To All Councillors

You are hereby notified that the next meeting of the Development & Environmental Services Committee will be held on 10 September 2019 in the Barry Rose Room at 10.00am, for the purpose of transacting the undermentioned business.

This meeting will be audio recorded and those in attendance should refrain from making any defamatory statements.

There are to be no other recordings of this meeting without the prior authorisation of the committee.

The Development & Environmental Services Committee consists of

Cr Kiwa Fisher, Cr Lee Watts, Cr Sue Abbott and Cr Ron Campbell

STEVE MCDONALD
GENERAL MANAGER

1. APOLOGIES

2. ADOPTION OF MINUTES
   - Development & Environmental Services Committee held on 13 August 2019

3. DECLARATIONS OF INTEREST

4. PUBLIC PARTICIPATION

5. SITE INSPECTIONS

6. BUSINESS ITEMS

DEVELOPMENT & ENVIRONMENTAL SERVICES COMMITTEE REPORTS............................. 1

DESC.09.1 DEVELOPMENT APPLICATION 75/2019 - CARPORT AT 25 SHORT STREET, SCONETotal.............................................................. 1

DESC.09.2 DEVELOPMENT APPLICATION 89/2019 - USE OF CARPORT, STORAGE SHED AND SHIPPING CONTAINER AT 51 SATUR ROAD, SCONETotal......................................................... 17

DESC.09.3 DEVELOPMENT APPLICATION 46/2019 - HOME-BASED CHILD CARE AT 38 SALISBURY STREET, BLANDFORD Total.............................................................. 29

7. COUNCILLOR QUESTIONS
DEVELOPMENT APPLICATION 75/2019 - CARPORT AT 25 SHORT STREET, SCONE

RESPONSIBLE OFFICER: Mathew Pringle - Director Environmental & Community Services

AUTHOR: Christine Robinson - Manager Planning, Building & Regulatory Services

PURPOSE

On 28 June 2019, Council received Development Application No 75/2019 for a carport at Lot 15, DP 844743, 25 Short Street, Scone. Amended plans were received on 14 July 2019.

The application is being reported to the Development and Environmental Services Committee, as the proposal does not comply with Part 4b.2 of the Upper Hunter Development Control Plan 2015.

RECOMMENDATION

That Council approve Development Application No. 75/2019 for the construction of a carport located at Lot 15 DP 844743, 25 Short Street, Scone subject to the conditions of consent in Attachment 1.

BACKGROUND

Application No: 75/2019
Applicant: Mr R M Lawrence
Owner: Mr R M Lawrence
Proposal: Carport
Location: Lot 15 DP 844743, 25 Short Street, Scone
Lodged: 28 June 2019
Zone: R1 – General Residential

The subject lot contains a dwelling house constructed pursuant to Complying Development Certificate No CDC 48/2000.

REPORT/PROPOSAL

On 28 June 2019, Council received Development Application No 75/2019 for the erection of a steel skillion carport to the front façade of an existing dwelling, and partially forward of the building line set by the dwelling, at Lot 15, DP 844743, 25 Short Street, Scone. Amended plans were received on 14 July 2019.

The development application is being reported to Council as the proposal does not comply with Outcome B of Part 4b.2 of the Upper Hunter Development Control Plan 2015, which requires structures ancillary to a dwelling to be built wholly behind the established building line.

Whilst this outcome does provide scope to permit a carport, or part thereof, to be constructed forward of the building line in certain circumstances, the subject lot does not benefit from any
of the circumstances that would otherwise permit such a structure. The circumstances prescribed are summarised as follows:

- There is an existing pattern of similarly located carports in the street;
- The topography of the land is such that the carport can form part of an existing slope or retaining wall;
- The topography of the land is such that the existing dwelling is located significantly below the street level;
- The dwelling is on a corner lot and the carport fronts the secondary street;
- The existing dwelling is setback significantly further than other dwellings in the street; or,
- The allotment is irregular in shape.

The existing dwelling has established the building line at approximately 8m from the front boundary to its closet point. The carport will measure 2.8m wide and project 6m from the fascia at the garage, totalling 16.8m² in area.

Where one of the aforementioned circumstances have been met, this outcome permits a carport or part thereof, up to 36m² to be constructed forward of the building line, to a setback of 1m from the front boundary and built to the side boundary.

In drawing numerical comparisons with these provisions, in the instance that the proposal had met a prescribed circumstance, it is noted that the proposal exceeds these expectations as follows:

a) The part of the carport forward of the building line will total 16.8m², which consequently is 19.2m² less than the maximum allowable;

b) A setback of 2.4m from the front boundary, which exceeds the 1m allowable otherwise permitted;

The applicant has provided justification for requesting the reduced setback, the main reasons being:

- The applicant is a local tradesman and his work utility and trailer does not fit within the existing garage, leaving works tools/materials in the weather;
- There is insufficient space to the side of the dwelling for a carport; and
- Neighbouring properties have reduced setbacks to the Short Street frontage.

As set out in the planning assessment report, the proposal is demonstrated as being appropriate in respect of the site and locality, will not dominate the streetscape, and complies otherwise with the DCP.

In consideration of the above points, a variation to Outcome B so as to allow the carport to be constructed forward of the established building line is appropriate in this instance.

**OPTIONS**

1. Approve Development Application No. 75/2019 for the construction of a carport at Lot 15, DP 844743, 25 Short Street, Scone, subject to the conditions of consent in Attachment 1;
2. Refuse Development Application No. 75/2019 for the construction of a carport at Lot 15, DP 844743, 25 Short Street, Scone, and state the reasons for refusal;

3. Defer Development Application No. 75/2019 for the construction of a carport at Lot 15, DP 844743, 25 Short Street, Scone, pending the receipt of further information.

**CONSULTATION**

Ancillary development is not required to be notified under Part 2 of the Upper Hunter Development Control Plan.

Notwithstanding, the proposal was notified between 24 July 2019 and 7 August 2019 for the purposes of applying proper consideration with respect to the public interest.

No submissions were received in relation to the application, suggesting that the community does not hold concerns with respect to such a development being carried out.

**STRATEGIC LINKS**

**a. Community Strategic Plan 2027**

This report links to the Community Strategic Plan 2027 as follows:

Built and Natural Environment

Goal 4 - Plan for a sustainable future

- Implement and regularly review Strategic Land Use Plans, Environmental Planning Instruments and Development Controls, which reflect the needs and expectations of the broad Community.
- Provide efficient and effective advisory, assessment and regulatory services focused on being Customer ‘friendly’, responsive and environmentally responsible.
- Plan, facilitate and provide for a changing population for current and future generations.

We are working to achieve the following Community Priorities:

Rural lifestyle and Country feel are valued and protected and the Upper Hunter Shire remains quiet, safe, healthy and welcoming.

