

EXECUTIVE SUMMARY

Development Application DA 115/2020 seeks consent for the construction of a Two storey Police Station, and associated garages, carports, parking spaces and landscaping.

The Development Application is 'Crown Development' and has a Capital Investment Value of \$13,000,000. Accordingly, the development is declared to be regionally significant development pursuant to *State Environmental Planning Policy (State and Regional Development) 2011*.

The development is not Integrated Development, Designated Development or Threatened Species Development.

The subject site is known as Lot 91 DP 1262315, 80 Blende Street, Broken Hill (formerly known as part of 51 Bromide Street). It is zoned 'B2 Local Centre' pursuant to the *Broken Hill Local Environmental Plan 2013*. The proposed development is characterised as an 'Emergency Services Facility', which is permissible in the B2 Local Centre zone with consent.

The subject site is relatively level vacant land and is bounded by a low wire mesh fence. The site was part of a larger site formerly identified as Lot 5893, DP 241855 and known as 51 Bromide Street, Broken Hill. A development application to subdivide Lot 5893 DP 241855 was approved on 26 November 2019 and an agreement has since been reached with NSW Police to acquire it and build a new station on the subject site.

The application was publicly exhibited from 5 October 2020 to 3 November 2020 in accordance with *Broken Hill Development Control Plan 2016*, which involved:

- notification of surrounding landowners;
- advertisement in local newspaper Barrier Truth; and
- a Notice of Development sign placed at the site.

As a result of the exhibition, one (1) submission was received, which was by way of objection.

The primary environmental considerations relating to this development are:

Heritage –

The subject site contains an item of local heritage significance, Item I84, Kintore Headframe and Kintore Reserve, listed in Schedule 5 of the *Broken Hill Local Environmental Plan (LEP) 2013*. It is also located within the C1 Argent Street Heritage Conservation Area, listed under the same LEP, and is in the vicinity of a number of individually listed items.

The City of Broken Hill is included on the National Heritage List (NHL) in recognition of the outstanding significance of Broken Hill to Australia. Sites on the NHL are protected by the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*. Actions (the definition of which includes development) that have, or are likely to have, a significant impact on a matter of national environmental significance require approval from the Australian Government.

A Statement of Heritage Impact, prepared by Lynch Consulting, was submitted with the Development Application. The report included a detailed analysis of the statutory heritage controls applying to the site and concluded that the proposal will not have an adverse impact on the established significance of the Argent Street Heritage Conservation Area or the listed heritage items in its vicinity and will not have a significant impact on the National heritage values of Broken Hill.

Parking and Traffic –

Based on the information available:

- The new Police Station building will provide improved facilities for existing staff.
- Six (6) parking spaces will be provided on Blende Street adjacent to the main entry for first responders with an accessible parking space also include on Blende Street immediately adjacent to the main entry to the facility. There is also a requirement for the provision of four (4) Police Operational vehicles parking on the north side of Kaolin Street adjacent to the new building.
- The proposed vehicular access crossings from Blende Street and Beryl Street into the new Police Station are satisfactory and the road network is not considered to be adversely impacted.

Contamination -

A geotechnical investigation and Detailed Site investigation was carried out of the site by JK Environmental Consultants.

The site has historically been part of a railway (tramway) and was converted into an outdoor mining equipment display and ride on miniature train track. The assessment included soil samples from 16 testpits.

Potential contamination sources were identified at the site including fill material, lead impacted dust, hazardous building materials (including asbestos), use of pesticides and possible storage of oils and/or fuels in the shed in the north-east section of the site.

The fill material at the site has been impacted by lead, carcinogenic PAHs and asbestos. It is considered that remediation is required. This has been outlined in the report prepared by the Consultants.

It should be noted that under Clause 14 of State Environment Planning Policy 55 (SEPP55), remediation in Broken Hill falls under Category 2 remediation work.

Therefore, a separate Development Application (DA) will not be required for remediation at this site.

DA 115/2020 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 social or economic impact;
- Be a suitable development for the site; and
- Not be prejudicial to the public interest.

It is recommended that DA 115/2020 be approved subject to conditions.

SUBJECT SITE AND LOCALITY

The site is known as Lot 91 DP 1262315, 80 Blende Street, Broken Hill.

The site is bounded by three frontages, with the southeast boundary fronting Blende Street, the southwest boundary fronting Kaolin Street and the northwest boundary fronting Beryl Street. The property has a frontage of 60.295m to Kaolin Street with a depth of approximately 100m. The site was previously occupied by a miniature Railway track and train shed. The railway track and shed have since been relocated off site.

