or clearing of any stormwater***

*drain communicating or intended to communicate, directly or indirectly, with any stormwater channel of a council.*

Section 64 water supply or sewerage charges are not payable under Council's Development Servicing Plans for Water and Sewerage 2013.

#### Roads Act 1993

The proposed development does not include any proposed works, structures or activities on or over a public road.

#### Biodiversity Conservation Act 2016

Part 7 includes an obligation to determine whether a proposal is likely to significantly affect threatened species. A development is considered to result in a significant impact if:

- it is carried out in a declared area of outstanding biodiversity value;
- It is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3; and
- the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values.

The site is not within an area of outstanding biodiversity value.

The development site is described as being a highly disturbed and modified site.

No significant vegetation or native ground cover will be cleared to facilitate the proposed work.

Significant impacts to threatened species or ecological communities, or their habitats are not anticipated as a result of the development.

Proposed clearing will not exceed clearing thresholds and a Biodiversity Development Assessment Report (BDAR) is not required.

#### National Parks and Wildlife Act 1974

This legislation is relevant to protecting objects of Aboriginal Cultural value. A search of the Aboriginal Heritage Information System (AHIMS) show no records for this site. A search was completed on 21 December 2023 in respect of Lot 181 in DP1036962 with a buffer of 50 metres.

The project has been considered relative to the Due Diligence Code of Practice for Protection of Aboriginal objects in NSW. There are no confirmed sources of information which a person is aware and known to Council in respect of the development site. Further, the landscape features of the development site do not indicate a likely presence of Aboriginal objects.

Based on the above, an Aboriginal Heritage Impact Permit application under this legislation is not considered necessary and the work may proceed with caution.

In managing this project and in accordance with legislation the standard practice should be applied in that should any Aboriginal object be discovered, works in the immediate vicinity of the object which might impact (either directly or indirectly) on the project must cease and the proponent must notify the relevant NSW Government agency.

The above position is also supported by an Aboriginal Cultural Assessment carried out on Thursday, 16 March 2023 by local Ngiyampaa traditional owners and custodians of Ngiyampaa country and the Cobar Local Aboriginal Land Council which found, “no evidence of aboriginal cultural items of significance”.

#### Heritage Act 1977

It is noted that the Statement of Environmental Effects identifies that the proposal is not located on land listed on the State Heritage Register and therefore does not require approval from the Heritage Council under s57.

#### Environmental Planning and Assessment Act 1979

The proposed development is not integrated or designated development.

The proposal has been considered relative to the below strategic documents and is accepted as being consistent with the goals for the Far West region and will be beneficial towards retaining Cobar as a healthy and cohesive community.

- Far West Regional Plan 2036
- Cobar Shire Local Strategic Planning Statement, adopted 28 May 2020.

The draft Far West Regional Plan 2041 has been on exhibition and the Plan is currently under consideration by the NSW Government.

This assessment has not identified any conflicts or inconsistencies with the draft Plan.

The proposed development triggers the payment of a levy under the *Cobar Local Infrastructure Contributions Plan 2012*. The s7.12 levy has been calculated and included in a draft Condition of Consent.

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

- a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- c) *the suitability of the site for the development,*
- d) *any submissions made in accordance with this Act or the regulations,*
- e) *the public interest.*

These matters are further considered below.

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

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental planning Policy (Biodiversity and Conservation) 2021*
- *Cobar Local Environmental Plan 2012.*



A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in Table 1 and considered in more detail below.

**Table 1: Summary of Applicable State Environmental Planning Policies**  
(Preconditions in **bold**)

EPI	Matters for Consideration	Comply (Y/N)
Planning Systems	<ul style="list-style-type: none"> <li>• <b>Section 2.19</b> - Declares the proposal as regionally significant development pursuant to Section 3 of Schedule 6.</li> </ul>	Y
Resilience and Hazards	<ul style="list-style-type: none"> <li>• <b>Section 4.6</b> - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory.</li> </ul>	Y
Transport and Infrastructure	<ul style="list-style-type: none"> <li>• <b>Section 2.48</b> - Determination of development applications - other development – electricity infrastructure. The proposal is satisfactory.</li> <li>• <b>Section 2.119</b> – Development with Frontage to Classified Road. The site has frontage to the Barrier Highway, which is a classified State Road. The proposal is consistent with this section.</li> </ul>	Y
Industry and Employment	<ul style="list-style-type: none"> <li>• <b>Section 3.4</b> – Signage to which this Policy applies.</li> <li>• <b>Section 3.6</b> – No detail provided with DA, detail to be confirmed at CC.</li> </ul>	N
Biodiversity and Conservation	<ul style="list-style-type: none"> <li>• <b>Section 2.6</b> – Clearing does not exceed biodiversity offset scheme threshold and s2.3 does not apply</li> </ul>	Y