**b. Delivery Program**

Assessment of the application is in accordance with the Town Planning Community Strategies:

CS13 - Implement and regularly review Strategic Land Use Plans, Environmental Planning Instruments and Development Controls, which reflect the needs and expectations of the broad Community, and

CS14 – Provide efficient and effective advisory, assessment and regulatory services focused on being Customer ‘friendly’, responsive and environmentally responsible.
c. Other Plans

Nil.

**IMPLICATIONS**

a. Policy and Procedural Implications

Nil.

b. Financial Implications

Development application fees totaling $135 have been paid by the applicant.

c. Legislative Implications

An assessment of the development application has been undertaken pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* (see attached report). The proposed development is permissible with consent within the R1 – General Residential land use zone.

d. Risk Implications

Council determinations of development applications in relation to local development can be appealed by a third party in the Land and Environment Court in circumstances where incorrect legal process has been applied.

Furthermore, the applicant has the right under Part 8 of the *Environmental Planning and Assessment Act 1979* to appeal the decision of a consent authority to the Court.

In the case of this development application the relevant considerations under the *Environmental Planning and Assessment Act 1979* have been made.

e. Other Implications

The construction of the proposed carport can act to set a precedent for other dwellings in the locality to pursue similar development, particularly via the circumstance prescribed in the previously discussed Outcome B, being as follows - “there is an existing pattern of similarly located carports or garages in the street”.

**CONCLUSION**

The application has been assessed as satisfactory against Section 4.15 of the *Environmental Planning and Assessment Act 1979*, *Upper Hunter Local Environmental Plan 2013* and the Upper Hunter Development Control Plan 2015.

The proposal is unlikely to adversely impact the surrounding locality, and is considered to be an appropriate form of development for the site and within the land use zone.

Accordingly, it is recommended that the application be approved, subject to the imposition of appropriate conditions of consent, and for the following reasons:
The proposal complies with the Upper Hunter Local Environmental Plan 2013;
The proposal is generally consistent with the outcomes of the Upper Hunter Development Control Plan 2015;
The proposal has been assessed as satisfactory against Section 4.15 of the Environmental Planning & Assessment Act 1979;
Will not have an adverse impact on the surrounding locality;
Community consultation did not result in the receipt of submissions against the proposal.

**ATTACHMENTS**

1. DA 75/2019 - Recommended conditions of consent
2. DA 75/2019 - S4.15 Assessment - Carport at 25 Short Street, Scone for R Lawrence
3. DA 75/2019 - Elevations and Site Plan - Carport at 25 Short Street, Scone
Identification of approved plans:

1. The development being carried out in accordance with the development application, the drawings referenced below and Statement of Environmental Effects dated 28 June 2019 except where amended by the conditions of consent.

<table>
<thead>
<tr>
<th>JOB REFERENCE NO</th>
<th>DRAWN BY</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site plan</td>
<td>Unknown</td>
<td>Not dated</td>
</tr>
<tr>
<td>Elevations</td>
<td>Unknown</td>
<td>Not dated</td>
</tr>
</tbody>
</table>

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council)

2. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council)

Operational conditions imposed under the environmental planning and assessment act and regulations and other relevant legislation:

3. All building work must be carried out in accordance with the provisions of the National Construction Code Series.

(Reason: Prescribed by legislation)

4. Home Building Act Requirements

   (1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:

   (a) in the case of work to be done by a licensee under that Act:

     i. has been informed in writing of the licensee’s name and contractor licence number, and

     ii. is satisfied that the licensee has complied with the requirements of the Home Building Act, or

   (b) in the case of work to be done by any other person:

     i. has been informed in writing of the person’s name and owner-builder permit number, or

     ii. has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

   Note: The amount referred to in paragraph (b)(ii) is prescribed by regulations under the Home Building Act 1989. As at the date on which this Regulation was Gazetted, that amount was $10,000. As those regulations are amended from time to time, that amount may vary.
(2) A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

Note: Insurance thresholds are set out in Clause 53 of the Home Building Regulation 2014, stating that for the purposes of sections 92 (3) and 96 (3) (e) of the Act, the amount of $20,000 (inclusive of GST) is prescribed.

(3) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

(Reason: Prescribed by legislation)

**Conditions that must be addressed prior to commencement:**

5. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

   (a) stating that unauthorised entry to the work site is prohibited;

   (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and

   (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

The installation is to be approved by the Principal Certifying Authority prior to further commencement of site works.

(Reason: Statutory requirement)

6. No works shall commence on site until such time as a Construction Certificate has been issued for either part or all of the works. If a certificate is issued for part of the works it must cover the works being undertaken onsite.

(Reason: Prescribed – Statutory)

**Conditions that must be complied with during demolition and building work:**

7. Any person acting on this consent shall ensure that:

   (a) building construction activities are only carried out during the following hours:

      i. between Monday to Friday (inclusive)—7.00am to 5.00pm,

      ii. on a Saturday—8.00am to 5.00pm;

   (b) building construction activities must not be carried out on a Sunday or a public holiday;

   (c) demolition and excavation works must only be carried out between Monday to Friday (inclusive) between 8.00am and 5.00pm;
unless prior written approval has been obtained from Council.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

8. Building materials and equipment must be stored wholly within the work site, unless prior written approval has been obtained from Council. Equipment must not be operated on the footpath or roadway, unless prior written approval has been obtained from council.

(Reason: To ensure public safety and amenity on public land)

9. Any necessary alterations to, or relocations of, utility services must be carried out at no cost to the council or the relevant public authority.

(Reason: To ensure costs associated with the development are not transferred to the public)

10. The applicant shall bear the cost of all restoration works to Council’s property damaged during the course of this development.

(Reason: To ensure the protection of existing public infrastructure)

**Conditions which must be complied with prior to the issue of any occupation certificate:**

11. The building is not to be used or occupied until a final inspection has been carried out and an Occupation Certificate has been obtained from the Principal Certifying Authority.

(Reason: Prescribed - Statutory.)