Figure 1 shows the site within the locality.

The location is currently characterised by a mixture of single storey detached dwellings with Broken Hill High School located to the southwest of the site and local shops and services scattered throughout.

The land is zoned B2 Local Centre which permits a range of retail, business, entertainment and community uses to serve the needs within the area.

The site located within the Argent Street Heritage Conservation Area and is identified as part of Heritage Item I84 Kintore Headframe and Kintore Reserve.

An aerial image of the site is provided as **Figure 2**.



Above - Figure 1 – Locality Plan



Above - Figure 2 – Aerial Image of Site



Above – Figure 3 – subject site, viewed from the corner of Blend and Kaolin Streets

PROPOSED DEVELOPMENT

The Development Application (DA 115/2020) seeks consent for the construction of a Two storey Police Station, and associated garages, carports, parking spaces and landscaping.

The new Police Station will replace the existing Broken Hill Police Station which comprises an older style building (circa 1890) located on Argent Street in the central part of the Broken Hill CBD. This existing building is outdated and inadequate to serve the contemporary police needs, particularly as it is a "major hub station" supporting 10 remote stations and providing the major custody holding facility for the district.

More specifically, DA 115/2020 seeks approval for the following:

Construction of a new L-shaped two storey building, garages, carports, uncovered parking and associated landscaping and stormwater management works.

The new Police station is proposed to incorporate all areas of crime management and Police administration, operating 24 hours a day, 7 days a week to support the Barrier Police District, Western Region. The new Police Station will serve the City and Local Area Command and will accommodate up to 99 sworn officers and staff in the Command, with a maximum number of officers and staff on a Major Shift (i.e.: maximum number of occupants at any one time) being of 72 persons.

The proposed new station will be a multi purpose Police Station which will accommodate:

- Public Area
- Local Area Command
- General Duties
- Crime Management Unit
- Other Groups
- Detectives Office
- Custody Area

The new Police Station provides for 2,563m² of gross floor across two levels. Under cover at grade parking for 25 operation vehicles, 2 trailer bay garages and 2 secure garages, motor bike and bicycle parking. Drive through access is provided from Blende and Beryl Streets.

The proposed Broken Hill Police Station enclosed floor areas, (*excluding covered and enclosed garages / carports, terraces, external stores and plant & services areas*) are as follows:

