To All Councillors

You are hereby notified that the next meeting of the Development & Environmental Services Committee will be held on 14 May 2019 in the Barry Rose Room at 10.00am, for the purpose of transacting the undermentioned business.

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. DECLARATIONS OF INTEREST

3. PUBLIC PARTICIPATION

4. SITE INSPECTION – 9.30am

DESC.05.2 DEVELOPMENT APPLICATION NO. 177/2018 - DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF MOTEL

5. BUSINESS ITEMS

DEVELOPMENT & ENVIRONMENTAL SERVICES COMMITTEE REPORTS

DESC.05.1 DEVELOPMENT APPLICATION NO. 165/2018 - DEMOLITION, DWELLING ADDITIONS, FARM STAY ACCOMMODATION AND SHED - 468 UPPER DARTBROOK ROAD, SCONE

DESC.05.2 DEVELOPMENT APPLICATION NO. 177/2018 - DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF MOTEL

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6. COUNCILLOR QUESTIONS
Development & Environmental Services Committee Reports

DESC.05.1  
DEVELOPMENT APPLICATION NO. 165/2018 - 
DESTRUCTION, DWELLING ADDITIONS, FARM STAY 
ACCOMMODATION AND SHED - 468 UPPER DARTBROOK 
ROAD, SCONE

RESPONSIBLE OFFICER: Mathew Pringle - Director Environmental & Community 
Services

AUTHOR: Lachlan Melichar - Health & Building Surveyor

PURPOSE

On 9 November 2018, Council received Development Application No 165/2018 for 
demolition works, dwelling additions, farm stay accommodation and a shed at 468 Upper 
Dartbrook Road, Scone.

The application is being reported to the Development and Environmental Services 
Committee as works associated with the erection of the farm stay accommodation have 
commenced unlawfully.

RECOMMENDATION

That Council approve Development Application No. 165/2018 for demolition works, dwelling 
additions, farm stay accommodation and a shed at 468 Upper Dartbrook Road, Scone, 
subject to the conditions of consent in Attachment 1 and for the reasons listed in Attachment 
2.

BACKGROUND

Application No: DA 165/2018
Applicant: Mr G K Harris
Owner: Mr G K Harris
Proposal: Demolition works, dwelling additions, farm stay accommodation and a shed
Location: Lot 1 DP 196969, 468 Upper Dartbrook Road, Scone
Lodged: 9 November 2018
Zone: RU4 – Primary Production Small Lots

Works have already commenced with regard to the farm stay accommodation with the frame 
of the building having been erected without the prior approval of Council.

Council became aware of these unauthorised works through an anonymous complaint, for 
which a direction was made to stop works by Councils Compliance Officer, on 6 July 2018. 
The stop work direction has been complied with to date.

Subsequent to this direction, the proprietor resolved to lodge a development application to 
regularise this work and seek consent for the erection and use of other structures.

REPORT/PROPOSAL
The proponent seeks the consent of Council for the construction of farm stay accommodation, dwelling alterations and additions, the demolition of an existing shed and the erection of a new shed, at Lot 1 DP 196969, 468 Upper Dartbrook Rd, known as Toolooganvale Broodmare Farm (the property).

The property comprises a 31.17Ha lot, zoned RU4 – Primary Production Small Lots and is used for the agistment and breeding of horses along with other such ancillary functions. The property presently features two existing dwellings, an office building (labelled “granny flat” on the submitted site plan) and approximately 7 outbuildings associated with the established land use.

The proposed dwelling additions are to be undertaken to the easternmost existing dwelling, involving the removal of the verandahs and a circa 1970’s addition at the rear, to be replaced with an addition containing an open plan kitchen/living room, master bedroom with robe and ensuite, a butler’s pantry, sunroom and laundry, with perimeter verandahs to the western, southern and eastern facades.

No changes or alterations are proposed to the original building, with the intention to conserve this building fabric and footprint, which dates back to the late 19th or early 20th century.

The existing shed to be demolished comprises corrugated iron and timber construction, is of significant age and has sustained deterioration. In its place, it is proposed to construct a 15x30m replacement shed, having a height of 6m to the eave and 8m to the ridge, finished with colorbond cladding and comprising a workshop, 4 bay carport and machinery shelter.

The proposed farm stay accommodation will be 173m² in area, with 88m² of this being an alfresco and the remainder comprising a 5.55mx4.71m carport, 2 bedrooms each with ensuites and a combined kitchen/living space.

The alfresco side of building will be elevated by approximately 800mm via a blockwork wall in conjunction with bearers and joist construction to accommodate the fall of land across the building footprint, resulting in a peak height of approximately 6m to the ridge.

It is indicated on the plans that the entire development will be serviced by a new Aerated Wastewater Treatment System. The existing septic system is undersized and has deteriorated to a point that its continued operation is no longer suitable.

As aforementioned, the construction of the farm stay accommodation has already commenced, with foundations having been completed and the frame erected, without obtaining prior consent. A review of historical aerial photographs indicate that a preceding building was present at this location and has been demolished.

In this regard, the application seeks approval for its use and completion of the outstanding works. The existing building work will need to be regularised by the determination of a building information certificate pursuant to Division 6.7 of the Environmental Planning and Assessment Act 1979, as development consent and a construction certificate cannot be issued retrospectively for works that have already commenced.

An application for such certificate was received concurrent with the subject development application and will remain undetermined until such time as the development application is determined.
The issue of the certificate for the works undertaken will act to prevent Council, under the *Environmental Planning and Assessment Act 1979* or the *Local Government Act 1993*, from making an order (or taking proceedings for the making of an order or injunction) requiring the building to be repaired, demolished, altered, added to or rebuilt.

Any decision to refuse the application for a building information certificate is effectively a statement that such a matter exists that would warrant the service of an order under either Act. Consequently, the refusal would be accompanied by a notice of intention to serve such an order

In the instance that Council does not grant consent for the farm stay accommodation, the remaining building works cannot lawfully proceed, this structure will not have any associated land use, and the existing works will remain unlawful.

In this regard, Council would proceed to refuse the building information certificate and serve Order 3 pursuant to part 1, schedule 5 of the *Environmental Planning and Assessment Act 1979*, to demolish a building that requires a planning approval which has been erected without a planning approval.

Notwithstanding the above, the planning assessment undertaken of the building has revealed that, were it not for the works having commenced unlawfully, the farm stay accommodation would have been approved by delegated authority otherwise.

As approval would have been granted otherwise, it is on this basis that it is recommended that approval be granted to the subject application.

**OPTIONS**

1. Approve Development Application No. 165/2018 for demolition works, dwelling additions, farm stay accommodation and a shed at 468 Upper Dartbrook Road, Scone, subject to the conditions of consent in Attachment 1 and for the reasons listed in Attachment 2;

2. Pursuant to Section 4.16(4) of the *Environmental Planning and Assessment Act 1979*, grant partial consent to Development Application No. 165/2018 for demolition works, dwelling additions, and a shed at 468 Upper Dartbrook Road, Scone, subject to the conditions of consent in Attachment 1 as relevant to the aspects of the approval as granted, and for the reasons listed in Attachment 2;

3. Refuse Development Application No. 165/2018 for demolition works, dwelling additions, farm stay accommodation and a shed at 468 Upper Dartbrook Road, Scone, and state the reasons for refusal;

**CONSULTATION**

Surrounding properties were notified of the proposed development between 21 November and 5 December 2018. 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:

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

   The recommendation to Council has been made with the above goals and priorities in mind.

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 $1696.42.00 have been paid by the applicant.
Any consent granted for this development will be subject to condition pursuant to Section 7.12 of the Environmental Planning and Assessment Act 1979, requiring the payment of a levy at 1% of the estimated cost of the development, totaling $5,100.00.

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 RU4 – Primary Production Small Lots.

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.

ATTACHMENTS

1. Recommended Conditions of Consent
2. Planning Assessment Report
3. Plans
4. Photos of works to farm stay accommodation
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 2 November 2018 except where amended by the conditions of consent.