**Conditions that must be complied with at all times:**

12. At all times, all stormwater from the development, including all hardstandings and overflows from rainwater tanks, shall be collected and disposed of by way of properly constructed stormwater lines to the existing stormwater drainage on site;

(Reason: To ensure the suitable disposal of stormwater generated by the development)
**ADDRESS:**
LOT: 15 DP: 844743
25 Short Street Scone

**APPLICATION No:**
DA 75-2019

**PROPOSAL:**
Carport

**PLANS REF:**

<table>
<thead>
<tr>
<th>DRAWINGS NO.</th>
<th>DRAWN BY</th>
<th>DATE</th>
<th>RECEIVED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site plan</td>
<td>Unknown</td>
<td>Not dated</td>
<td>14.07.19</td>
</tr>
<tr>
<td>Elevations</td>
<td>Unknown</td>
<td>Not dated</td>
<td>14.07.19</td>
</tr>
</tbody>
</table>

**OWNER:**
Mr R M Lawrence

**APPLICANT:**
Mr R M Lawrence
25 Short Street
SCONE NSW 2337

**AUTHOR:**
Mrs C T Robinson

**DATE LODGED:**
28 June 2019

**AMENDED:**
-

**ADD. INFO REC'D:**
14 July 2019

**DATE OF REPORT:**
30 August 2019

**SUMMARY OF FACTS**

**ISSUES:**
The proposal does not comply with Outcome B of Part 4b.2 of the DCP

**SUBMISSIONS:**
Nil

**RECOMMENDATION:**
Approval
DESCRIPTION OF PROPOSAL

The proponent seeks the consent of Council to construct a 6m x 2.8m carport to the front of an existing dwelling located on a 743.7m^2, R1 General Residential property at 25 Short Street, Scone.

The carport will attach directly to the fascia of the existing garage, comprise metal skillion style construction 16.8m^2 in area.

The existing dwelling has established the building line at approximately 8m from the front boundary. The proposed carport will be located 2.4m from the front boundary.

RELEVANT HISTORY

The subject allotment contains an existing residential dwelling constructed pursuant to Complying Development Certificate number 48/2000.

REFERRALS

Referral to any external parties was not deemed to be necessary with regard to the proposal.

SUBMISSIONS

Surrounding properties were notified of the development proposal between 24 July 2019 and 7 August 2019. An advertisement was placed in the Scone Advocate on 24 July 2019.

No submissions were received by Council.

CONSIDERATION

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, are assessed under the following headings:

ENVIRONMENTAL PLANNING INSTRUMENTS

| UPPER HUNTER LOCAL ENVIRONMENTAL PLAN 2013 | COMMENT |
Land Use Table

<table>
<thead>
<tr>
<th>Zoning classification</th>
<th>R1 – General Residential</th>
</tr>
</thead>
</table>

Zoning objectives

The proposal is considered to be consistent with the objectives of the zone with regard to:
- The proposal will provide for the housing needs of the community;
- The proposal will provide for a variety of housing types and densities; and,
- The proposal enables a land use that provides facilities or services to meet the day to day needs of residents.

Zoning permissibility

The proposal is permissible as a development ancillary to a dwelling in the R1 – General Residential zone.

Clauses (Part 4)

Height of buildings (Clause 4.3) The proposal will comply with the requirements for height of buildings.

Floor space ratio (Clause 4.4 and 4.5) The proposal will comply with the requirements for floor space ratio.

Part 5 – Miscellaneous provisions

No controls have been set for the subject lot under Part 5.

Part 6 – Additional Local Provisions

Earthworks (Clause 6.1) The carport is proposed over an existing slab/driveway.

Airspace operations (Clause 6.7) The proposal will not exceed the established eave height of the existing dwelling.

Essential Services (Clause 6.10) Existing to the dwelling.

STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy No 55 – Remediation of Land

The property has a history of residential land use and is not considered likely to have become contaminated.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft EPI’s applying to the land.

REGULATIONS

There are no provisions in the regulations relevant to the proposal.

DEVELOPMENT CONTROL PLANS

The proposal meets the outcomes to be achieved as set out in the Upper Hunter Development Control Plan 2015, with respect to Parts 10, 11 and 12.

However, the proposal does not comply with Outcome B of Part 4b.2, which requires all ancillary residential structures to be constructed behind the building line.

Furthermore, the subject property does not meet any of the circumstances prescribed within this outcome, that permit the construction of carports forward of the established building line, which are listed as follows:
- There is an existing pattern of similarly located carports in the street;
- The topography of the land is such that the carport can form part of an existing slope or retaining wall;
- The topography of the land is such that the existing dwelling is located significantly below the street level;
- The dwelling is on a corner lot and the carport fronts the secondary street;
- The existing dwelling is setback significantly further than other dwellings in the street; or,
- The allotment is irregular in shape.

In the instance that one of the above circumstances is met, this outcome permits a carport or part
thereof, up to 36m² to be constructed forward of the building line and may be built to 1m from the front boundary and built to the side boundary.

This acts to set a size limitation on the carport so to attempt to kerb the extent of the resultant impacts with respect to the close proximity of such a structure to the property boundaries, in conjunction with the variation of the established building line.

Whilst the proposal does not meet the prescribed circumstances, it is noted that all other numerical aspects of this outcome are exceeded with respect to:

a) The part of the carport forward of the building line will total 16.8m², which consequently is 19.2m² less than the maximum allowable; and

b) A setback of 2.4m from the front boundary, which exceeds the 1m allowable otherwise permitted.

Furthermore, the adjoining allotment to the east is a corner allotment where the dwelling is setback approximately 4.5m from the Short Street boundary frontage. The adjoining allotment to the west is vacant.

<table>
<thead>
<tr>
<th>ENVIRONMENTAL IMPACTS</th>
<th>Satisfactory</th>
<th>Comment (only if necessary)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Context &amp; Setting</td>
<td>YES</td>
<td>The proposal is ancillary to an established dwelling within a large lot residential land use zone. The proposal is unlikely to result in any conflict with the adjoining land uses and is structure typical of urban localities.</td>
</tr>
<tr>
<td>Built Form</td>
<td>YES</td>
<td>The proposal is located at eave height established by the existing dwelling. It is considered that the structure will not detract from the streetscape.</td>
</tr>
<tr>
<td>Potential Impact on Adjacent Properties</td>
<td>YES</td>
<td>The proposal is unlikely to impact by way of overshadowing, loss of amenity, obstruction of view, increase the generation of noise, or pose a glare nuisance with respect to the colours selected.</td>
</tr>
<tr>
<td>Access, Transport and Traffic</td>
<td>YES</td>
<td>An existing concrete driveway services the property via a lawful access from Short Street.</td>
</tr>
<tr>
<td>Stormwater</td>
<td>YES</td>
<td>A stormwater drainage system servicing the existing dwelling can be utilised.</td>
</tr>
<tr>
<td>Soils</td>
<td>YES</td>
<td>There will be minimal site disturbance servicing the existing driveway.</td>
</tr>
<tr>
<td>Flora and Fauna</td>
<td>YES</td>
<td>No vegetation is proposed to be disturbed.</td>
</tr>
<tr>
<td>Social Impact on Locality</td>
<td>YES</td>
<td>The proposal has the propensity to increase the enjoyment of the property and protect vehicles parked at the premises.</td>
</tr>
<tr>
<td>Economic Impact on Locality</td>
<td>YES</td>
<td>The proposal has the propensity to increase the value of the property.</td>
</tr>
<tr>
<td>Construction</td>
<td>YES</td>
<td>The proposal is likely to comply with the Building Code of Australia subject to appropriate assessment.</td>
</tr>
<tr>
<td>Cumulative Impacts</td>
<td>YES</td>
<td>The proposal is not expected to contribute to any cumulative impacts.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SITE SUITABILITY</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Does proposal fit in locality?</td>
<td>YES</td>
</tr>
</tbody>
</table>
IS THE PROPOSAL IN THE PUBLIC INTEREST?
The adjoining properties were notified of the development application on the principle of community consultation in recognition that an outcome of the Development Control Plan was to be varied. Council did not receive any objection to the proposal.