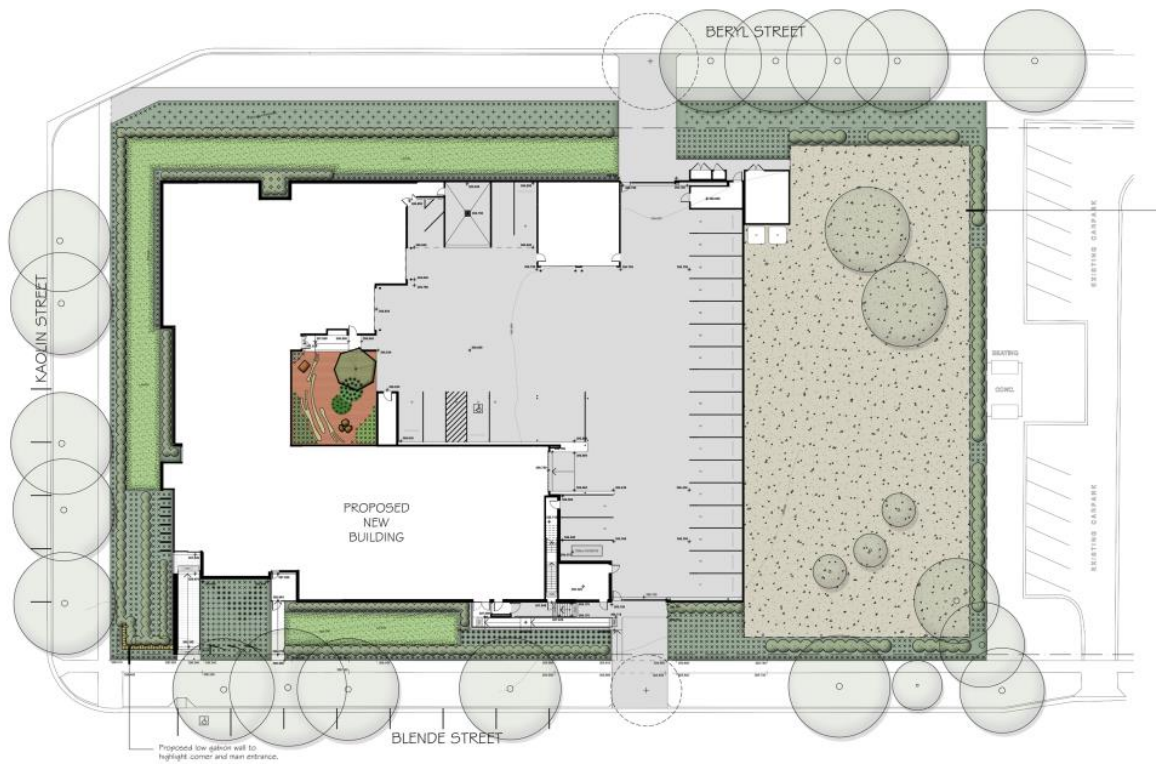
Ground Floor 1,330m²

First Floor 1,233m²

TOTAL Floor Area 2,563m²



Above - Figure 4 – perspective view



Above – Figure 5 – landscaping plan, also showing general proposed layout of site

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.

- State Environmental Planning Polices:
 - State Environmental Planning Policy No. 55 – Remediation of Land;
 - State Environmental Planning Policy (Infrastructure) 2007; and
 - State Environmental Planning Policy (State and Regional Development) 2011.

- Broken Hill Local Environmental Plan 2013;

- Broken Hill Development Control Plan 2016;

- The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;

- The suitability of the site for the development;

- Any submissions made in accordance with this Act or the regulations; and

- The public interest.

No planning agreements or draft planning instruments apply to this development.

State Environmental Planning Policies

State Environmental Planning Policy No. 55 – Remediation of Land

Clause	Title	Comment and Assessment
7	Contamination and remediation to be considered in determining development application	<p>Pursuant of subclause (1), a consent authority must not consent to the carrying out of any development on land unless:</p> <p><i>(a) it has considered whether the land is contaminated, and</i></p> <p><i>(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and</i></p> <p><i>(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</i></p> <p>Potential contamination sources were identified at the site including fill material, lead impacted dust, hazardous building materials (including asbestos), use of pesticides and possible storage of oils and/or fuels in the shed in the north-east section of the site. The fill material at the site has been impacted by lead, carcinogenic PAHs and asbestos. It is considered that remediation is required. This has been outlined in the report prepared by JK Consultants. This report will form part of the approved documents for this development application.</p> <p>It should be noted that under Clause 14 of State Environment Planning Policy 55 (SEPP55), remediation in Broken Hill falls under Category 2 remediation work. Therefore, a separate Development Application (DA)</p>

		<p>will not be required for remediation at this site.</p> <p>There will be no requirement to report the contamination under the NSW EPA Guidelines on the Duty to Report Contamination under Section 60 of the Contaminated Land Management Act 1997 (2015).</p>
--	--	--

State Environmental Planning Policy (Infrastructure) 2007

Clause	Title	Comment and Assessment
Part 3, Division 6, Emergency services facilities and bush fire hazard reduction		
47	Development permitted with consent	(2) Development for the purpose of an emergency services facility may be carried out with consent by or on behalf of a public authority (other than the NSW Rural Fire Service) on any land.
Part 3, Division 17, Subdivision 2, Development in or adjacent to road corridors and road reservations		
101	Development with frontage to a classified road	Not applicable
104	Traffic generating development	The development is not of the relevant size or capacity to be Traffic Generating Development as per Schedule 3 of this policy.

State Environmental Planning Policy (State and Regional Development) 2011

Clause	Title	Comment and Assessment
20	Declaration of regionally significant development: section 4.5 (b)	The development is being carried out by the Crown, as defined by Division 4.6 of the <i>Environmental Planning and Assessment Act 1979</i> . Pursuant to Schedule 7 of this policy, Crown Development with a Capital Investment Value exceeding \$5 million is regionally significant development.

Broken Hill Local Environmental Plan 2013

Clause	Title	Comment and Assessment
1.2	Aims of Plan	<p>(1) This Plan aims to make local environmental planning provisions for land in Broken Hill in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.</p> <p>(2) The particular aims of this Plan are as follows—</p> <p>(a) to encourage sustainable economic growth and development in Broken Hill,</p> <p>(b) to encourage and provide opportunities for local employment growth, and the retention of the population, in Broken Hill,</p> <p>(c) to encourage the retention of mining and acknowledge that industry’s heritage and regional significance,</p> <p>(d) to identify, protect, conserve and enhance Broken Hill’s natural assets,</p> <p>(e) to identify and protect Broken Hill’s built and nationally significant cultural heritage assets for future generations,</p> <p>(f) to provide for a range of housing types and living opportunities,</p> <p>(g) to allow for the equitable provision of services and facilities for the community,</p> <p>(h) to provide for future tourist and visitor accommodation in a sustainable manner that is compatible with, and will not compromise, the natural resource and heritage values of the surrounding area.</p> <p>The development is not inconsistent with the aims of the LEP.</p>
2.3	Zone Objectives and Land Use Table	<p>The subject land is zoned B2 Local Centre Zone under the provisions of the Broken Hill LEP 2013. Development for the purposes of construction of a new Police Station – Local Area Command Site is a permissible development.</p> <p>emergency services facility means a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.</p> <p>public administration building means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station.</p> <p>The objectives of B2 Local Centre zone are:</p> <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.