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(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)

Ancillary matters to be completed prior to the issue of the construction certificate:

5. Prior to the issue of any Construction Certificate for the development, evidence shall be submitted to the Principal Certifying Authority demonstrating that the development will comply with the following:

a) The general terms of approval set out in the bushfire safety authority as issued by the Rural Fire Service;

b) Any new or extension of existing electricity and/or gas service are to comply with section 4.1.3 of ‘Planning for Bush Fire Protection 2006’;

c) Property access roads shall comply with section 4.1.3 (2) of ‘Planning for Bush Fire Protection 2006’;

d) Landscaping within the required inner protection area is to comply with the principles of Appendix 5 of ‘Planning for Bush Fire Protection 2006’;

(Reason: To ensure that a suitable level of protection is provided to the building against bushfire attack)

6. Prior to the issue of any construction certificate for the farm stay accommodation, a Building Information Certificate is to be obtained pursuant to Part 6, Division 6.7 of the Environmental Planning and Assessment Act 1979 for the existing works.

(Reason: To regularise the existing works carried out without prior consent.)

7. Prior to the issue of any construction certificate for the farm stay accommodation, details are to be submitted to the Principal Certifying Authority that demonstrates that a total of two car parking spaces will be provided inclusive of an accessible car parking space complying with AS2890.6.

(Reason: To ensure sufficient car parking is provided to the development)
8. Prior to the issue of any construction certificate for the farm stay accommodation, details are to be submitted to the Principal Certifying Authority that demonstrates that access to the building from an accessible car parking space complying with AS2890.6, within and throughout the building inclusive of sanitary facilities, comply with Part D3 of the Building Code of Australia – Volume 1, AS1428 and Disability (Access to Premises - Buildings) Standards 2010.

(Reason: To ensure equitable access is provided to persons with a disability)

9. Prior to the issue of any construction certificate for the farm stay accommodation or the dwelling additions, an on-site sewage management report shall be prepared by a suitably qualified person, in accordance with Parts 11d – ‘Groundwater Protection’ and 11g – ‘On-site Sewage Management’ of the Upper Hunter Development Control Plan 2015. The report shall be submitted to the consent authority and shall detail the particulars of an on-site sewage management system, designed to accommodate the hydraulic load incidental of the development and demonstrating the manner in which effluent will be disposed of without adverse impact on groundwater.

(Reason: To ensure that the development does not have an impact on groundwater vulnerable locations and that any such system is sized to accommodate the hydraulic load of the development)

10. Approval pursuant to Section 68 of the Local Government Act 1993 is to be obtained for installation of an on-site sewage management system, prior to the issue of a construction certificate for the farm stay accommodation or the dwelling additions.

(Reason: To ensure that the development does not have an impact on groundwater vulnerable locations and that any such system is sized to accommodate the hydraulic load of the development)

11. Prior to the issue of any construction certificate, a schedule of colours and finishes for the building subject to the construction certificate application, shall be submitted to the consent authority, demonstrating that such finishes will not be highly reflective and will not pose a glare nuisance.

White colorbond, zinc-alum and galvanised steel are finishes to be avoided, unless accompanied by supplementary information demonstrating that such finishes may be used without impacting on the amenity of the surrounding locality.

(Reason: To ensure sufficient car parking is provided to the development)

12. Pursuant to Upper Hunter Shire Council Section 94A Development Contribution Plan 2008, a contribution of $5100.00 is required to be paid to Council. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Section 94A Development Contributions Plan.

Documentary evidence shall be submitted to the Certifying Authority confirming that the contribution has been paid prior to determination of the application for Construction Certificate.

(Reason: To ensure that the proposed development makes an appropriate contribution to facilities in the Upper Hunter Local Government Area)
Conditions that must be addressed prior to commencement:

13. Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, adequate measures for erosion and sediment control shall be provided. As a minimum, control techniques are to be in accordance with The Blue Book published by Landcom provisions on Erosion and Sediment Control, or a suitable and effective alternative method.

All required erosion and sedimentation techniques are to be properly installed prior to the commencement of any site works and maintained in a functional and effective condition throughout the construction activities until the site is stabilised.

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

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

14. Site facilities
   (a) If the development involves building work or demolition work it is recommended that the work site be fully enclosed by a temporary security fence (or hoarding) before work commences. Any such hoarding or fence is to be removed when the work has been completed.

   (b) A minimum width of 1.2m must be provided between the work site and the edge of the roadway so as to facilitate the safe movement of pedestrians. If trees are present in the footpath the minimum width must be provided to one side of the trees.

   (c) A garbage receptacle fitted with a tight fitting lid for the reception of all food scraps and papers from the work site must be provided prior to building work commencing and must be maintained and serviced for the duration of the work.

   (d) Adequate toilet facilities must be provided on the work site. Each toilet provided must be a standard flushing toilet, connected to a public sewer, or if connection to a public sewer is not available, to an on-site effluent disposal system approved by the council, or an approved temporary chemical closet.

The provision of toilet facilities must be completed before any other work is commenced.

The installation of the site facilities shall be approved by the Principal Certifying Authority prior to further commencement of site works and prior to the first inspection.

(Reason: To ensure the health and safety of the community and workers on the site)

15. 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)

16. 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:

17. All demolition works are to be undertaken in accordance with AS2601.

(Reason: Statutory)

18. Upon completion of demolition works associated with the removal of part of the existing dwelling, and prior to the commencement building works associated with the dwelling additions, a clearance certificate prepared by an appropriately qualified person shall be submitted to Council demonstrating that the subject site is free of and uncontaminated by asbestos.

(Reason: To ensure that the site has not been contaminated by asbestos fibres)

19. 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)

20. 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)

21. 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)

22. The earthworks associated with the construction of the shed shall be battered in accordance with the Building Code of Australia and comprise fill not exceeding a maximum height of 1m.

(Reason: To ensure that earthworks associated with the development are carried out in an environmentally sensitive manner)
23. Prior to the issue of any Occupation Certificate the person acting upon this consent must apply to Upper Hunter Shire Council and receive written confirmation of the allocated street address(es) or house number(s) for the completed project and shall be permanently displayed at the property in accordance with the provisions of AS4819.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of the Australian Standards. Proper house numbering also assists emergency services in readily locating properties.)

24. Prior to the issue of an Occupation Certificate for the farm stay accommodation or the dwelling additions, the building subject to the application for such a certificate shall be connected to an on-site sewage management system that has been approved pursuant to Section 68 of the Local Government Act 1993, and in accordance with the on-site sewage management plan required by this consent.

(Reason: To ensure compliance with the Australian Standard & Local Authority requirements.)

25. All required parking areas, driveways, internal access ways and turning areas shall fully constructed, line marked and sign posted in accordance with the consent and AS2890 prior to the issue of any Occupation Certificate.

(Reason: To ensure that adequate facilities to service the development are provided on site.)

26. Prior to the issue of any Occupation Certificate vehicle access as a minimum from the boundary to the proposed development(s) shall be constructed in a base course comprising compacted fine crushed rock and metal material to a minimum depth of 200mm to allow all weather access by a two (2) wheel drive vehicle.

(Reason: To provided all weather vehicle access to site.)

27. All matters relating to bushfire protection shall be addressed and implemented prior to the issue of any Occupation Certificate, in accordance with the conditions of this consent and the conditions listed on the Bush Fire Safety Authority. All such measures are to be maintained in perpetuity of the development.

(Reason: To ensure compliance with Planning for Bushfire Protection)

28. 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.)

29. Prior to the issue of an Occupation Certificate a works as executed plan drawn on Department of Fair Trading approved template detailing the layout and location of the sewer and stormwater pipe work is to be submitted to Upper Hunter Shire Council.

Note: The original copy of works as executed drawing must be submitted to Council.

(Reason: Prescribed – Statutory.)

30. Prior to the issue of any Occupation Certificate a sealed driveway shall be constructed from the edge of the road bitumen to the edge of the property boundary in accordance with Council’s standard vehicular crossover set out on drawing numbered RPA-001.
Note: Approval under Section 138 of the Roads Act 1993 is required prior to the commencement of any works within the road reserve.

(Reason: To facilitate appropriate vehicular access to the site.)