SUMMARY OF LIKELY IMPACTS OF THE DEVELOPMENT
All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

<table>
<thead>
<tr>
<th>ENVIRONMENTAL ASSESSMENT</th>
<th>CONSIDERED</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Statutory controls</td>
<td>YES</td>
</tr>
<tr>
<td>2 Policy controls</td>
<td>YES</td>
</tr>
<tr>
<td>3 Design in relation to existing building and natural environment</td>
<td>YES</td>
</tr>
<tr>
<td>4 Landscaping/open space provision</td>
<td>YES</td>
</tr>
<tr>
<td>5 Traffic generation and car parking provision</td>
<td>YES</td>
</tr>
<tr>
<td>6 Loading and servicing facilities</td>
<td>N/A</td>
</tr>
<tr>
<td>7 Physical relationship to and impact upon adjoining development (views, privacy, overshadowing, etc.)</td>
<td>YES</td>
</tr>
<tr>
<td>8 Site Management issues</td>
<td>YES</td>
</tr>
<tr>
<td>9 All relevant S4.15 considerations of Environmental Planning and Assessment Act 1979</td>
<td>YES</td>
</tr>
<tr>
<td>10 Section 89 LGA 93 including Clause 12 considerations of Local Government Regulations 1993</td>
<td>YES</td>
</tr>
</tbody>
</table>

CONSISTENCY WITH THE AIMS OF PLAN

It is considered that the development is consistent with the specific aims of the plan and the objectives of the zone and development controls.

As such, consent to the development may be granted.

CONCLUSION

The application has been assessed as satisfactory against Section 79C of the Environmental Planning and Assessment Act 1979, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Shire Development Control Plan 2008.

The proposal is in keeping with the site context, is an appropriate form of development for the site and is unlikely to result in any significant adverse impacts.

Accordingly, it is recommended that the application be approved subject to appropriate conditions of consent.

RECOMMENDATION

PURSUANT TO SECTION 4.16/4.17 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT Council as the consent authority, grant consent to Development Application No. 75/2019 subject to the attached conditions of consent.
REASONS FOR RECOMMENDATION

- The proposal complies with the Upper Hunter Local Environmental Plan 2013
- The proposal is generally consistent with the outcomes of the Upper Hunter Development Control Plan 2015
- The proposal has been assessed as satisfactory against Section 4.15 of the Environmental Planning & Assessment Act 1979
- Will not have an adverse impact on the surrounding locality
- Community consultation did not result in the receipt of submissions against the proposal

CHRISTINE ROBINSON
MANAGER PLANNING, BUILDING & REGULATORY SERVICES
Purpose

On 19 July 2019 Council received Development Application No. 89/2019 to regularise the use of a carport, storage shed and shipping container at 51 Satur Road, Scone.

The application is being reported to the Development and Environmental Services Committee as the work has been completed prior to obtaining consent.

Recommendation

That Council approve Development Application No. 89/2019 to regularise the use of a carport, storage shed and shipping container at 51 Satur Road, Scone subject to the conditions of consent in Attachment 1.

Background

Application No: DA 89/2019
Applicant: Mr L R Constable-Ray and Ms M J Witt
Owner: Ms M J Witt and Mr L R Constable-Ray
Proposal: Use of carport, storage shed and shipping container
Lodged: 19 July 2019
Zone: R1 – General Residential

Construction work has been completed. Council became aware of the unauthorised works by the owner/applicant who realised at the completion of work that the development was greater than first anticipated and would have required development consent.

The owner proceeded to lodge a development application to regularise the work.

Report/Proposal

The proponent seeks the consent of Council to regularise the use of a carport containing a storage shed and shipping container at Lot 1 DP 1178386, 51 Satur Road, Scone. The allotment is zoned R1 – General Residential with an area of 790m².

The building has been constructed without obtaining prior consent. As development consent cannot be granted retrospectively for an existing building, the application seeks approval for its use only.
The storage shed/carport has a total roof area of 81.6m² with the storage shed component at the rear of the carport and shipping container located under the carport roof. The development is of steel and colorbond construction.

A Building Information Certificate has been applied for.

**OPTIONS**

1. Approve Development Application No. 89/2019 to regularise the use of a carport, storage shed and shipping container at 51 Satur Road, Scone, subject to the conditions of consent in Attachment 1.

2. Refuse Development Application No. 89/2019 to regularise the use of a carport, storage shed and shipping container at 51 Satur Road, Scone, and state the reasons for refusal.

**CONSULTATION**

Surrounding properties were notified of the proposed development between 31 July 2019 and 14 August 2019. No submissions were received by Council.

**STRATEGIC LINKS**

a. Community Strategic Plan 2027

This report links to the Community Strategic Plan 2027 as follows:

Built and Natural Environment

Goal 4 - Plan for a sustainable future

- Implement and regularly review Strategic Land Use Plans, Environmental Planning Instruments and Development Controls, which reflect the needs and expectations of the broad Community.
- Provide efficient and effective advisory, assessment and regulatory services focused on being Customer ‘friendly’, responsive and environmentally responsible.
- Plan, facilitate and provide for a changing population for current and future generations.

We are working to achieve the following Community Priorities:

b. Delivery Program

Assessment of the application is in accordance with the Town Planning Community Strategies:
CS13 - Implement and regularly review Strategic Land Use Plans, Environmental Planning Instruments and Development Controls, which reflect the needs and expectations of the broad Community, and
CS14 – Provide efficient and effective advisory, assessment and regulatory services focused on being Customer ‘friendly’, responsive and environmentally responsible.

c. Other Plans

Nil

IMPLICATIONS

a. Policy and Procedural Implications

Nil

b. Financial Implications

Development application fees totaling $206.00 have been paid by the applicant.

c. Legislative Implications

An assessment of the development application has been undertaken pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 (see attached report). The proposed development is permissible with consent within the R1 – General Residential zone.

d. Risk Implications

Council determinations of development applications in relation to local development can be appealed by a third party in the Land and Environment Court in circumstances where incorrect legal process has been applied.