		<ul style="list-style-type: none"> - To encourage employment opportunities in accessible locations. - To maximise public transport patronage and encourage walking and cycling. <p>Being a community use, it is considered that the police station development is consistent with the objectives of the zone.</p>
5.10	Heritage Conservation	<p>The subject site, described as Lot 91, Deposited Plan (DP) 1262325, is part of a larger site formerly identified as Lot 5893, DP 241855 that contains an item of local heritage significance, Item 184, Kintore Headframe and Kintore Reserve, listed in Schedule 5 of the Broken Hill Local Environmental Plan (LEP) 2013.</p> <p>It is also located within the C1 Argent Street Heritage Conservation Area, listed under the same LEP, and is in the vicinity of a number of individually listed items.</p> <p>A Statement of Heritage Impact was submitted with the DA, and in summary provided:</p> <ul style="list-style-type: none"> • The proposal is for a new, purpose built Police Station, that will consolidate all areas of crime management and police administration in Broken Hill on a single site. • The form and design of the proposed building are considered to be sympathetic to the significance of the Argent Street Heritage Conservation Area. • The proposed building will not visually dominate the Argent Street Heritage Conservation Area, or the listed heritage items in its vicinity. • Primary views to the listed heritage items in the vicinity of the subject site will be retained. • The proposed development will not have an adverse impact on the setting or established heritage significance of the Argent Street Heritage Conservation Area, or the listed items in its vicinity. • The proposed development is consistent with the heritage requirements and guidelines of the Broken Hill LEP 2013 and the Broken Hill LEP 2016. <p>The Development application was referred to Council's Heritage Adviser for consideration and comment.</p> <p>Upon initial consideration of the proposal, the Adviser noted that she generally agreed with the supplied Heritage Impact Statement, however she did provide advice/recommendations to offer "improvement" to the development.</p> <p>These recommendations included:</p> <ul style="list-style-type: none"> - provide additional and more complementary landscaping for the development to soften the impact of the bulk of the building including into the public realm - that the proposed blue brick wall be removed, as this is considered to be too stark and strident.

		<p>Instead a stone wall or rammed earth wall is more appropriate.</p> <ul style="list-style-type: none"> - some visible timber structural elements be included in the design to make material palette more appropriate - some element of local art which is robust and architectural be incorporated. <p>These recommendations were provided to the applicant and architect, and direct discussions held between the Heritage Adviser and architect. As a result, minor changes were agreed to which satisfy the Heritage recommendations.</p> <p>For example, the design has now deleted the glazed blue brickwork in its entirety, and now proposes the feature blade wall clad in 'Corten sheet steel', with the Police Crest and Stations name affixed to both faces of this wall.</p> <p>Amended elevations and detail were provided which address the recommendations.</p>
6.1	Earthworks	<p>The site is relatively level and the proposed development does not require any excessive excavation.</p> <ul style="list-style-type: none"> • The proposal incorporates a detailed Stormwater Drainage Plan which provides for all collected stormwater to be discharged the existing infrastructure in Blende Street via rainwater/OSD tanks. In this regard the proposal will not disrupt existing drainage patterns or soil stability. • A Soil and Sedimentation Plan will be implemented prior to the commencement of any works on site and the site will be suitably landscaped on completion of building works to prevent soil erosion and runoff.
6.6	Essential Services	<p>Development consent must not be granted to development unless the consent authority is satisfied that water, sewage, electricity, stormwater infrastructure and access are available for the development.</p> <p>Stormwater run off from all roof areas will be directed to an Onsite detention tank. This complies with the requirements of Council's Infrastructure Department.</p> <p>All necessary services are available for the proposed Police Station.</p>