#### State Environmental Planning Policy (Planning Systems) 2021

*State Environmental Planning Policy (Planning Systems) 2021* applies to the proposal as it identifies if development is regionally significant development. In this case, the proposal is a regionally significant development as it satisfies the criteria in Section 3 of Schedule 6 as the proposal is development for a Council related development with a CIV over \$5 million. Accordingly, the Western Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

#### State Environmental Planning Policy (Resilience and Hazards) 2021

The provisions of *State Environmental Planning Policy (Resilience and Hazards) 2021* have been considered in the assessment of the development application. Section 4.6 requires consent authorities to consider whether the land is contaminated, and 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. In order to consider this, a Preliminary Site Investigation ('PSI') has been prepared for the site.

The Assessment Report supports the findings of the PSI, which are included below:

- *Based on the findings of the desktop review and site investigation it can be stated with a reasonable level of confidence that the contaminants detected at the Subject*

*Site poses no significant risk to the health of humans and the site can be considered suitable for the proposed recreational re-development and land use.*

- Use of slag materials in the construction of the proposed recreational areas do not present any significant risk to the health of members of the public that will be visiting the Site. However, it is recommended that workers involved in the construction be protected from direct exposure to the slag through the implementation of appropriate workplace hygiene measures to minimise inhalation and ingestion of slag particulates.*
- It is recommended that only classified fill material from off-site be used for landscaping and levelling of the site. The heavy metals and sulphur compounds present in the surface soil may affect the successful establishment of vegetation.*
- Stormwater runoff from the slag stockpile area must be channelled around the proposed development in order to prevent the further deposition of slag particulates into surface soils of the Investigation Area. The channelled stormwater runoff must be appropriately managed to prevent soil erosion and landscape degradation.*
- A Construction Environmental Management Plan (CEMP) must be prepared, prior to the start of any earthworks or construction works. The purpose of the CEMP is for the management of excavated soils and should include procedures for the management of sediment and erosion.*
- Demolition of the couch house exhibition shed is not expected to contribute any contamination to the surface soils of the Investigation Area. However, it is considered best practice to have an unexpected finds protocol in place as part of the CEMP to provide guidance in dealing with contaminated soil or hazardous materials discovered during demolition or excavation activities.*
- Recommendations contained in the Preliminary Site Investigation Report have been included in the draft Conditions of Consent.*

#### State Environmental Planning Policy – (Transport and Infrastructure) 2021

There is no mandatory referral to Essential Energy in its capacity as the electricity supply authority under s 2.48.

The exempt development provisions in s2.113 are noted and may be relevant to any proposed work that may be undertaken by Cobar Shire Council associated with its management of the public road adjoining the development site.

The development site has frontage to a classified road and s2.119 is relevant in respect of determining the subject application.

The objectives and preconditions to granting consent as listed in s2.119 are as follows:

#### **2.119 Development with frontage to classified road**

1. The objectives of this section are:

- to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and
- to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

2. The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:
  - a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and
  - b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
    - (i) the design of the vehicular access to the land, or
    - (ii) the emission of smoke or dust from the development, or
    - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
  - c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road

Existing approved vehicle access to the site is unchanged by the proposed.

The development will not cause emissions from the site.

No material change in respect of vehicles accessing the site. Possible increase in range of time that vehicles access the site.

Proposed use of the site is not considered sensitive to traffic.

Under s2.122 (4) the proposed development does not require the consent authority to give written notice of the application to Transport for NSW. The development relative to its size and capacity is not captured in Schedule 3.

#### State Environmental Planning Policy (Industry and Employment) 2021.

Chapter 3 relates to advertising and signage and includes preconditions to be satisfied if granting consent to an application to display signage.

The application does not specifically seek consent for any signage except a notation on the North Elevation Drawing in the Architectural Package – Signage detail to be confirmed at CC.

Based on this limited detail it is not possible to provide comment in respect of the pre-condition requirements of this Policy in respect of signage.

A draft Condition of Consent has been included to the effect that a separate development application is required for any advertising or signage, which is not exempt development.