Furthermore, the applicant has the right under Part 8 of the Environmental Planning and Assessment Act 1979 to appeal the decision of a consent authority to the Court.

In the case of this development application the relevant considerations under the Environmental Planning and Assessment Act 1979 have been made.

e. Other Implications

Nil

CONCLUSION

The application has been assessed as satisfactory against Section 4.15 of the Environmental Planning and Assessment Act 1979, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Development Control Plan 2015.

The proposal is unlikely to adversely impact the surrounding locality, and is considered to be an appropriate form of development for the site and within the land use zone.
Accordingly, it is recommended that the application be approved subject to conditions of consent and for the following reasons:

- The proposal complies with the Upper Hunter Local Environmental Plan 2013;
- The proposal is generally consistent with the outcomes of the Upper Hunter Development Control Plan 2015;
- The proposal has been assessed as satisfactory against Section 4.15 of the Environmental Planning & Assessment Act 1979;
- Will not have an adverse impact on the surrounding locality.

**ATTACHMENTS**

1. DA 89/2019 - Conditions of consent
2. DA 89/2019 - S4.15 Assessment
3. DA 89/2019 - Site plan and elevations
Identification of approved plans:

1. The development being carried out in accordance with the development application, the drawings referenced below and Statement of Environmental Effects dated 17 July 2019 except where amended by the conditions of consent.

<table>
<thead>
<tr>
<th>JOB REFERENCE NO</th>
<th>SHEET NO</th>
<th>REVISION NO</th>
<th>DRAWN BY</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site plan</td>
<td>-</td>
<td>-</td>
<td>Logan Constable-Ray</td>
<td>19.7.19</td>
</tr>
<tr>
<td>Elevations</td>
<td></td>
<td></td>
<td>LCR</td>
<td>19.7.19</td>
</tr>
</tbody>
</table>

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council)

2. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council)

Conditions that must be complied with prior to use/occupation:

3. A certificate prepared by an appropriately qualified and practicing structural engineer certifying the structural adequacy of the buildings shall be submitted to Council prior to the use/occupation of the buildings.

(Reason: To ensure the structural integrity of the building)

Conditions that must be complied with at all times:

4. At all times, all stormwater from the development, including all hardstandings and overflows from rainwater tanks, shall be collected and disposed of by way of properly constructed stormwater lines to the kerb and gutter (piped). If concrete footpath exists; pipework is to be under bored to the existing kerb inlet.

(Reason: To ensure the suitable disposal of stormwater generated by the development)

5. At all times nothing in this consent shall authorise the use of the carport/storage shed and shipping container for commercial or industrial activities.

(Reason: To ensure use if compatible with classification of the building)
ADDRESS: LOT: 1 DP: 1178386
51 Satur Road Scone

APPLICATION No: DA 89-2019

PROPOSAL: Carport, storage shed and shipping container

PLANS REF:

<table>
<thead>
<tr>
<th>DRAWINGS NO.</th>
<th>DRAWN BY</th>
<th>DATE RECEIVED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site plan</td>
<td>Logan Constable-Ray</td>
<td>19.7.19</td>
</tr>
<tr>
<td>Photographs</td>
<td>LCR</td>
<td>19.7.19</td>
</tr>
</tbody>
</table>

OWNER: Ms M J Witt & Mr L R Constable-Ray

APPLICANT: Mr L R Constable-Ray & Ms M J Witt
51 Satur Road
SCONE NSW 2337

AUTHOR: Mrs C T Robinson

DATE LODGED: 19 July 2019

AMENDED: -

ADD. INFO REC'D: -

DATE OF REPORT: 2 September 2019

SUMMARY OF FACTS

ISSUES: The development has been constructed prior to obtaining development consent in accordance with the Environmental Planning and Assessment Act 1979.

SUBMISSIONS: Nil

RECOMMENDATION: Approval
DESCRIPTION OF PROPOSAL

The proponent seeks the consent of Council to regularise the use of a carport containing a storage shed and shipping container at Lot 1 DP 1178386, 51 Satur Road, Scone. The allotment is zoned R1 – General Residential with an area of 790m².

The building has been constructed without obtaining prior consent. As development consent cannot be granted retrospectively for an existing building, the application seeks approval for its use only.

The storage shed/carport has a total roof area of 81.6m² with the storage shed component at the rear of the carport and shipping container located under the carport roof. The development is of steel and colorbond construction.

RELEVANT HISTORY

The subject allotment resulted from the subdivision on one lot into two pursuant to development consent no. 67/2012. The lot contains an existing residential dwelling.

REFERRALS

Referral to any external parties was not deemed to be necessary with regard to the proposal.

SUBMISSIONS

Surrounding properties were notified of the development proposal between 31 July 2019 and 14 August 2019. An advertisement was placed in the Scone Advocate on 31 July 2019.

No submissions were received by Council.

CONSIDERATION

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, are assessed under the following headings:

ENVIRONMENTAL PLANNING INSTRUMENTS

**UPPER HUNTER LOCAL ENVIRONMENTAL PLAN 2013**
Upper Hunter Shire Council – Development & Environmental Services Committee Agenda – 10 September 2019

**Land Use Table**

<table>
<thead>
<tr>
<th>Zoning classification</th>
<th>R1 – General Residential</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Zoning objectives</strong></td>
<td>The development is considered to be consistent with the objectives of the zone with regard to:</td>
</tr>
<tr>
<td></td>
<td>- The proposal will provide for the housing needs of the community;</td>
</tr>
<tr>
<td></td>
<td>- The proposal will provide for a variety of housing types and densities; and,</td>
</tr>
<tr>
<td></td>
<td>- The proposal enables a land use that provides facilities or services to meet the day to day needs of residents.</td>
</tr>
<tr>
<td><strong>Zoning permissibility</strong></td>
<td>The proposal is permissible as a development ancillary to a dwelling in the R1 – General Residential zone.</td>
</tr>
</tbody>
</table>

**Comment**

**Clauses (Part 4)**

- **Height of buildings (Clause 4.3)** The development complies with the requirements for height of buildings.
- **Floor space ratio (Clause 4.4 and 4.5)** The development complies with the requirements for floor space ratio.

**Part 5 – Miscellaneous provisions**

No controls have been set for the subject lot under Part 5.

**Part 6 – Additional Local Provisions**

- **Airspace operations (Clause 6.7)** The development does not exceed the Airport Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map.

**STATE ENVIRONMENTAL PLANNING POLICIES**

- **State Environmental Planning Policy No 55 – Remediation of Land** The property has a history of residential land use and is not considered likely to have become contaminated.

**DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS**

There are no draft EPI’s applying to the land.

**REGULATIONS**

There are no provisions in the regulations relevant to the proposal.