Broken Hill Development Control Plan 2016

Section	Title	Comment and Assessment
3	Building	<p>3.1 General Provisions – The proposal has been designed having regard to the general provisions for the following reasons:</p> <ul style="list-style-type: none"> • The subject site is not identified as flood prone land and the proposal will not affect floodwaters. • The proposal incorporates a Stormwater Management Plan which includes water sensitive urban design and stormwater measures in accordance with Council recommendations.
4	Car parking	<p>A Traffic Report has been prepared by Transport & Traffic Planning Associates which in summary provides: <i>The 'Police Station' use is a special circumstance and there is no parking provision criteria contained in either the Council or TfNSW development guidelines. There will be significant areas of the building which do not 'fall into' a normal office use (ie Public Zone, Secure Zone) and if these areas are 'factored' into account then the proposed provision reflects a normal and appropriate provision for an office type use (ie approximately 1 space per 40m² as per Council's DCP criteria). It is noted that there will be an accessible parking space provided on Blende Street adjacent to the front entry of the building. It is apparent that the proposed parking provision will be quite adequate and appropriate to the needs of the new Police Station.</i></p> <p>Council agrees with the conclusions in the Traffic report.</p>
5	Outdoor advertising	<p>The proposal incorporates signage to identify the building and main entry area. The signage is clear and concise and limited in number so as to avoid unnecessary clutter. The signage is incorporated into the overall architectural design and will not detract from the locality. The signage does not obstruct views from surrounding properties, nor obstruct view/sight lines for motorists.</p> <p>Council concludes that the proposed signage is consistent with the DCP provisions.</p>
7	Tree preservation	<p>The proposal requires the removal of 2 trees on Council's road reserve to facilitate vehicular access to the site. A detailed Landscape Plan was submitted with the application, and it is considered that the proposed landscaping will enhance the landscaped character of the locality.</p> <p>Council's Heritage Adviser also provided comment encouraging additional landscaping around the perimeter of the building. This request was agreed to by the applicants and amended landscaping plans provided which addressed those comments.</p>

8	Heritage	<p>The DCP section provides a background on the significance of Broken Hill, from a historical and heritage perspective.</p> <p>The DCP section offers some guidance for work within Heritage areas however it does not provide specific guidance for a development such as this particular development. The DCP does suggest consultation with the Heritage Adviser, which occurred in this instance.</p> <p>A key objective of this section of the DCP is to encourage new development which complements existing heritage items and Conservation Areas in a current day context. It is noted that the subject development is consistent with this objective.</p> <p>The Architects Design Statement noted that “The concept for the appearance of the proposed Police Station respects the roof form, selected materials and finishes of local Australian vernacular ‘<i>outback</i>’ architecture, but reflected in a modern contemporary building with raw materials, textures earthy colours, but still with the ability to be immediately recognisable as a law enforcement public authority to be shared with the community to encourage a positive social attitude towards NSW Police”.</p>
---	----------	--

The likely impacts of that development

Matters	Consideration
Context & Setting	<p>The surrounding land uses include:</p> <ul style="list-style-type: none"> - Kintore Park and public parking area which adjoins to the east - Broken Hill High School on the opposite side of Kaolin Street - Sulphide Street Historical Railway Museum just to the east - residential dwellings extending along Blende Street and Beryl Street.
Access, Transport & Traffic	<p>The development site has frontage to Blende Street, Beryl Street, and Kaolin Street.</p> <p>Vehicle access for the site will comprise separate 5 metre wide ingress and egress driveways respectively on the Blende Street and Beryl Street frontages located towards the eastern site boundary. The accesses will be located well away from the Kaolin Street intersection on a straight sections of roadways where excellent sight distances are available. The design of the driveways complies with AS2890.1&2 and will accommodate all vehicles requiring to access the site.</p> <p>A Traffic Report prepared by Transport and Traffic Planning Associates concluded that:</p> <ul style="list-style-type: none"> - the proposed parking provision will be suitable and appropriate - there will not be any adverse traffic implications