#### State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Chapter 2 applies to vegetation in non-rural areas as detailed in s2.3 and includes E1 (previously B2) and E4 (previously IN1) zoned land under the *Cobar Local Environmental Plan 2012*.

Under s2.6 (1) and (2) a person must not clear vegetation in a non-rural area to which Part 2.3 applies without a council permit or clear native vegetation that exceeds the biodiversity offsets scheme threshold without approval from the Native Vegetation Panel. Part 2.3 does not apply because Cobar Shire Council does not have a vegetation related Development

Control Plan and as previously reported in 3.1 the proposed clearing does not exceed the biodiversity clearing threshold.

Biodiversity offsets scheme thresholds are based on the minimum lot size that applies to the land and the thresholds for E1 and E4 zones in the *Cobar Local Environmental Plan 2012* are 0.25 hectares or more and 0.5 hectares or more respectively.

#### *Cobar Local Environmental Plan 2012*

The relevant local environmental plan applying to the site is the *Cobar Local Environmental Plan 2012* ('the LEP'). The aims of the LEP include;

- Encouraging a range of housing, employment, recreation and community facilities to meet the needs of existing and future residents of Cobar and
- Promoting the efficient and equitable provisions of public services, infrastructure and amenities.
- Protecting and promoting the use and development of land for arts and cultural activity, including music and other performance arts.

The proposal is consistent with these aims as the proposal is providing an addition to an existing facility to the community and to visitors in the form of a new Exhibition building and other associated ancillary works. The existing Great Cobar Museum and Visitors Information Centre, together with the proposed additions, will continue to serve as the main hub of cultural, historical and tourism attractions in Cobar and will assist in meeting the needs of existing and future residents of Cobar and tourists. The design, location and capacity of the development is consistent with promoting the efficient and equitable provision of public services, infrastructure and amenities.

The site has been checked relative to the maps identified in the LEP and except for the Land Zoning Map and Heritage Map, all of the other maps (as listed below) are not applicable to the subject application.

- Lot Size Map
- Land Reservation Acquisition Map
- Terrestrial Biodiversity Map
- Groundwater Vulnerability Map
- Watercourse Map
- Wetlands Map
- Additional Permitted Uses Map.

The site is located within the E1 Local Centre Zone and the E4 General Industrial Zone. The proposed land uses are identified as an *"information and education facility"* and *"community facility"*, which are defined under the LEP as follows:

***"information and education facility"*** means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

***"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.

Information and education facilities and community facilities are land uses that are permissible with consent in the E1 Local Centre zone, however are prohibited in the E4 General Industrial zone. A portion of the proposed works are on the part of the site zoned E4, and as such, are not permissible under the Land Use Table provisions.

However, clause 5.3 of the LEP provides flexibility for development near zone boundaries. Subclause 5.3(4) states:

*Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:*

- a) the development is not inconsistent with the objectives for development in both zones, and*
- b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.*

The proposed development satisfies subclause (4)(a) as it is not inconsistent with the objectives of the E1 zone and E4 zone. The objectives of the E1 Local Centre Zone are:

- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The proposed additions will deliver valuable informational, educational, recreational and community uses for residents and visitors of Cobar.
- The development will generate employment opportunities for the local community.
- The proposal does not inhibit any potential opportunities for residential development, and it will contribute to the vibrancy and vitality of the Cobar town centre.

- The proposal provides community and non-residential land uses at the ground floor level.

The objectives of the E4 General Industrial Zone are:

- To provide a range of industrial, warehouse, logistics and related land uses.
- To ensure the efficient and viable use of land for industrial uses.
- To minimise any adverse effect of industry on other land uses.
- To encourage employment opportunities.
- To enable limited non-industrial land uses that provide facilities and services.

The proposal is consistent with these zone objectives for the following reasons:

- The site of the proposed works does not contain any industrial or warehouse uses. The proposal will not reduce the range of industrial, warehouse, logistics and related land uses available in Cobar, nor will it inhibit such development on other sites.
- The proposal will not inhibit the viable use of land for industrial uses either at the site or adjoining the site.
- The proposal is a non-industrial land use and will not adversely affect other land uses as appropriate measures have been included within the design to mitigate adverse impacts on other land uses.
- The development will directly generate employment opportunities for the local community.
- The proposed works will improve a valuable informational, educational, recreational and community establishment for residents and visitors as well as generating local employment. The expansion of the Museum will provide a significant public benefit for businesses and workers in Cobar.

The proposed development satisfies subclause (4)(b) as it is an efficient and timely development of land which seeks to deliver a well-designed community and tourist facility for both the residents of Cobar and visitors to the town.