**DEVELOPMENT CONTROL PLANS**

The proposal meets the outcomes to be

**ENVIRONMENTAL IMPACTS**

<table>
<thead>
<tr>
<th>Environmental Impact</th>
<th>Satisfactory</th>
<th>Comment (only if necessary)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Context &amp; Setting</td>
<td>YES</td>
<td>The proposal is ancillary to an established dwelling within a residential land use zone. The proposal is unlikely to result in any conflict with the adjoining land uses and is a structure typical of urban localities.</td>
</tr>
<tr>
<td>Built Form</td>
<td>YES</td>
<td>The development is existing.</td>
</tr>
<tr>
<td>Potential Impact on Adjacent Properties</td>
<td>YES</td>
<td>The proposal is unlikely to impact by way of overshadowing, loss of amenity, obstruction of view, increase the generation of noise, or pose a glare nuisance with respect to the colours selected.</td>
</tr>
<tr>
<td>Access, Transport and Traffic</td>
<td>YES</td>
<td>The property has lawful access from Satur Road.</td>
</tr>
<tr>
<td>Stormwater</td>
<td>YES</td>
<td>The stormwater drainage system servicing the existing dwelling is being utilised.</td>
</tr>
<tr>
<td>Social Impact on Locality</td>
<td>YES</td>
<td>The proposal has the propensity to increase the enjoyment of the property, protect vehicles parked at...</td>
</tr>
</tbody>
</table>
SUMMARY OF LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

<table>
<thead>
<tr>
<th>Item</th>
<th>Considered</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Statutory controls</td>
</tr>
<tr>
<td>2</td>
<td>Policy controls</td>
</tr>
<tr>
<td>3</td>
<td>Design in relation to existing building and natural environment</td>
</tr>
<tr>
<td>4</td>
<td>Landscaping/open space provision</td>
</tr>
<tr>
<td>5</td>
<td>Traffic generation and car parking provision</td>
</tr>
<tr>
<td>6</td>
<td>Loading and servicing facilities</td>
</tr>
<tr>
<td>7</td>
<td>Physical relationship to and impact upon adjoin development (views, privacy, overshadowing, etc.)</td>
</tr>
<tr>
<td>8</td>
<td>Site Management issues</td>
</tr>
<tr>
<td>9</td>
<td>All relevant S4.15 considerations of Environmental Planning and Assessment Act 1979</td>
</tr>
<tr>
<td>10</td>
<td>Section 89 LGA 93 including Clause 12 considerations of Local Government Regulations 1993</td>
</tr>
</tbody>
</table>

CONSISTENCY WITH THE AIMS OF PLAN

It is considered that the development is consistent with the specific aims of the plan and the objectives of the zone and development controls.

As such, consent to the development may be granted.

CONCLUSION

The application has been assessed as satisfactory against Section 79C of the Environmental Planning and Assessment Act 1979, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Shire Development Control Plan 2008.

The proposal is in keeping with the site context, is an appropriate form of development for the site and is unlikely to result in any significant adverse impacts.

Accordingly, it is recommended that the application be approved subject to appropriate conditions of consent.

RECOMMENDATION
PURSUANT TO SECTION 4.16/4.17 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT Council as the consent authority, grant consent to Development Application No. 89/2019 subject to the attached conditions of consent.

REASONS FOR RECOMMENDATION

• The proposal complies with the Upper Hunter Local Environmental Plan 2013
• The proposal is generally consistent with the outcomes of the Upper Hunter Development Control Plan 2015
• The proposal has been assessed as satisfactory against Section 4.15 of the Environmental Planning & Assessment Act 1979
• Will not have an adverse impact on the surrounding locality
• Community consultation did not result in the receipt of submissions against the proposal

CHRISTINE ROBINSON
MANAGER PLANNING, BUILDING & REGULATORY SERVICES
Purpose

On 26 April 2019, Council received Development Application 46/2019 for a home business (being home-based child care) at Lot 1 DP 195828, 38 Salisbury Street, Blandford.

The application is being reported to the Development and Environmental Services Committee as one submission in the form of an objection was received during the notification period.

Recommendation

That Council approve Development Application No. 46/2019 for a home business (home-based child care) located at Lot 1 DP 195828, 38 Salisbury Street, Blandford subject to the conditions of consent set out in Attachment 1.

Background

Application No: 46/2019
Applicant: Ms R A Neave
Owner: Ms R A Neave
Proposal: Home Business (Home-based child care)
Location: Lot 1 DP 195828, 38 Salisbury Street, Blandford
Lodged: 26 April 2019
Zone: RU5 – Village

The subject lot contains a residential dwelling and associated outbuildings.

Report/Proposal

The proponent seeks consent from Council for a home-based child care business at 38 Salisbury Street, Blandford. The business will be licensed through Family Day Care and capacity will be capped at four children under four years of age and up to three children (up to 12 years of age) for before and after school care.

This activity is typically exempt development pursuant to State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017, however this does not apply in this instance as the subject site is bushfire prone land.

The adjoining properties were notified of the development application on the principle of community consultation. One objection to the proposal was received which is included as Attachment 4.
It is considered that the development will not significantly increase noise in the neighbourhood as it is a residential area where families reside. The number of children attending care at any one time is not considered to be significantly greater than that which may permanently reside in a family home.

The designated play area is adjacent to the southern boundary of the allotment with the aim of minimising impacts to the neighbouring property.

**OPTIONS**

1. Approve Development Application No. 46/2019 for a home business (home-based child care) at Lot 1, DP 195828, 38 Salisbury Street, Blandford, subject to the conditions of consent in Attachment 1;

2. Refuse Development Application No. 46/2019 for a home business (home-based child care) at Lot 1, DP 195828, 38 Salisbury Street, Blandford, and state the reasons for refusal;

3. Defer Development Application No. 46/2019 for a home business (home-based child care) at Lot 1, DP 195828, 38 Salisbury Street, Blandford, pending the receipt of additional information.

**CONSULTATION**

The proposal was notified between 15 May 2019 and 29 May 2019 for the purposes of applying proper consideration with respect to the public interest. One submission was received objecting to the proposal. The concerns raised in the objection have been addressed in the report/proposal section of this report.

The application was referred to NSW Rural Fire Service for concurrence as Integrated Development. Comments were received on 19 July 2019 including general terms of approval pursuant to the Environmental Planning and Assessment Act 1979 and the Rural Fires Act 1997. These general terms of approval are included in the conditions of consent contained within Attachment 1.