31. Prior to the issue of any occupation certificate for the dwelling additions, tipping receipts are to be submitted accompanied by a statement evidencing that the waste incidental of the demolition of the existing building fabric which it replaces, has been disposed of at an appropriate waste management facility.

(Reason: To ensure that waste incidental of demolition works is disposed of in an environmentally sensitive manner)

32. Prior to the issue of any occupation certificate for the shed, tipping receipts are to be submitted accompanied by a statement evidencing that the waste incidental of the demolition of the structures which the shed replaces has been disposed at an appropriate waste management facility.

(Reason: To ensure that waste incidental of demolition works is disposed of in an environmentally sensitive manner)

33. Prior to the issue of any occupation certificate for the farm stay accommodation, all measures pertaining to equitable access shall be implemented in accordance with Part D3 of the Building Code of Australia – Volume 1, AS1428 and Disability (Access to Premises - Buildings) Standards 2010.

(Reason: To ensure equitable access is provided to persons with a disability)

Conditions that must be complied with at all times:

34. 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 an appropriately constructed discharge point located a minimum distance of 6m clear of the proposed building, any adjoining buildings, any internal driveways or vehicular parking areas.

The discharge point shall be stabilised in a manner that will prevent the erosion of adjacent soils and shall disperse stormwater in a controlled manner, with such water being retained within the subject property.

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

General terms of approval pursuant to section 91a of the environmental planning and assessment act 1979 (as amended):

35. The development proposal is to comply with the layout identified on the drawing; prepared by P.B. Eveleigh Plan Service, titled “Proposed Timber Frame Extension to Homestead, Farm Stay & Shed” noted as plan number 033-18 and dated 9 May 2018.

36. At the commencement of building works and in perpetuity the property around; the existing dwelling (and proposed additions), existing “granny flat” and proposed farmstay dwelling to a distance of 50 metres, shall be maintained 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’.
37. In recognition that an additional water supply (215333 litre capacity) is being provided on-site and positioned to the north of the new shed and south of the existing access road, the following criteria, relevant to its installation and future use, shall be achieved:

   a) New above ground fire fighting water supply storage’s are to be manufactured using non combustible material (concrete, metal, etc). Where existing fire fighting water supply storage’s are constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials, they shall be shielded from the impact of radiant heat and direct flame contact.

   b) A 65mm metal Storz outlet with a gate or ball valve shall be fitted to any fire fighting water supply tank(s) and accessible for a fire fighting truck.

   c) The gate or ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material.

   d) All associated fittings to the fire fighting water supply tank(s) shall be non-combustible.

   e) A hardened ground surface for fire fighting truck access is to be constructed up to and within 4 metres of the fire fighting water supply (tank or Storz fitting).

   f) All water supplies for fire fighting purposes shall be clearly signposted as a fire fighting water supply.

   g) A Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:

      i. Markers must be fixed in a suitable location so as to be highly visible; and
      ii. Markers should be positioned adjacent to the most appropriate access for the water supply.

   Note: The definition of below ground dedicated fire fighting water supply

38. An emergency and evacuation procedure and detailed plans of all Emergency Assembly Areas (on and off-site) is to be prepared in accordance with the RFS “Guidelines for the Preparation of Emergency/Evacuation Plan” and Australian Standard (AS) 4083. The emergency evacuation plan is to be submitted to the consent authority for approval prior to the occupation certificate being issued. A copy of the approved plan shall also be provided to the Local Bush Fire Management Committee prior to occupation of the site.
ADDRESS: LOT: 1 DP: 196969
468 Upper Dartbrook Road Upper Dartbrook

APPLICATION No: DA 165-2018

PROPOSAL: Dwelling alterations/additions, farm stay accommodation and the demolition of existing shed and erection of a new shed

PLANS REF:

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OWNER: Mr G K Harris

APPLICANT: Mr G K Harris
468 Upper Dartbrook Road
UPPER DARTBROOK NSW 2336

AUTHOR: Mr L Melichar

DATE LODGED: 9 November 2018

AMENDED:

ADD. INFO REC’D:

DATE OF REPORT: 21 March 2019

SUMMARY OF FACTS

ISSUES: Work has unlawfully commenced in relation to the farm stay accommodation

SUBMISSIONS: NIL

RECOMMENDATION: Approval
The proponent seeks the consent of Council for the construction of farm stay accommodation, dwelling alterations and additions, the demolition of an existing shed and the erection of a new shed, at Lot 1 DP 196969, 468 Upper Dartbrook Rd, known as Toolooganvale Broodmare Farm (the property).

The property comprises a 31.17Ha lot zoned RU4 – Primary Production Small Lots, used for agistment and the breeding of horses along with other such ancillary functions, and presently features two existing dwellings, an office building (labelled “granny flat” on the submitted site plan) and approximately 7 outbuildings associated with the established land use.

The proposed dwelling additions are to be undertaken to the easternmost existing dwelling, involving the removal of the verandahs and a circa 1970’s addition at the rear, to be replaced with an addition containing an open plan kitchen/living room, master bedroom with robe and ensuite, a butlers pantry, sunroom and laundry, with perimeter verandahs to the west, south and east facades.

No changes or alterations are proposed to the original building, with the intention to conserve this building fabric and footprint, which dates back to the late 19th or early 20th century.

The existing shed to be demolished comprises corrugated iron and timber construction, is of significant age and has sustained deterioration. In its place, it is proposed to construct a 15x30m replacement shed, having a height of 6m to the eave and 8m to the ridge, finished with colorbond cladding and comprising a workshop, 4 bay carport and machinery shelter.

The proposed farm stay accommodation will be 173m² in area, with 88m² of this being an alfresco and the remainder comprising a 5.55mx4.71m carport, 2 bedrooms each with ensuites and a combine kitchen/living space.

The alfresco side of building will be elevated by approximately 800mm via a blockwork wall in conjunction with bearers and joist construction to accommodate the fall of land across the building footprint, resulting in a peak height of approximately 6m to the ridge.
The construction of the farm stay accommodation has already commenced, with foundations having been completed and the frame erected, without obtaining prior consent. A review of historical aerial photographs indicate that a preceding building was located at this location and has been demolished.

In this regard, the application seeks approval for its use and completion of the outstanding works. The existing building work will need to be regularised by the determination of a building information certificate pursuant to Division 6.7 of the Environmental Planning and Assessment Act 1979, as a development consent and a construction certificate cannot be issued retrospectively for works that have already commenced.

It is indicated on the plans that the entire development will be serviced by a new Aerated Wastewater Treatment System. The existing septic system is undersized and has deteriorated to a point that its continued operation is no longer suitable.

RELEVANT HISTORY

The current deposited plan of the property was created in 1991 for the purposes of investigating the boundaries from the previous deed under the Old Title System. A review of the last parish map has revealed that as at 1938, the subject lot was contiguous with the properties across the road and subject to later subdivision.

Given the age of the property, Council cannot locate approval for any existing structure. Notwithstanding, it is unlikely that approval would have been required for a dwelling at the turn of the 20th century and in recent years, farm buildings up to 200m² in size have been exempt development.

The existing improvements include two dwellings of significant age, an office detached from the existing dwelling probably constructed in the 70’s, subject to this proposal and 7 farm buildings.

The farm stay accommodation appears to replace another existing outbuilding, however, this building has already been demolished, with the frame having been erected for the farm stay without the prior approval of Council.

Council became aware of these unauthorised works through an anonymous complaint received on 3 July 2018, for which a direction was made to stop works by Councils Compliance Officer, on 6 July 2018.

Subsequent to this direction, the proprietor has resolved to lodge a development application to regularise this work and seek consent for the erection of other structures.

REFERRALS

External referrals for concurrence

- NSW Rural Fire Service
  The farm stay component of the proposal is prescribed by Section 100B of the Rural Fires Act 1997 as being a special fire protection purpose, for which the general terms of approval must be obtained from the Rural Fire Service prior to any consent being granted.

  The RFS has issued these general terms of approval which have been incorporated into the consent.

SUBMISSIONS

Surrounding properties were notified of the development proposal between 21 November and 5 December 2018. An advertisement was placed in the Scone Advocate on 21 November 2018.