Additionally, the proposed land use is compatible with surrounding uses and infrastructure capacity noting that it seeks to extend the operation of an existing, non-residential land use that celebrates the industrial history of the locality and has operated for a considerable period without experiencing any significant, known disturbances from the carrying out of industrial activities.

The flexible zone provision is limited in its application to 25m from the Zone E1 boundary. The proposed development is contained within this 25 metre relevant distance area.

On this basis, the proposed development is permissible with consent.

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are identified in Table 2 below.

Specific comments are included in respect of each of the identified controls.

**Table 2: Consideration of the LEP Controls**

Control	Requirement	Proposal	Comply
Demolition requires consent (CI 2.7)	Demolition may be carried out with consent	The application includes demolition work as detailed in the architectural drawings package. Consent may be granted for the proposed demolition work.	Yes
Heritage Conservation (CI 5.10)	See Below	See Below	Yes
Earthworks (CI 6.1)	1) Objectives 2) Separate consent unless ancillary 3) Matters for consideration	Proposal assessed against requirements.	Yes
Stormwater Management (CI 6.3)	1) Objective 2) Application 3) Matters for consideration	Proposal assessed against requirement	Yes
Essential Services (CI 6.10)	Essential services being available	Proposal assessed against requirement	Yes

Clause 2.7 establishes that demolition may be carried out only with development consent.

Further, Section 61 of the *Environmental Planning and Assessment Regulation 2021* prescribes that the provisions of AS2601-2001: Demolition of Structures are to be taken into consideration by a consent authority in the case of a development application for the demolition of a building.

The relevant requirements in respect of demolition work as exempt development in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* are contained in the following clauses.

- 1.15 What development is exempt development.
- 1.16 General requirements for exempt development
- 2.25 and 2.26 Specified development and development standards for demolition.

The proposed demolition of the existing “Coach House” shed and associated structures is not exempt development and therefore requires consent. The extent of information included with the application in respect of the demolition work is limited. However, from the application it can be readily identified which structures are proposed for demolition.

This Assessment Report raises no concern with development consent being granted for the proposed demolition work subject to conditions as included in the draft Conditions of Consent.

Compliance with relevant legislation in respect of demolition, removal and disposal of hazardous materials will readily mitigate any potential adverse impacts. Relevant regulators include Environmental Protection Authority (waste classification and licensing of landfills) and SafeWork (licensing of and notice of work by demolition contractors).

Clause 5.10 relates to heritage conservation. 5.10(2)(e) requires that development consent is required for the erection of a building on land on which a heritage item is located. In this case, the heritage item is listed in Schedule 5 of the LEP as item I8 "Cobar Pastoral and Mining Technology Museum 1910' which is also known as the Great Cobar Museum. No works are proposed to the heritage-listed Great Cobar Museum, however the site of the proposed works is located on the same Lot as the existing Museum, therefore this clause is applicable.

A Heritage Impact Statement (HIS) has been prepared by Peter Freeman Conservation Architect and Planners to accompany the Development Application. The HIS supports the proposal on the grounds that it provides an improvement to the physical representation of the site's mining history and of the history of Cobar. There are no known archaeological sites, Aboriginal objects, or Aboriginal places of heritage significance on the site. A search of the Aboriginal Heritage Information System (AHIMS) shows no records for the subject site and as such, there is no legislative trigger for an Aboriginal and cultural assessment of the site.

The proposed development will not adversely affect the heritage significance of the heritage item.

Clause 6.1 relates to a control in respect of earthworks and has been considered relative to the proposed development. Proposed earthworks associated with the development are considered to be ancillary to and a necessary part of the construction work. The extent of the earthworks does not warrant requiring a separate development consent. The required earthworks are considered to be of a minor nature and will have minimal environmental impact.

Clause 6.3 relates to a control in respect of stormwater management with the objective of minimising the impacts of urban stormwater on the development site, adjoining properties, native bushland and receiving waters. The development is on land within an E1 and E4 zone and pursuant to subclause (2) the control is applicable with its applications limited to land in residential and employment zones. It is noted that the E1 and E4 zones are employment zones under the Land Use Table of the LEP. Therefore, comments on the proposed stormwater drainage design relative to the general concepts listed in subclause (3) are as follows:

The proposed design:

- does not include excessive areas of hard stand surfaces.
- collects and pipes roof and surface stormwater to a combination of new stormwater drainage pipelines, stormwater pits, rainwater harvesting tanks and drainage swale discharging to an existing on site stormwater dispersal system.
- collects and discharges stormwater clear of existing and proposed buildings.
- diverts part of an existing swale/drainage depression to the south east of the proposed colonnade. The diversion does materially change the existing overland flow of surface stormwater to the south.