**STRATEGIC LINKS**

a. **Community Strategic Plan 2027**

This report links to the Community Strategic Plan 2027 as follows:

Built and Natural Environment

Goal 4 - Plan for a sustainable future

- Implement and regularly review Strategic Land Use Plans, Environmental Planning Instruments and Development Controls, which reflect the needs and expectations of the broad Community.
- Provide efficient and effective advisory, assessment and regulatory services focused on being Customer ‘friendly’, responsive and environmentally responsible.
- Plan, facilitate and provide for a changing population for current and future generations.
We are working to achieve the following Community Priorities:

**b. Delivery Program**

Assessment of the application is in accordance with the Town Planning Community Strategies:

CS13 - Implement and regularly review Strategic Land Use Plans, Environmental Planning Instruments and Development Controls, which reflect the needs and expectations of the broad Community, and

CS14 – Provide efficient and effective advisory, assessment and regulatory services focused on being Customer ‘friendly’, responsive and environmentally responsible.

**c. Other Plans**

Nil.

**IMPLICATIONS**

a. **Policy and Procedural Implications**

Nil

b. **Financial Implications**

Development application fees totaling $285 have been paid by the applicant.

c. **Legislative Implications**

An assessment of the development application has been undertaken pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* (see attached report). The proposed development is permissible with consent within the RU5 – Village land use zone.

d. **Risk Implications**

Council determinations of development applications in relation to local development can be appealed by a third party in the Land and Environment Court in circumstances where incorrect legal process has been applied.

Furthermore, the applicant has the right under Part 8 of the *Environmental Planning and Assessment Act 1979* to appeal the decision of a consent authority to the Court.

In the case of this development application the relevant considerations under the *Environmental Planning and Assessment Act 1979* have been made.
e. Other Implications

Nil

CONCLUSION

The application has been assessed as satisfactory against Section 4.15 of the Environmental Planning and Assessment Act 1979, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Development Control Plan 2015.

The proposal is unlikely to adversely impact the surrounding locality, and is considered to be an appropriate form of development for the site and within the land use zone.

Accordingly, it is recommended that the application be approved, subject to the imposition of appropriate conditions of consent, and for the following reasons:

- The proposal complies with the Upper Hunter Local Environmental Plan 2013;
- The proposal is generally consistent with the outcomes of the Upper Hunter Development Control Plan 2015;
- The proposal has been assessed as satisfactory against Section 4.15 of the Environmental Planning & Assessment Act 1979;
- Will not have an adverse impact on the surrounding locality.
- The proposal has been assessed as satisfactory by the NSW Rural Fire Service.

ATTACHMENTS

1  DA 46/2019 - Conditions of Consent
2  DA 46/2019 - Assessment - Section 4.15
3  DA 46/2019 - Site Plans
4  DA 46/2019 - Objection from Lewis Clark
1. The development being carried out in accordance with the development application, the drawings referenced below and Statement of Environmental Effects dated 26/04/2019 except where amended by the conditions of consent.

<table>
<thead>
<tr>
<th>JOB REFERENCE NO</th>
<th>SHEET NO</th>
<th>REVISION NO</th>
<th>DRAWN BY</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site plans</td>
<td>1 and 2</td>
<td>-</td>
<td>Unknown</td>
<td>Not dated</td>
</tr>
</tbody>
</table>

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council)

2. This consent permits the use of the dwelling for the purposes of home-based childcare within the meaning defined by Children (Education and Care Services) National Law and the Standard Instrument, and does not imply or confer consent for any child care activity or facility otherwise.

(Reason: To clearly define the extent of the consent)

Conditions that must be addressed prior to commencement:

3. Prior to commencing any use of the dwelling for the purposes of home-based child care, and in perpetuity of the development, the dwelling shall comply with the following:

   a) At the commencement of the development and in perpetuity, the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones';

   b) A bush fire emergency management and evacuation plan shall be prepared by the operator consistent with the NSW RFS publication: 'A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan', and the Australian Standard AS 3745:2010 'Planning for emergencies in facilities'. A copy of the plan shall be provided to the consent authority and the local Bush Fire Management Committee prior to occupation of the development.

   c) The existing building is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

   d) Any new fencing shall be constructed of non-combustible materials.

(Reason: To ensure compliance with the Bushfire Safety Authority issued for the development pursuant to Section 100B of the Rural Fires Act 1997)

4. Registration with an organisation that holds an Education and Care Services Provider Approval, and a Family Day Care Service Approval with the NSW Department of Education; and compliance with any requirements resultant of such registration, shall be implemented prior to commencing any use of the dwelling for the purposes of home-based child care.

(Reason: To ensure compliance with the Education and Care Services National Quality Framework).

Conditions that must be complied with at all times:

5. At all times the implementation and intensity of this development shall not adversely affect the amenity of the neighbourhood by reason of excessive levels of illumination (internal or
external), solar glare arising from the building materials utilised in any construction processes or fit-out, the emission of noises, noxious fumes, odours and waste.

(Reason: To ensure that the amenity of the surrounding locality is not adversely affected by the nature of the approved activity.)


(Reason: To ensure compliance with the Education and Care Services National Quality Framework).

7. Hours of operation shall be confined to the core hours of 7.00am to 7.00pm weekdays.

(Reason: To minimise the impact of the child care facility on the amenity of neighbouring residential premises.)
ADDRESS: LOT: 36 DP: 1003794
38 Salisbury Street Blandford

APPLICATION No: DA 46-2019

PROPOSAL: Home Business

PLANS REF: DRAWINGS NO. | DRAWN BY | DATE | RECEIVED
--- | --- | --- | ---
Site plans 1 and 2 | Unknown | Not dated | 16.5.19

OWNER: Ms R A Neave

APPLICANT: Ms R A Neave
38 Salisbury Street
BLANDFORD NSW 2338

AUTHOR: Mrs C T Robinson

DATE LODGED: 26 April 2019

AMENDED: -

ADD. INFO REC'D: 16 May 2019

DATE OF REPORT: 3 September 2019

SUMMARY OF FACTS

ISSUES: One submission was received during the exhibition period objecting to the proposal.

SUBMISSIONS: One submission

RECOMMENDATION: Approval
DESCRIPTION OF PROPOSAL

The proponent seeks consent from Council for a home-based child care business at 38 Salisbury Street, Blandford. The business will be licensed through Family Day Care and capacity will be capped at four children under four years of age and up to three children (up to 12 years of age) for before and after school care.

This activity is typically exempt development pursuant to State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017, however this does not apply in this instance as the subject site is bushfire prone land.

RELEVANT HISTORY

The subject allotment contains an existing residential dwelling and associated outbuildings. No other history of the allotment is known.

REFERRALS

External referrals

- NSW Rural Fire Service
  The subject allotment is identified as being located within a medium risk bushfire area. As such the application was referred to the NSW Rural Fire Service on 23 May 2019. Comments were received by Council on 19 July 2019 and have been included in conditions of consent.