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

<table>
<thead>
<tr>
<th>Land Use Table</th>
<th>COMMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning classification</td>
<td>RU4 - Primary Production Small Lots</td>
</tr>
</tbody>
</table>

The objectives of the RU4 Land Use Zone are as follows:

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

The proposed development is considered to be consistent with these objectives in the following manner:

- The construction of the new shed will replace an existing building that has degraded to a degree where it is no longer serviceable for the established land use. Its replacement with an appropriately design shed will make a positive contribution to sustaining the existing primary industry land use. Furthermore, the existing dwelling has operated in a manner that is compatible with the primary land use for more than 100 years without hindrance of such operations. Finally, the establishment of farm stay accommodation is, by definition, ancillary with the established land use of a working in farm and in this regard is compatible.
- The introduction of farm stay accommodation signifies diversity and an employment opportunity ancillary to the established primary industry enterprise.
- The ancillary nature of all buildings proposed, with respect to the established land use and the long term operations of such, are considered to be compatible with those surrounding and as such, will not conflict with any adjoining land use zone.

Zoning permissibility

The proposal is permissible as a dwelling house and development ancillary to such, in the RU4 – Primary Production Small Lots zone. 
Farm stay accommodation is a sub-category of tourist and visitor accommodation which is also permissible within this zone.

Part 4

Erection of dwelling-houses on land in certain rural zones (Clause 4.2B)

The proposal seeks to carry out alterations to an existing dwelling house and does not involve the erection of a new dwelling house to which this clause applies.

Height of buildings (Clause 4.3)

No control has been set by the LEP for this lot.

Floor space ratio (Clause 4.4 and 4.5)

No control has been set by the LEP for this lot.

Exceptions for development standards (Clause 4.6)

No exceptions have been sought for any development standard set out in the LEP.

Part 5

Controls relating to miscellaneous permissible uses (Clause 5.4)

Clause 5.4(5) limits the number of bedrooms provided by farm stay accommodation to 5 bedrooms. 2 bedrooms have been proposed and consequently, the proposed complies with this clause.

Heritage conservation (Clause 5.10)

Whilst the existing dwelling is of significant age, Schedule 5 of the LEP does not list the property as a heritage item, nor is it located within a heritage conservation area.
### Part 6

#### Earthworks (Clause 6.1)

Minimal earthworks are proposed to be carried out to the development, with the dwelling alterations and farm stay accommodation utilising bearers and joist style construction for the purposes of accommodating the fall of the land.

The proposed shed will require some additional earthworks to accommodate the fall of the land, however, the approximate 1m of fall across the footprint of the building can be appropriately managed by a condition of consent requiring no fill to exceed 1m. An even proportion of cut and fill will result in approximately 500mm cut and 500mm fill which would typically be exempt development.

In this regard, the considerations made pursuant to clause 6.1(3) have not identified any adverse impact resultant of the proposed earthworks.

#### Flood Planning (Clause 6.2)

The proposal is located above the flood planning level.

#### Terrestrial Biodiversity (Clause 6.3)

The property is not identified on the Terrestrial Biodiversity Map as subject to this clause.

#### Groundwater vulnerability (Clause 6.4)

The proposal is located on land that has been partially identified as groundwater vulnerable and as such, this clause applies.

An existing septic tank and absorption trench, which has deteriorated to a significant degree, presently services the existing dwelling and office, discharges within the groundwater vulnerable region, and will require replacement with an appropriate alternative system.

It has been noted on the plans that such a system is intended to be an Aerated Wastewater Treatment System which, comprising disinfection in conjunction with both primary and secondary treatment of effluent, will produce the highest level of treatment to wastewater.

This replacement system is likely to reduce the propensity for groundwater to be affected, subject to surface irrigation, Wisconsin mound or similar, being employed as the method of disposal.

In consideration of the present system having operated to a lesser standard within the groundwater vulnerability region without any known impact, it is considered likely that an improved replacement system operating to the current edition of AS1547 and employing surface irrigation as the method of disposal, will represent a reduced environmental impact from that of the existing and likewise not result in adverse impact on groundwater.

Notwithstanding, any potential impact, no matter how minor, must be mitigated and in this regard it is considered prudent that in designing the new on-site sewage management system.
an on-site sewage management plan be submitted prior to the issue of any construction certificate which addresses groundwater.

Finally, this clause requires the consent authority to make considerations with regard to groundwater vulnerability as follows:

(a) the likelihood of groundwater contamination from the development (including from any on-site storage or disposal of solid or liquid waste and chemicals);
(b) any adverse impacts the development may have on groundwater dependent ecosystems;
(c) the cumulative impact the development may have on groundwater (including impacts on nearby groundwater extraction for a potable water supply or stock water supply);
(d) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

As aforementioned, it is considered unlikely that the development would result in any adverse impact of groundwater with regard to those items listed above, particularly when considering the domestic nature of the proposed use.

The farm stay accommodation, whilst offering short term accommodation to the public, will not involve any chemicals or operations that differ from that of the dwelling. It will however, represent an intensification to the hydraulic load of any on-site sewage management system as previously discussed, which can easily be accommodated by appropriate design of the system via the level of treatment and method of disposal (irrigation and Wisconsin mounds are typical examples of groundwater sensitive disposal).

The proposed shed seeks to replace two existing outbuildings for the same farming related purposes as per existing and is located along the fringe of the groundwater vulnerability region. The existing use has not resulted in any adverse impact and any existing impact is unlikely to be intensified by the proposal.

| Drinking water catchments (Clause 6.5) | The property is not identified by the LEP as a drinking water catchment. |
| Riparian land and watercourses (Clause 6.6) | The development is located at approximately 120m from Upper Dartbrook at its nearest point and therefore, this clause does not apply. |
| Airspace operations (Clause 6.7) | The property is located along the fringe of the 415.4mAH contour of the obstacle limitation surface. A contour of 250mAH runs through the property adjacent to the proposal, some 165m below the OLS. As such, it is considered that the proposal will not breach the OLS. |
| Essential Services (Clause 6.10) | All services are existing and available to the development. |

**STATE ENVIRONMENTAL PLANNING POLICIES**

- **SEPP No. 44 – Koala Habitat Protection**
  - The proposal does not involve the clearing of any land that may comprise potential koala habitat.

- **SEPP No. 55 – Remediation of Land**
  - The location on the subject property where the development is proposed, has a history of residential use and consequently, it is considered that the site is not likely to be subject to contamination that would require remediation of the land relative to the proposed development, or the continued use of the land.

**REGIONAL ENVIRONMENTAL PLANNING POLICIES**

There are no REP’s applicable to the site.

**DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS**

There are no draft EPI’s applying to the land.
### DEVELOPMENT CONTROL PLANS

<table>
<thead>
<tr>
<th>Development control plan</th>
<th>Comment (only if necessary)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upper Hunter Development Control Plan 2015</td>
<td>7A – RURAL DEVELOPMENT – GENERAL</td>
</tr>
<tr>
<td></td>
<td>A – The siting of the development is consistent with the established location of buildings and utilities on the site, away from agricultural operations, natural hazards and in a manner compatible with the topography of the land;</td>
</tr>
<tr>
<td></td>
<td>B – The proposal is generally consistent with the rural character of the area, will not obstruct views enjoyed by adjoining properties or adversely impact the privacy of adjoining properties;</td>
</tr>
<tr>
<td></td>
<td>C – The height of the buildings will not protrude above a ridge or tree line and respects the rural character of the area;</td>
</tr>
<tr>
<td></td>
<td>D – Whilst the setback of the existing dwelling is 45m from the front boundary, this is not proposed to be varied, with all other improvements be located behind this building line, at a distance exceeding 50m. Side setbacks exceed 30m.</td>
</tr>
<tr>
<td></td>
<td>E – Building colours and materials are unlikely to result in adverse impact to the surrounding locality;</td>
</tr>
<tr>
<td></td>
<td>F – No farm building is proposed within 50m of a dwelling on an adjoining property;</td>
</tr>
<tr>
<td></td>
<td>G – Not an amenities outbuilding;</td>
</tr>
<tr>
<td></td>
<td>H – Refer to 10b;</td>
</tr>
<tr>
<td></td>
<td>I – Refer to 11d;</td>
</tr>
<tr>
<td></td>
<td>J – Not riparian land;</td>
</tr>
<tr>
<td></td>
<td>K – An existing lawful access is available via Upper Dartbrook Rd. This access is unsealed and, given the intensity of traffic movements incidental of a working farm, in conjunction with two dwellings and further intensified by the establishment of farm stay accommodation, it is considered prudent to recommend the imposition of a condition to require the upgrade of the property access to Councils standard RPA-001, to be sealed between the road bitumen and the property boundary;</td>
</tr>
<tr>
<td></td>
<td>L – The proposal involves the installation of a 215,333L rainwater tank to service both the existing dwelling and the farm stay accommodation, thus providing 107666.5L to each building. This is considered to be a satisfactory volume of water;</td>
</tr>
<tr>
<td></td>
<td>M – Refer to 11G;</td>
</tr>
<tr>
<td></td>
<td>N – Telecommunications and electricity supply is existing to the site.</td>
</tr>
<tr>
<td></td>
<td>7B – RURAL DWELLINGS</td>
</tr>
<tr>
<td></td>
<td>A – The development is setback more than 50m from any watercourse and complies with the setbacks of Table 13;</td>
</tr>
<tr>
<td></td>
<td>B – Meets the outcomes to be achieved;</td>
</tr>
<tr>
<td></td>
<td>C – The existing dwelling will be provided with a volume exceeding 100kL as per 7A,L;</td>
</tr>
<tr>
<td></td>
<td>D – Refer to 11g;</td>
</tr>
<tr>
<td></td>
<td>E-H – No such developments are proposed;</td>
</tr>
<tr>
<td></td>
<td>I – The ancillary shed is sited in a manner consistent with the outcomes to be achieved.</td>
</tr>
<tr>
<td></td>
<td>8A TOURIST AND VISITOR ACCOMMODATION – (Farm stay accommodation)</td>
</tr>
<tr>
<td></td>
<td>A – The siting of the farm stay accommodation is considered to be compatible with the attributes and constraints of the site and locality. The proposed shed and the existing dwelling will screen the building from the neighbouring properties, with topography, distance and vegetation acting to reduce any impacts on the property across Upper Dartbrook Rd. Refer to 11I regarding buffers;</td>
</tr>
<tr>
<td></td>
<td>B – The development is compatible with the rural scenic character;</td>
</tr>
<tr>
<td></td>
<td>C – None proposed;</td>
</tr>
<tr>
<td></td>
<td>D – Not in a heritage conservation area;</td>
</tr>
</tbody>
</table>
E – Further to 7A.K, condition upgrade of existing vehicular access. The existing internal property roads are 2WD all weather. Condition that these are maintained in perpetuity of the development;
F – The development is not within 75m of reticulated water supply or sewerage. Refer to 11g regarding onsite sewage management.
G – Refer to 11B;
H – Refer to 10B;
I – Refer to 11E;
J – “AS4674 – Design, Construction and Fitout of Food Premises” is intended to apply to commercial kitchens where food is prepared for sale to the public and thus subject to the requirements of the Food Act 2003. It is apparent in the design of the farm stay accommodation that the kitchen will only cater for the preparation of food by the occupants for their own consumption. In this regard, it is considered that this outcome is inherently achieved by a domestic kitchen;
K – The proposal does not comprise bed and breakfast accommodation;
L – The proposal complies with Clause 5.4(5) of the LEP;
M – The proposal does not comprise an eco-tourist facility;

10B – BUSHFIRE RISK
The proposal incorporates a special fire protection purpose pursuant to section 100B of the Rural Fires Act 1997, and thus general terms of approval have been obtained from the Rural Fire Service.

A condition of consent will be imposed requiring compliance with these terms and Planning for Bushfire Protection 2006, prior to the issue of any construction certificate or occupation certificate and to ensure continued compliance with such in perpetuity.

The proposal can generally comply with the provisions Planning for Bushfire Protection 2006 and AS3959.

11D – GROUNDWATER PROTECTION
In making the relevant considerations pursuant to Clause 6.4 of the LEP, it is considered that the objectives of Part 11d will be met by the development, subject to the design of any on-site sewage management system being prepared by a qualified professional having regard to groundwater.

In this regard, it is recommended that a condition be imposed on any consent requiring the submission of such a report prior to the issue of any Construction Certificate for the development. The report may be combined with an on-site sewage management report as these issues are principally interwoven and may be addressed concurrently.

11F – SOIL & WATER MANAGEMENT
As per the considerations made in clause 6.1, earthworks are of a minor nature, have minimal disturbance areas and can be managed with rudimentary sediment and erosion controls consistent with the Blue Book.

These works are located at least 120m from Upper Dartbrook and are not within proximity of any property boundary. It is recommended that typical conditions be imposed upon the consent to regulate these earthworks.

11G – ON-SITE WASTE WATER MANAGEMENT
An on-site sewage management plan is required under this part where a disposal area is located within groundwater vulnerable regions.

Furthermore, the hydraulic load represented by the 3 bedrooms of the dwelling, 2 bedrooms of the farm stay and the occupants of the existing office, is likely to exceed 10 persons, serving as an additional trigger requiring such a report.
It is proposed to replace the existing system with an Aerated Wastewater Treatment System, which can be designed to accommodate this number of occupants and can be disposed of in manner sensitive to groundwater.

In this regard, the development can comply in principal, with the particulars to be provided in the aforementioned plan, as per a condition imposed on any consent that may be granted, that must be complied with prior to the issue of a construction certificate.

**11F – WASTE MINIMISATION & MANAGEMENT**

Standard conditions may be imposed on the consent to ensure appropriate waste management is employed with regard to building and demolition works, with tipping receipts to be provided prior to occupation certificate.

The 2 bedroom farm stay accommodation is unlikely to generate an appreciable amount of waste exceeding that of a small dwelling and can be generally managed by the existing process in place on the property.

**11I – BUFFER AREAS**

The development is not located within any distance for any of the uses specified.

**12A – ACCESS AND VEHICLE PARKING**

Parking rates are set at two spaces for a dwelling and 1 space per bedroom for tourist accommodation, resulting in 2 spaces required for the farm stay accommodation.

The existing dwelling has existing parking arrangements that comply. The farm stay accommodation has a carport for under cover parking and a significant amount of space at the front of the building to park cars.

It is recommended that a condition of consent be imposed that, prior to the issue of an Occupation Certificate, car parking be provided to the farm stay and maintained in perpetuity of the development.

Furthermore, the access to the property is unsealed and has the propensity to degrade given the traffic movements associated with property operations. Outcome C requires and access to comply with RPA-001. A further condition should be imposed to maintain 2WD all weather access within the property.

| Section 94A Levy Contributions Plan 2008 | No evidence could be found demonstrating the payment of a Section 94 contribution in relation to the land. The proposal does not meet any exemption set out in the Section 94E Direction. As such, the levy is payable under this plan and pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979*, at 1% of the estimated cost of the development, being a sum of $5,100.00 payable prior to the issue of any construction certificate. |

**PLANNING AGREEMENTS**

There are no planning agreements relevant to the proposal.

**REGULATIONS**

Prescribed conditions of consent are to be imposed on the consent pursuant to Part 6, Division 8A of the *Environmental Planning and Assessment Regulation 2000*. 
Likely Impacts of the Development

Context and Setting
The proposal is consistent with the land uses both established on the property and within the surrounding locality. The farm stay accommodation is a land use that is permissible ancillary to the established land use and is defined as being a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.

Furthermore, the proposal is compatible with the scenic location and landscape and will maintain the character and amenity of the locality.

Built Form
The design of the dwelling addition will conserve original fabric and be sympathetic to the original design, employing matching roof pitches and extensive use of verandahs.

The size and scale of the proposed buildings are suitable given the size and location of the property, being suitable with the typical rural vernacular and other similar buildings within the locality.