	<p>- the proposed vehicle access and circulation arrangements will be satisfactory.</p> <p>Council considers that the development will not create any unacceptable traffic impacts.</p>
Visual and acoustic	<p>Construction Impacts related to construction activities can be minimised by imposition of conditions on the consent related to hours of work.</p> <p>Operational The Police Station will operate twenty-four (24) hours a day, seven (7) days a week.</p> <p>A Noise Impact Assessment was carried out by JHA Services.</p> <p>Primary noise sources will be traffic, and sirens.</p> <p>As per NSW Police Force '<i>Safe Driving Policy</i>', police car sirens shall be used as a warning only when responding to an emergency call or pursuing a suspected offender.</p> <p>Traffic noise impact due to the likely generated vehicle movements of the proposed development – based on the information provided in the traffic report – is anticipated to be insignificant, as the noise levels will not increase more than 2.0dB at the sensitive noise receivers.</p>
Design	<p>The proposed site is located at the fringe of the main commercial/retail area of the CBD of Broken Hill and positioned at the transition of the residential area, hence the architects preference to integrate a domestic roof form and pitch, that aims to be sympathetic with the immediate area, where corrugated roofs, broad eaves protection and expressed roof drainage are common.</p> <p>Roofing – It is appropriate the proposed use of corrugated steel which typifies early Australian architecture, and is intended to be finished in traditional zincalume, not a pre-coloured Colorbond product, which is more recognisable with suburban and coastal projects.</p> <p>Corten Cladding - The inclusion of 'Corten', being a copper chromium alloy steel where its chemical composition promotes the early weathering formation of an adhering protective layer of rust when exposed to the elements, has been introduced in contemporary buildings over recent years, and is appropriate in the local rural mining environment of Broken Hill.</p> <p>Mini Orb Cladding - it is proposed to incorporate 'Mini Orb' horizontal sheeting, finished in natural zincalume. Again, corrugated steel has been typically used over the past two centuries as external sheet cladding, and it is appropriate to be used as part of this development.</p>
Crime Prevention Through Environmental Design	<p>Information submitted with the DA provided the following detail: Security and surveillance of NSW Police Stations is a paramount requirement for control and safety of these facilities and all personnel using them.</p>

	<p>Building security by means of Closed Circuit Television (CCTV) is a requirement of the NSW Police Force and is provided to cover the external perimeter areas of each Police Station, including selected areas within the building to monitor both Custodial and limited Operational areas.</p> <p>Security control of the 'immediate pedestrian streets' (Blende, Kaolin and Beryl Street), will also be monitored daily, for inappropriate activity within the station's surrounds.</p> <p>NSW Police Staff are protected by restricting access to nominated areas of the station and alarms systems to ensure this is controlled. Prisoners handling areas are secure and monitored by custodial staff with audio and visual systems.</p> <p>'Secure' on-site parking has been provided but restricted to NSW Police operational vehicles and appointed officers, with convenient public parking on Blende, Kaolin and Beryl Streets, as it's a policy of the NSW Police Force to restrict unauthorised and public vehicles accessing the Station.</p> <p>Where visibility is limited, such as the public arrival, entry, lobby areas and vehicle entry and ramps, CCTV and convex mirrors are installed to ensure clear visibility and safety.</p> <p>With regards to external areas for security reasons, the NSW Police Force stipulates that landscaping is to be limited, and planting is not to grow to a height greater than 1.0m, or be located so as it can be used by the public as a 'hiding point'. Trees, either existing or proposed are to be pruned or located so as their canopy and branches are well clear of the building face and roof, to eliminate any possible access point.</p> <p>Other elements such as specific safety glass, anti-graffiti paint, external lighting, balustrading, handrails, wayfinding signage, tactile indicators are all requirements of the NSW Police Force, to again ensure safety and security is incorporated into Police developments.</p>
Natural Hazards	Council records indicate that the site is not affected by hazards, including bush fire, landslip or acid sulphate soils.
Shadow impact	As the site is bounded by public roads, and a public carpark, the proposal will not result in any overshadowing of privately owned land or public open space.
Social Impacts in the Locality	A new Police Station is considered to have a positive social impact for Broken Hill and the broader region.
Economic Impact in the Locality	The development may have a minor economic benefit during construction through the possible employment of local trades and services.

Suitability of the Site

The area surrounding the subject site comprises of a mix residential dwellings, educational facilities, public open Space, retail and commercial facilities.

It is noted that :

- The site is centrally located and is currently vacant.
- There are no significant constraints on the site
- The site is within a Heritage Conservation Area and identified as part of an Item of Environmental Heritage. It is considered that heritage matters have been suitably addressed in the design of the development.
- There are no significant constraints on the site.

Submissions

The application was publicly exhibited from 5 October 2020 to 3 November 2020 in accordance with *Broken Hill Development Control Plan 2016*, which involved:

- Notification of surrounding landowners;
- advertisement in local newspaper Barrier Truth; and
- a Notice of Development sign placed at the site.

One submission, by way of objection, was received from a resident of the neighbourhood.

The objection raised the following matters:

- “writing to raise my concerns with this application being a two-storey development”.
- “I strongly believe this building will severely impact on the view from my property as this is the single most reason, we purchased this particular property and built our beautiful new home on as it has a remarkable view of the line of lode”.
- “I also believe this Development will have a detrimental impact on the value of my property devaluing it significantly”.
- “Request it (the building) be only single storey”.