SUBMISSIONS

Surrounding properties were notified of the development proposal between 15 May 2019 and 29 May 2019. An advertisement was placed in the Scone Advocate on 15 May 2019.

One submission was received with the main issues raised being summarised below.

<table>
<thead>
<tr>
<th>Name &amp; Address of Submitter</th>
<th>Basis of Submissions</th>
</tr>
</thead>
</table>
| Mr L J Clark 42 New England Highway Blandford | • Mr Clark is a shift worker who sleeps during the day.  
• Children running and screaming next door would be detrimental to his job.  
• Unknown position of play equipment. |
CONSIDERATION

The relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act* 1979, are assessed under the following headings:

ENVIRONMENTAL PLANNING INSTRUMENTS

<table>
<thead>
<tr>
<th>UPPER HUNTER LOCAL ENVIRONMENTAL PLAN 2013</th>
<th>COMMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use Table</td>
<td></td>
</tr>
<tr>
<td>Zoning classification</td>
<td>RU5 – Village</td>
</tr>
<tr>
<td>Zoning objectives</td>
<td>The proposal is considered to be consistent with the objective of the zone which is:</td>
</tr>
<tr>
<td></td>
<td>- To provide for a range of land uses, services and facilities that are associated with a rural village.</td>
</tr>
<tr>
<td>Zoning permissibility</td>
<td>The proposal is permissible as home-based child care in the RU5 - Village zone.</td>
</tr>
<tr>
<td>Clauses (Part 4)</td>
<td>No controls have been set for the subject proposal under Part 4.</td>
</tr>
<tr>
<td>Part 5 – Miscellaneous provisions</td>
<td>No controls have been set for the subject proposal under Part 5.</td>
</tr>
<tr>
<td>Part 6 – Additional Local Provisions</td>
<td>No controls have been set for the subject proposal under Part 5.</td>
</tr>
<tr>
<td>Flood Planning (Clause 6.2)</td>
<td>No construction work proposed.</td>
</tr>
</tbody>
</table>

STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy 55 – Remediation of Land | The property is not listed on Council’s Contaminated Land Register. The property has a known history of residential land use and is not considered likely to have become contaminated.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft EPI’s applying to the land.

REGULATIONS

There are no provisions in the regulations relevant to the proposal.

DEVELOPMENT CONTROL PLANS

The proposal meets the relevant outcomes to be achieved as set out in the Upper Hunter Control Plan 2015.

ENVIRONMENTAL IMPACTS

<table>
<thead>
<tr>
<th></th>
<th>Satisfactory</th>
<th>Comment (only if necessary)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Context &amp; Setting</td>
<td>YES</td>
<td>The proposal is located within a residential area where families reside.</td>
</tr>
<tr>
<td>Potential Impact on Adjacent Properties</td>
<td>YES</td>
<td>Whilst an objection was received from an adjoining owner concerned with potential noise impacts from the proposal, it is considered that the development will not result in noise impacts greater than that which would be typical in a residential area where families reside. Family Day Care is capped at four children under four years of age and up to three children (up to 12 years of age) for before and after school care. The impact on adjacent properties is not considered to be significantly greater than from a family residing at the subject property.</td>
</tr>
</tbody>
</table>
SUMMARY OF LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Statutory controls</td>
</tr>
<tr>
<td>2</td>
<td>Policy controls</td>
</tr>
<tr>
<td>3</td>
<td>Design in relation to existing building and natural environment</td>
</tr>
<tr>
<td>4</td>
<td>Landscaping/open space provision</td>
</tr>
<tr>
<td>5</td>
<td>Traffic generation and car parking provision</td>
</tr>
<tr>
<td>6</td>
<td>Loading and servicing facilities</td>
</tr>
<tr>
<td>7</td>
<td>Physical relationship to and impact upon adjoining development (views, privacy, overshadowing, etc.)</td>
</tr>
<tr>
<td>8</td>
<td>Site Management issues</td>
</tr>
<tr>
<td>9</td>
<td>All relevant S79C considerations of Environmental Planning and Assessment Act 1979</td>
</tr>
<tr>
<td>10</td>
<td>Section 89 LGA 93 including Clause 12 considerations of Local Government Regulations 1993</td>
</tr>
</tbody>
</table>

IS THE PROPOSAL IN THE PUBLIC INTEREST?

The adjoining properties were notified of the development application on the principle of community consultation. One objection to the proposal was received. It is considered that the development will not significantly increase noise in the neighbourhood as it is a residential area where families reside. Day Care licensing permits four children under four years of age and up to three children up to twelve years of age for before and after school care. These numbers are not considered to be significantly greater than that which may permanently reside in a family home.

SITE SUITABILITY

Does proposal fit in locality? YES

Are the site attributes conducive to the development? YES

CONSISTENCY WITH THE AIMS OF PLAN

It is considered that the development is consistent with the specific aims of the plan and the objectives of the zone and development controls.

As such, consent to the development may be granted.

CONCLUSION

The application has been assessed as satisfactory against Section 79C of the Environmental Planning and Assessment Act 1979, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Shire Development Control Plan 2008.
The proposal is in keeping with the site context, is an appropriate form of development for the site and is unlikely to result in any significant adverse impacts.

Accordingly, it is recommended that the application be approved subject to appropriate conditions of consent.

RECOMMENDATION

PURSUANT TO SECTION 4.16/4.17 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT Council as the consent authority, grant consent to Development Application No. 46/2019 subject to the attached conditions of consent.

REASONS FOR RECOMMENDATION

- The proposal complies with the Upper Hunter Local Environmental Plan 2013
- The proposal is generally consistent with the outcomes of the Upper Hunter Development Control Plan 2015
- The proposal has been assessed as satisfactory against Section 4.15 of the *Environmental Planning & Assessment Act 1979*
- Will not have an adverse impact on the surrounding locality
- Community consultation resulted in one submission against the proposal. The submission has been considered in the assessment.
- The proposal has been assessed as satisfactory by the NSW Rural Fire Service.

CHRISTINE ROBINSON
MANAGER PLANNING, BUILDING & REGULATORY SERVICES
15th May 2019

Mr L J Clark
42 New England Highway (Salisbury St)
BLANDFORD NSW 2338

Lot:36 DP:1003794
38 Salisbury Street BLANDFORD

Dear Sir/Madam

As a shift worker I strongly object to the above DA on the grounds of being a shift worker that sleeps during the day. Having a bunch of children running and screaming while I am trying to sleep would be detrimental to my job. I have tried to get information on the proposed DA other than a Family Day care. There is no information on how many children as there is none there at the moment, position of play equipment as there is none there at this time, any construction to be done. If you have any information that will change my objection to this proposal please forward via Email.

Thank You

Lewis Clark