Colours have not been selected at this stage and consequently it is recommended that a condition be imposed on any consent restricting the use of reflective materials and finishes.

Potential Impact on Adjacent Properties
The proposed buildings are significantly setback from the property boundaries and as such are unlikely to adversely impact the amenity or privacy of the adjoining properties, overshadow any building on such properties or detract from any view or perspective of an adjacent property.

The proposed uses are both consistent and ancillary to those established on the property and unlikely to intensify any emission of noise, vibration or the like. The farm stay accommodation will be tenanted intermittently and will not represent any impact beyond that of the adjacent dwelling or the ancillary agriculture.

Access, Transport and Traffic
Lawful access is available from Upper Dartbrook Road directly onto the property via an existing property entrance. This property entrance has undergone degradation, does not comply with RPA-001 and will require upgrading prior to the issue of any Occupation Certificate.

Sufficient space is available for off-street parking in a manner which will not impact any adjacent property.

Utilities
All utilities are existing to the site. The on-site sewage management system will require upgrade in accordance with an on-site sewage management plan prepared by a suitably qualified person prior to the issue of a construction certificate.

Heritage
The property is not listed in Schedule 5 of the LEP as a heritage item and is not located within any heritage conservation area. However, the existing dwelling dates back to the late 19th or early 20th century and is potentially a good example of typical construction at the time of settlement of the area.

References to “Toolooganvale” have been noted on the Manbus parish map along with notes of a public school bearing the same name and thus, it is assumed the property has unacknowledged importance to the locality.

In this regard, it is a positive outcome that no work is proposed to the existing dwelling other than the replacement of verandahs that have deteriorated over time. The removal of a later addition dating circa 1970’s, to be replaced by construction that is sympathetic to the original fabric is also supported.

Other Land Resources
The proposal will not affect the agricultural value of the property.

Water
The proposal is not located within 40m of Upper Dartbrook and consequently, the development does not need to be referred pursuant to the Water Management Act 2000.
The property is listed on the groundwater vulnerability map and as such, the disposal area of the on-site sewage management system will need to be sited and designed in accordance with an on-site sewage management plan prepared by an appropriately qualified person and submitted to Council prior to the issue of a construction certificate.

Flora and Fauna
No clearing is proposed within this development application. The maintenance of an asset protection zone in accordance with Planning for Bushfire Protection 2006 is unlikely to have an adverse impact on fauna or flora.

Waste
The proposal is expected to generate small amounts of waste resultant of day to day operation and such can be measured via existing property management.

The imposition of a condition of consent requiring the submission of tipping receipts prior to the issue of an Occupation Certificate for the development will ensure that any waste incidental of demolition works is disposed of in an appropriate manner.

It is a prescribed condition of consent that demolition works be undertaken with AS2601 which regulates site management.

Energy
A Basix certificate has been issue for the dwelling addition as the development exceeds $50,000 and thus comprises Basix affected development.

The farm stay accommodation does not comprise a “dwelling” and thus does not meet the definition of Basix affected development for which a Basix certificate is required. As a class 1b building, Part 3.12 of the Building Code of Australia will apply in this regard.

Natural Hazards
The development is likely to comply with Planning for Bushfire protection and AS3959. The general terms of approval of the RFS have been obtained as a special fire protection purpose.

Safety, Security & Crime Prevention
The design of the buildings are secure, visible from the road reserve and generally appropriate with regard to safety, security and crime prevention.

Social Impact on the Locality
The dwelling addition will represent the continued use of a longstanding building located centrally within a rural locality, having a positive social impact. The introduction of farm stay accommodation onto the property also promotes sense of community and social cohesion via the presentation of the locality to those persons intermittently staying at the property who may be from outside the region or potentially the country.

Economic Impact on the Locality
The proposed development offers the opportunity for local trades to partake in construction work and potential employment for the purpose of ongoing maintenance, management and operation. The additional income generated for the property will contribute to the economic longevity of property operations.

Site Design and Internal Design
The proposal is appropriate in form and design for the subject site, integrating into the existing site configuration in a manner that makes a positive contribution to the property without detracting from the locality.

Construction
The proposal is likely to comply with the Building Code of Australia subject to further assessment of an application seeking a construction certificate for the works. The farm stay accommodation is likely to be classified as being a class 1b building and in this regard, the building code requires access and facilities for persons with a disability.

Cumulative Impacts
It is unlikely that the proposal will result in adverse cumulative impacts.
SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Does proposal fit in the locality?
Assessment of the proposal has revealed that it is suitable to be carried out within the locality.

Are the site attributes conducive to the development?
Assessment of the proposal has revealed that the attributes of the subject property are conducive to the carrying out of the proposed development.

THE PUBLIC INTEREST

The proposed development complies with the relevant controls, will not pose a risk to the health and safety of the public, will have positive social and economic impacts and does not appear to contravene any covenant or restriction.

In this regard, the proposal is considered to be in the public interest.

SUMMARY OF LIKELY IMPACTS OF THE DEVELOPMENT

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

<table>
<thead>
<tr>
<th>ENVIRONMENTAL APPRAISAL</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>YES</td>
</tr>
<tr>
<td>7 Physical relationship to and impact upon adjoin 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 S79C considerations of Environmental Planning and Assessment Act 1979</td>
<td>YES</td>
</tr>
<tr>
<td>10 Section 89 of the Local Government Act 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 of the controls.

As such, consent to the development may be granted.

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 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. 165/2018 subject to the conditions set out in the Notice of Determination.
REASONS FOR RECOMMENDATION

The reasons for recommending that consent be granted to Development Application No. 165/2018 are summarised as follows:

- The proposal has been assessed as satisfactory against Section 4.15 of the *Environmental Planning & Assessment Act 1979*;
- The proposal is consistent with the provisions of the *Upper Hunter Local Environmental Plan 2013*;
- The proposal is consistent with the outcomes to be achieved as set out in the Upper Hunter Development Control Plan 2015;
- The proposal is unlikely to have a significant adverse impact on the amenity of the neighbourhood;
- The proposal is likely to make a positive contribution to tourism within the locality.

LACHLAN MELICHAR
SENIOR HEALTH & BUILDING SURVEYOR
Proposed Farm Stay Dwelling For Mr & Mrs Harris
lot 1 DP 196969 468 Upper Dartbrook Rd Upper Dartbrook NSW
DESC.05.2 DEVELOPMENT APPLICATION NO. 177/2018 - DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF MOTEL

RESPONSIBLE OFFICER: Steve McDonald - General Manager
AUTHOR: Mathew Pringle - Director Environmental & Community Services

PURPOSE

On 12 December 2018, Council received Development Application No 177/2018 for the demolition of an existing dwelling and outbuildings and construction of a two storey motel comprising 21 units, reception, car parking for 23 vehicles, landscaping and signage at Lot B DP152433, 70 Guernsey Street, Scone.

The application is being reported to the Development and Environmental Services Committee as four (4) submissions have been received.

RECOMMENDATION

That Council approve Development Application No. 177/2018 for demolition of an existing dwelling and outbuildings and construction of a two storey motel comprising 21 units, reception, car parking for 23 vehicles, landscaping and signage at Lot B DP152433, 70 Guernsey Street, Scone subject to the conditions of consent in Attachment 1 and for the reasons listed in Attachment 2.

BACKGROUND

Application No: DA 177/2018
Applicant: Scone RSL Club Ltd
Owner: Scone RSL Club Ltd
Proposal: Demolition of an existing dwelling and outbuildings and construction of a two storey motel comprising 21 units, reception, car parking for 23 vehicles, landscaping and signage
Location: Lot B DP152433, 70 Guernsey Street, Scone
Lodged: 12 December 2018
Zone: B4 Mixed Use

The subject site has a history of residential use with the existing dwelling believed to date from approximately the 1920’s.

An application for the installation of a swimming pool on the property was approved by Council on 1 February 2004. It appears that the approval was never acted upon.

There is no record of any other approvals for the site on Council’s files.

REPORT/PROPOSAL
The application seeks approval for the demolition of an existing dwelling and outbuildings and construction of a two storey motel comprising 21 units, reception, car parking for 23 vehicles, landscaping and signage at Lot B DP152433, 70 Guernsey Street, Scone.