The objector provided the below photograph, showing their view from their front yard, towards the mining lease/mullock heap known as the “Line of Lode”. Note – subject development site is the vacant land in the foreground.



Assessment response:

The Courts have acknowledged that views from a person's home can have considerable value. However, that does not mean that a person has the power to protect and maintain their view as a legal right.

The issue of "view" was dealt with by the High Court in *Victoria Park Racing & Recreation Grounds Co Ltd v Taylor* [1937] HCA 45. The High Court held that a property owner does not own the views (spectacles) from his or her land. Justice Dixon stated: "*I find difficulty in attaching any precise meaning to the phrase 'property in a spectacle'. A "spectacle" cannot be "owned" in any ordinary sense of that word.*"

This position has been reinforced in several subsequent decisions of the Court and, as a legal principle, remains relatively unchanged.

In *Robson v Leischke* [2008] NSWLEC 152, His Honour, Preston CJ, summarised the limited powers available to an aggrieved land owner when, at paragraph [86] of his judgment, he stated:

"...a defendant may erect a building or other structure such as a fence, or plant a tree on his or her land which interferes with the neighbour's enjoyment of their land. The building, structure or tree may...spoil the neighbour's view ...yet such interferences are not actionable as a nuisance".

The applicant did acknowledge the submission and provided a response to Council. The response noted "*...the proposal provides for a two storey building compliant with requirements of Council. The views depicted in the submission are distant and it is considered that any development of these sites would result in obstruction of these views. The land is zoned B2 Local Centre and the proposed use is permissible on this site. It is unrealistic that such a site with this zoning would remain vacant. The proposed Police Station provides for an efficient use of the land that serves the local community. It is not considered that the issues raised in the submission are valid nor worthy of amendments to the proposal. Providing for a single storey building would not meet the needs of the Police Station and would likely result in disruption of the view. It is unreasonable to expect that the subject site be restricted to single storey development"*.

It should also be noted that *Broken Hill Local Environmental Plan 2013* does not adopt a Principal Development standard restricting height of buildings.

It is considered that the issue of loss of view does not warrant refusal or need for amendment of the proposal. Legal cases have provided guidance to determining authorities that re-iterate that a person does not have the power to protect and maintain their view as a legal right.

In regards to affect on property value, the *Environmental Planning and Assessment Act 1979* requires consent authorities to take into consideration, when relevant, the 'likely impacts' including the 'social and economic impacts in the locality' of a proposed development. In this context 'likely impacts' means "a real chance or possibility": *Hoxton Park Residents Action Group Inc v Liverpool City Council* (2011) 184 LGERA 104 at [46]. The reference to 'the locality' is broader than an economic impact on one neighbour, for example as noted in *Fabcot Pty Ltd v Hawkesbury City Council* (1997) 93 LGERA 373. Gadens Lawyers (2013) noted that "It will generally be a stretch to argue that a loss of value to a single neighbouring landowner is a proper matter for consideration". For example, at its simplest level, many neighbours argue that a new home next door to them will result in a loss of property value to them. But the Courts typically refuse to consider such impacts, on the basis that some broader economic impacts are required 'in the locality'

Public Interest

Broken Hill 2033 Community Strategic Plan

The vision of the *Broken Hill 2033 Community Strategic Plan* is “Broken Hill will be a self-reliant, strong regional community with services and facilities to support an active, vibrant residential population, valuing and sharing the region’s unique natural and built environment with regional, national and international visitors.....”

One of the key objectives of the Strategic Plan is Objective 1.1. – “People in our community are in safe hands”. It is considered that the Police Station development will support the vision and objectives of the *Broken Hill 2033 Community Strategic Plan*, and is consistent with the following strategies:

1.1.1 Increase community awareness of safer community initiatives

1.1.2 Promote a whole of community approach aimed at reducing preventable crime and nuisance within the city

1.1.3 Strengthen and encourage partnerships that promote a coordinated approach to community safety.

Objects of the *Environmental Planning and Assessment Act 1979*

The objects of the Act are:

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

(c) to promote the orderly and economic use and development of land,

(d) to promote the delivery and maintenance of affordable housing,

(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,

(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),

(g) to promote good design and amenity of the built environment,

(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,

(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,

(j) to provide increased opportunity for community participation in environmental planning and assessment.

Accordingly, the development is considered to be consistent with the objects of the *Environmental Planning and Assessment Act 1979*.

CONCLUSION

The site is zoned 'B2 Local Centre' pursuant to the *Broken Hill Local Environmental Plan 2013*. The proposed development is permissible with development consent.