This assessment supports the position that the consent authority can be satisfied that the proposed development meets the pre-conditions in subclause (3).

Clause 6.10 includes a precondition that development consent must not be granted to development unless the consent authority is satisfied in respect of essential services as described below:

Any of the following services being:

- the supply of water,
- the supply of electricity,



- the disposal and management of sewage,
- stormwater drainage or on-site conservation,
- suitable road access

that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required.

The site is serviced by suitable road access, existing water supply, existing sewerage system and electricity supply as well as stormwater drainage system as previously detailed. These essential services are available and the pre-condition to granting consent is satisfied.

In summary the proposal is generally consistent with the LEP and consent may be granted without the need to seek an exception to a development standard under clause 4.6 of the LEP.

### **3.3 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

This assessment has not identified any proposed environmental planning instrument that is or has been subject of public consultation and relevant to this development proposal.

The NSW Government has exhibited the draft *Far West Regional Plan 2041*. The Plan is currently under consideration. As previously noted this assessment has not identified any conflicts or inconsistencies with the draft Plan.

### **3.4 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

There are no Development Control Plans in effect within the Cobar Shire Local Government Area.

### **3.5 Section 4.15(1)(a)(iiia) - Planning agreements under Section 7.4 of the EP&A Act**

There are no planning agreements or draft planning agreements that are of relevance to the proposed development.

### **3.6 Section 4.15(1)(a)(iv) - Provisions of Regulations**

Part 4, Division 1 of the *Environmental Planning and Assessment Regulation 2021* prescribes matters relevant to the determination of development applications.

Section 61 is relevant to the demolition work and there is a need to consider Australian Standard AS 2601-2001: The Demolition of Structures.

As previously documented, AS 2601 has been considered in the preparation of this Assessment Report and compliance with this prescribed condition may be readily achieved.

It is noted that the “Coach House” shed building is free of asbestos containing materials and other hazardous building materials as evidence by a Hazardous Building Materials Survey and Site Register held separately by Council.

Under s66A a council-related development application must not be determined by the consent authority unless the council has adopted a Conflict of Interest Policy and the council considers the Policy in determining the application.

The requirements of this Section have been addressed as evidence by the information contained in Attachment B

Further, it is noted that ss 62, 63, 64, 65, 66, 67 and 68 are not relevant to the subject application.

Part 4, Division 2 relates to conditions of development consent and relevant draft Conditions of Consent have been included as part of this report.

Such conditions relate to compliance with Building Code of Australia, erection of principal certifier and contractor signs.

Further, other prescribed conditions worth noting include those listed in ss 72 – 75.

This assessment agrees with the application that the premises is not an entertainment venue.

There is no identified need or requirement to specify the maximum number of persons permitted in the building as a condition of development consent in the context of ss 72 and 73.

There is no excavation associated with the development below the footings of a building, structure or work on adjoining land.

The proposed development is not a BASIX development.

### **3.7 Section 4.15(1)(b) - Likely Impacts of Development**

In considering the development application the consent authority is to take into consideration matters as are of relevance to the proposed development, including the likely impacts of the development. Environmental impacts on both the natural and built environment, and social and economic impacts in the locality are to be considered.

In this regard, potential impacts as relevant to the proposal and identified in applicable SEPP and LEP controls have been considered in the responses included above in this assessment.

The SOEE submitted with the application has addressed the following impacts:

- Construction Impacts
- Amenity Impacts or Neighbouring Properties
- Impacts on the Built and Natural Environment
- Traffic and Parking
- Social Impacts and Economic Impacts

This assessment has considered the identified impacts included in the SEE and generally supports both the comments and conclusions provided on behalf of the applicant.

Further, specific consideration of likely impacts considered in this assessment are detailed below.

The Noise Impact Assessment prepared by JHA Services has assessed anticipated impacts of the proposed development including the night period noise level criterion (10.00pm to 7.00am).

Council's Director of Corporate and Community Services was consulted about potential noise and neighbourhood disturbance impacts during the night period (10.00pm – 7.00am) and feedback received was that the operating hours will be limited to 8.00am – 10.00pm, Monday to Saturday and 8.00am – 5.00pm on Sunday.