Units 1 to 20 will be located on the first floor above a ground floor car park and will be accessed via a lift and stairwell. The car parking area along with Unit 21 and a separate foyer/reception area will be located on the ground floor. Units 18 and 21 have been identified as accessible units. Vehicular access will be provided by a proposed concrete driveway off Guernsey Street.

The adjoining properties to the south, west and north contain heritage items listed under Schedule 5 of the Upper Hunter LEP 2013 and the site is located within the West Scone Heritage Conservation Area.

It is considered that the proposal would not have an unacceptable or significantly detrimental impact on the heritage significance of the adjoining heritage items or conservation area. Indeed, any impact would be considered minor and not of such significance as to warrant refusal of the application.

Four (4) submissions have been received (3 from the same submitter) raising concerns in relation to various matters including heritage impacts, loss of privacy and amenity, removal of trees, demolition and deficiencies and inaccuracies in the Statement of Heritage Impact.

Copies of the submissions are provided in Attachment 4. The applicant’s responses to the submissions and the comments made by Council’s Heritage Advisor are provided in Attachment 5.

The issues raised in the submissions and responses to referrals (including ARTC and Heritage Advisor) have been addressed in the planning assessment report in Attachment 2.

In response to the submissions and concerns raised by Council staff, the applicant has made numerous amendments to the proposed development, including the following design changes:

1. The proposed motel has been moved back a further two (2) metres from the front boundary which is a further 2 metres back from the existing dwelling on site and almost in line with the stone cottage on 68 Guernsey Street to the north.
2. The height of the motel has been reduced by 1.2 metres.
3. The size of the front balcony has been reduced.
4. The height of the font balcony has been reduced to 6.7 metres.
5. The windows on the Western elevation have been amended to be vertically proportioned.
6. Balconies proposed on the northern side of the building have been deleted and privacy louvres have been provided to screen all windows to the first floor rooms on the northern side.

These amendments have been incorporated into the plans provided in Attachment 3.
Subject to appropriate conditions of consent, 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 Shire Development Control Plan 2008.

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

Accordingly, the application is recommended for approval.

OPTIONS

1. Approve Development Application No. 177/2018 for demolition of an existing dwelling and outbuildings and construction of a two storey motel comprising 21 units, reception, car parking for 23 vehicles, landscaping and signage at Lot B DP152433, 70 Guernsey Street, Scone subject to the conditions of consent in Attachment 1.

2. Refuse Development Application No. 177/2018 for demolition of an existing dwelling and outbuildings and construction of a two storey motel comprising 21 units, reception, car parking for 23 vehicles, landscaping and signage at Lot B DP152433, 70 Guernsey Street, Scone, stating the reasons for refusal.

CONSULTATION

Surrounding properties were notified of the development proposal between 9 January 2019 and 23 January 2019. An advertisement was placed in the Scone Advocate on 9 January 2019.

Four (4) submissions were received with the issues raised being addressed in the planning assessment report in Attachment 2.

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

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.

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

CS15 Plan, facilitate and provide for a changing population for current and future generations.

Goal 5 – A sustainable and prosperous economy
CS19 Encourage retail and commercial business to locate and prosper within our Shire.

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.
- A stronger economic base to attract and retain residents, particularly our young people.
- Protect the natural environment.

The recommendation to Council has been made with the above goals and priorities in mind.

b. Delivery Program
   - Assessment of planning applications.
   - Advisory service to the community, including heritage conservation.

c. Other Plans
   NIL

IMPLICATIONS

a. Policy and Procedural Implications
   NIL

b. Financial Implications

Development application fees totaling $6,559.52 have been paid by the applicant.

Any consent granted for this development will be subject to condition pursuant to Section 7.12 of the Environmental Planning and Assessment Act 1979, requiring the payment of a levy at 1% of the estimated cost of the development, totaling $31,577.00.
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 B4 Mixed 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 have a significant adverse impact on 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.

ATTACHMENTS

1 DA 177/2018 - Recommended Conditions of Consent
2 DA 177/2018 - Planning Assessment Report
3 DA 177/2018 - Architectural Drawings
4 DA 177/2018 - Submissions
5 DA 177/2018 - Response to Heritage Advice & Submissions
DA 177/2018 – Recommended Conditions of Consent

Identification of approved plans:

1. The development being carried out in accordance with the development application and the drawings referenced below and Statement of Environmental Effects dated December 2018 (by EJE Architecture) and Statement of Heritage Impact dated January 2019 (by EJE Architecture) except where amended by the following conditions.

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<th>REVISION No</th>
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<td>B</td>
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</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)

Conditions to be complied with prior to the issue of the construction certificate:

4. Prior to the issue of any Construction Certificate, a Construction Environmental Management Plan (CEMP) for the development must be provided to the Certifying Authority for approval. The CEMP must include:

   a) The CEMP must address all environmental aspects of the development’s construction phases, and include where relevant, but not be limited to, the following:

   i. Hazardous Materials Management Plan
   ii. Project Contact Information
   iii. Site Security Details
   iv. Timing and Sequencing Information
   v. Site Soil and Water Management Plan
   vi. Noise and Vibration Control Plan
   vii. Air monitoring and management
   viii. Health and Safety Plan
   ix. Incident Management Contingency
   x. Unexpected Finds Protocol
b) The environmental site management measures must remain in place and be maintained throughout the period of the development.

c) The CEMP must be kept on site from the commencement and for the duration of the proposed works, and must be available to Council officers upon request.

d) The CEMP provided to Council must exempt Council from any claim for copyright that may restrict Council’s ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

5. Prior to the issue of any Construction Certificate the person acting on this consent shall submit a Waste Management Plan to the Certifying Authority for approval.

The Waste Management Plan shall include details of the handling of waste materials generated from the demolition, construction and on-going operation regarding:

• the location of waste management facilities proposed both during demolition and construction.
• volume and type of waste and recyclables to be generated
• storage and treatment of waste and recyclables on site
• disposal of residual waste and recyclables

(Reason: To ensure waste generated from the development is stored and disposed of in a way that does not impact on the environment.)

6. The Council water main located within Guernsey Street in front of the development site (100mm cast iron pipe) shall be relocated and upgraded to service the development in accordance with the requirements of the Council’s Infrastructure Services Department. The applicant shall liaise with Council’s Manager of Water and Sewer regarding the submission of design and construction details for all works associated with the water main relocation. The work shall comply with AS/NZS 3500, Plumbing and Drainage Standards, and Council’s Engineering Guidelines for Subdivision and Development.

Plans and design details demonstrating compliance with the requirements of the Infrastructure Services Department shall be submitted to, and approved by Council prior to the issue of any Construction Certificate.

(Reason: To ensure that the development can be serviced by a reticulated water supply)

7. The recommendations contained in the Rail Traffic Noise & Vibration Impact Assessment prepared by Reverb Acoustics and dated February 2019 shall be incorporated into the development. Drawings submitted with the Construction Certificate application shall be in accordance with the recommendations of the impact assessment report.

(Reason: To ensure that occupants are not unreasonably affected by rail noise)

8. All stormwater from the development shall be discharged via a piped system directly to Figtree Gully. The stormwater system shall be constructed to an appropriate standard in compliance with the Council’s Engineering Guidelines for Subdivisions and Developments.

Detailed engineering drawings of the proposed stormwater drainage system shall be submitted to and approved by the Certifying Authority prior to the release of any Construction Certificate.

Note: Approval under Section 68 of the Local Government Act 1993 is required prior to the commencement of any drainage works and approval under Section 138 of the Roads Act 1993 is required prior to the commencement of any drainage works within the road reserve.

(Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties and public infrastructure)
9. Prior to the issue of any Construction Certificate and pursuant to Upper Hunter Shire Council Section 94A Development Contribution Plan 2008, a contribution of $31,577 is required to be paid to Council. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Section 94A Development Contributions Plan.