The development has been assessed in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and it is considered to be consistent with the relevant State Environmental Planning Policies, *Broken Hill Local Environmental Plan 2013* and *Development Control Plan 2016*. The development is considered to have minimal impact on the natural and built environment and will result in no significant adverse social or economic impacts. The site is suitable for redevelopment. The development is not prejudicial to the public interest.

Following an assessment in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*, it is recommended that DA 115/2020 be approved subject to conditions. As a Crown Development, the applicant and proponent (BGIS and NSW Police Property Group) were provided a copy of the proposed conditions of consent, and BGIS and NSW Police Property Group confirmed to Council that they agree to the proposed list of conditions.

RECOMMENDATION

That Development Application 115/2020 be approved subject to the following conditions:

1.	Approved Plans/Documents. Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:		
	Document Description	Date	Plan No/Reference
	Architectural Drawings; Gardner Wetherill Associates		DA001-DA006. Note "Site and Roof plan" – Sheet B1. Perspective & Location Map – Sheet B1. Amended elevations – sheets 1 and 2 – B1 – Rev A.
	Land Survey; Sydney Surveyors	28/01/2020	16781/1A
	Statement of Environmental Effects; Nolan Planning	August 2020; November 2020	
	Architects Design Statement; Gardner Wetherill Associates	May 2020	
	Schedule of External Finishes; Gardner Wetherill Associates	28 August 2020; November 2020	
	Landscape Plans; iScape	May 2020; November 2020	58.20/131; 58.20/413; 58.20/414; 58.20/130A
	Statement of Heritage Impact; Lynch Heritage Consulting	August 2020	
	Traffic Report; TTPA	August 2020	287/2019. Issue A
	Acoustic Report; JHA Services	19/08/2020	P1
	BCA Report; BCA Vision	08/04/2020	P20004
	Accessibility Report; Morris Goding Access Consulting	25/08/2020	
	Stormwater Management & Soil Erosion Sediment Control Plans; Birzulis	April 2020; November 2020	SW01; SW02 Rev B; SE01; SE02;
	Site Fire and Sewer Services Connection Plans; JHA	20/08/2020	Doc A
Geotechnical Investigation Report; JK Geotechnics	30/06/2020	32665A2rpt	
Detailed site investigation – environmental contamination; JKGeotechnics	12/03/2020	E32665PHrpt2	

2. All precautions must be taken to prevent damage to any nearby properties. Owner's property rights must be observed at all times. Should any damage occur to a nearby property as a result of demolition or construction, all necessary repairs or suitable agreement for the repairs are to be completed by the proponent in consultation with, and with the consent of, the affected property owner(s).
3. Any public road, footpath, public reserve and/or infrastructure that is damaged by the development is to be repaired/restored at no cost to Council.
4. Construction activities at the development site shall be carried out only between 7.00am to 5.00pm Monday to Saturday. No work on Sundays and Public Holidays is permitted.
5. Prior to the commencement of any work on the site, a Construction Certificate is to be obtained from either Council or an Accredited Certifier, certifying that the proposed works are in accordance with this consent and the applicable standards.
6. Prior to the commencement of any work within the public road reserve, including construction of new driveways and dishcrossings, Roads Act approval must be obtained from Broken Hill City Council's Infrastructure Department.
7. Dust control measures are to be implemented during earthworks and during construction works to reduce any impact on local air quality and reduce dust emissions. This will include but may not be limited to regularly wetting down of the site during the course of works being carried out in order to control wind-blown dust.
8. During construction, all building rubbish and debris, including that which can be windblown, shall be contained on site in a suitable container for disposal at an authorised Waste Landfill Depot at regular periods. The container shall be erected on the building site prior to construction work commencing and shall be maintained for the term of the construction to the completion of the project. The waste container shall be regularly cleaned to ensure proper containment of the building wastes generated on the construction site.
9. During construction, all utility services shall be protected.
10. Prior to the commencement of any work on the site, the applicant is to obtain all relevant approvals to carry out any sewerage work, electricity work and water supply work from the relevant local service provider (Essential Energy and Essential Water) and comply with any conditions of those approvals.
11. The Applicant is to obtain an Occupation Certificate pursuant to the *Environmental Planning and Assessment Act 1979*, from the Principal Certifying Authority prior to occupation of the building.

Reason for imposition of conditions:

The above conditions have been imposed:

1. Having regard to Council's duties of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, as well as Section 4.17 which authorizes the imposing of the consent conditions.
2. Having regard to the circumstances of the case and the public interest.