The standard opening hours for the Great Cobar Museum are 8.30am – 5.00pm Monday to Friday and 9.00am – 5.00pm on weekends and public holidays.

Film screening and other events may be held within the operating hours as specified above. The following specific comments are provided in respect of the existing on site public carpark and the continued reliance by the Great Cobar Museum on-off site parking.

- The subject development application does not include any car parking or road works.
- It is agreed that the concurrence conditions issued by Transport for NSW pursuant to s138(2) of the *Roads Act 1993* on 26 May 2020 have been substantially complied with.
- Line marking of the existing parking spaces is due for maintenance and this proposal has prompted the required work to be scheduled within Council's works program.
- The installation of some addition signs by Council (as road authority) at the entry and exit of the carpark on the road reserve has been approved by Council's Director of Engineering Services.
- The ratio of accessible parking spaces to general parking spaces as existing complies with the requirements of the Building Code of Australia.
- Mandating the preparation of a Traffic Management Plan for use of the Lewis Street carpark by a condition of the development consent is not supported by this assessment.
- Existing on-street and public off street parking in the vicinity of the Great Cobar Museum is considered sufficient to service expected demand for off site parking generated by the proposed development.
- Community events and festivals which may be supported by the Great Cobar Museum will as standard practice have Event Management Plans.

There are no identified unreasonable conflicts between the proposed development and other surrounding development.

The proposed development is considered to be of a scale and size that is not out of character with the surrounding area. The proposal will not adversely impact the street scape, the outlook from adjoining properties or pose any unreasonable impacts to adjoining residents.

Construction work will generate some noise, however through a condition of consent limiting the working hours and available legislative provisions such impact may be readily managed to avoid unreasonable impact in the neighbourhood. There will be no ongoing significant noise impacts expected as a result of the development.

It is considered that the proposed development will not result in any significant adverse social or economic impact. The expected social and economic impact of the development will be positive and will result in a material public benefit to the community and visitors by enhancing the visitor experience of the existing Great Cobar Museum and Visitor Information Centre and educating visitors and residents about the local mining industry and the important role it has played throughout the history of Cobar.

Overall the likely impacts of the proposal have been assessed as being reasonable and no matters of significant concern with the development have been identified.

### **3.8 Section 4.15(1)(c) - Suitability of the site**

The proposed development is an acceptable fit in the locality and the built attributes of the site are considered to be conducive to the development. There are no legislative, physical, servicing or environmental constraints to prevent the development. The proposed development is compatible with existing land uses in the locality. The site is considered to be suitable for the proposed development.

### **3.9 Section 4.15(1)(d) - Public Submissions**

Public exhibition completed with no submissions received. Details of the community consultation undertaken is included in Section 4 of this report.

### **3.10 Section 4.15(1)(e) - Public interest**

No negative public interest matters have been identified in respect of this proposal. The proposal will re-purpose land at the rear of the Great Cobar Museum. It will strengthen and expand on the existing heritage character fabric and character of the site and will positively contribute to the interpretation of the heritage item as an important part of Cobar's rich mining history. The proposal will deliver valuable informational, educational, recreational and community facilities for residents and visitors. The proposed development is considered to be in the public interest.

## **4. REFERRALS AND SUBMISSIONS**

### **4.1 Agency Referrals and Concurrence**

There are no outstanding legislated concurrence or referral requirements in respect of this proposal.

### **4.2 Community Consultation**

The original application was on public exhibition from 23 August 2023 to 21 September 2023.

The exhibition included:

- Notice in local newspaper
- Exhibition on Council's website
- Letter to neighbouring properties

A plan is included in Attachment B to show properties notified by letter.

At the close of exhibition period no submissions were received.

## **5. CONCLUSION**

In conclusion, it is submitted that the proposed development is worthy of support on the basis of being:

- Acceptable in terms of Section 4.15 matters for consideration
- Permissible with consent on the subject land
- Unlikely to cause any unreasonable impacts in the locality
- Acceptable in terms of public interest considerations and
- Proposed on a suitable site for the development.

## 6. RECOMMENDATION

That the Development Application DA No 23/038 for the demolition of the existing “Coach House” shed and construction of a new coach house exhibition building, the construction of a colonnade, paved courtyard and outdoor exhibition with event and cinema capabilities and associated landscaping and site works at Lot 181, DP 1036962, 6 Nyngan Road, Cobar be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- **Attachment A:** Draft Conditions of Consent
- **Attachment B:** Additional Documents Referenced in Assessment Report