(Reason: To ensure that the proposed development makes an appropriate contribution to facilities in the Upper Hunter Local Government Area)

10. A contribution pursuant to the provisions Section 64 of the Local Government Act, 1993 as specified hereunder for the services detailed shall be made to Council.

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<th>Total</th>
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<tr>
<td>Sewerage</td>
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<tr>
<td>Water</td>
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<td>Total contribution</td>
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Note: Contributions have been calculated in accordance with the Upper Hunter Shire Council Development Servicing Plan for Water Supply and Sewerage 2016 and the Section 64 Determinations of Equivalent Tenements Guidelines (NSW Water Directorate 2017).

Documentary evidence shall be submitted to the Certifying Authority confirming that the contribution has been paid prior to the issue of any Construction Certificate for the development.

The level of contributions shall be in accordance with Council’s Fees and Charges at the time of payment.

(Reason: To recover the cost of water and sewer headworks required to service the development)

11. Roof sheeting shall be Colorbond Shale Grey or Windspray or equivalent. Details demonstrating compliance with this requirement shall be provided with the Construction Certificate application.

(Reason: To ensure compatibility with the West Scone Conservation Area)

12. The wall colour on the north and south elevation shall be Dulux Handmade Linen or similar. Details demonstrating compliance with this requirement shall be provided with the Construction Certificate application.

(Reason: To ensure compatibility with the West Scone Conservation Area)

13. The address signage adjacent to the front boundary shall be reduced in size with text of street number only at 400mm height and the sign reduced to 1000mm x 600mm. Details demonstrating compliance with this requirement shall be provided with the Construction Certificate application.

(Reason: To ensure compatibility with the West Scone Conservation Area)

14. The signage in the spandrel on the front elevation shall have a maximum height of 400mm with the spandrel height no greater than 600mm. Details demonstrating compliance with this requirement shall be provided with the Construction Certificate application.

(Reason: To ensure compatibility with the West Scone Conservation Area)

15. The car park design shall be amended to include a turning bay at the end of the aisle to enable vehicles to turn and exit the car park in a forward direction. The amended design must not result in a reduction in the number of approved car parking spaces. Amended plans demonstrating compliance with this requirement shall be submitted with the Construction Certificate application.

(Reason: To provide adequate space for vehicle manoeuvring and to enable all vehicles to exit the car park in a forward direction)
16. The suspended privacy louvres to be installed in front of the windows on the northern elevation shall be extended downward to hang below the ceiling height of the ground floor car park in order to screen the car park from the adjoining property to the north. Amended plans demonstrating compliance with this requirement shall be submitted with the Construction Certificate application.

(Reason: To minimise amenity impacts on the adjoining property)

17. Access for people with disabilities is to be provided to and within the ground floor and all accessible units. Consideration must be given to the means of dignified and equitable access from public places and accessible car parking to the accessible units. Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted to, and approved by the Certifying Authority prior to the release of the Construction Certificate.

All details shall be prepared in consideration of, and construction completed to achieve compliance with the provisions of the Building Code of Australia Disability (Access to Premises-Buildings) Standards 2010, and the relevant provisions of AS1428.

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)

Conditions that must be addressed prior to commencement:

18. Prior to the commencement of any demolition works, an archival photographic survey of the dwelling and outbuildings, prepared in accordance with the guidelines for archival recording published by the Office of Environment and Heritage, is to be submitted to Council. The photographic survey is to include:

1. photographic study only (exclude measured drawings);
2. sample photographs of interior rooms, significant details and exterior elevations of dwelling;
3. Exterior photographs of context including 2 sheds and garage; and
4. One digital copy only required for file.

(Reason: To provide a historical record of heritage significant works on the site for archival purposes)

19. All erosion and sedimentation techniques are to be properly installed prior to the commencement of any site works and maintained in a functional and effective condition throughout the construction activities in accordance with Soils and Construction: Managing Urban Stormwater (‘the Blue Book’) until the site is stabilised and landscaped.

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

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

20. Site facilities
   (a) The work site be fully enclosed by a temporary security fence (or hoarding) before work commences. Any such hoarding or fence is to be removed when the work has been completed.

   (b) A minimum width of 1.2m must be provided between the work site and the edge of the roadway so as to facilitate the safe movement of pedestrians. If trees are present in the footpath the minimum width must be provided to one side of the trees.

   (c) A garbage receptacle fitted with a tight fitting lid for the reception of all food scraps and papers from the work site must be provided prior to building work commencing and must be maintained and serviced for the duration of the work.
(d) Adequate toilet facilities must be provided on the work site. Each toilet provided must be a standard flushing toilet, connected to a public sewer, or if connection to a public sewer is not available, to an on-site effluent disposal system approved by the council, or an approved temporary chemical closet.

The provision of toilet facilities must be completed before any other work is commenced.

The installation of the site facilities shall be approved by the Principal Certifying Authority prior to further commencement of site works and prior to the first inspection.

(Reason: To ensure the health and safety of the community and workers on the site)

21. 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)

22. Construction works shall not 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 on site.

(Reason: Prescribed – Statutory)

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

23. 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 unless prior approval has been obtained

(c) demolition and excavation works must only be carried out between Monday to Friday (inclusive) between 8.00am and 5.00pm.

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

24. Any person acting on this consent must ensure that:-

(a) Demolition must be carried out in accordance with AS 2601–1991, *Demolition of structures*.

(b) Demolition materials must not be burnt or buried on the work site.
(c) A person having the benefit of this certificate must ensure that all vehicles leaving the work site carrying demolition materials have their loads covered and do not track soil or waste material onto the road.

(d) If demolition work obstruct or inconvenience pedestrians or vehicular traffic on an adjoining public road or reserve, a separate application must be made to council to enclose the public place with a hoarding or fence.

(e) Erosion and sediment controls must be provided in accordance with the details shown on the approved plans, prior to the disturbance of any soil on the work site and must be maintained in a functional condition throughout the construction activities until the site is stabilised.

(f) The work site must be left free of waste and debris when work has been completed.

(Reason: To ensure that work is undertaken in a professional and responsible manner and to protect adjoining property and persons from potential damage)

25. The demolition and construction shall be carried out in a manner that minimises dust generation from the site as far as practicable. All project related activities on the site shall be undertaken with the objective of minimising visible emissions of dust from the site. All vehicles leaving the site must have the loads covered such as to prevent dust emissions.

Should visible dust emissions attributable to the demolition and construction occur, the person acting on the consent shall identify and implement all practical dust mitigation measures, including the cessation of demolition and construction activities, as appropriate, such that emissions of dust are minimised.

(Reason: To ensure that dust impacts are minimised)

26. The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(Reason: To ensure the proper management of public land and funds)

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

27. All required parking areas, loading bays, driveways, internal access ways, vehicular ramps and turning areas shall fully constructed, sealed, line marked, sign posted, numbered in accordance with the consent and AS2890 prior to the issue of any Occupation Certificate.

(Reason: To ensure that adequate facilities to service the development are provided on site.)

28. Prior to the issue of any Occupation Certificate, a 2.0 metre high lapped and capped timber fence shall be constructed along the northern and southern side boundaries of the site behind the building line.

(Reason: To mitigate privacy, noise and light impacts on adjoining development)

29. Prior to the issue of any Occupation Certificate, a replacement tree (an endemic species native to the local area) having a mature height of at least three (3) metres shall be planted within the front setback area of the development.

(Reason: To replace existing trees to be removed and soften the visual impact of the development on the streetscape)

30. Prior to the issue of any Occupation Certificate, privacy screens (fixed louvres or the like) shall be installed for the full length of the balconies to Units 13, 14 and 15 to minimise overlooking of the adjoining property at Lot 74 DP 1150759.

(Reason: To maintain the privacy of the adjoining development)
31. Prior to the issue of any Occupation Certificate, a flood evacuation plan for the development, prepared by a suitably qualified flood engineer or consultant, shall be submitted to, and approved by Council.

(Reason: To minimise risk to life and property in the event of a flood)

32. All sound producing plant, equipment, machinery, fittings, ducting, refrigeration systems associated with the development, shall be sound insulated and/or isolated so that the noise emitted does not exceed 5dB(A) above the background level in any octave band from 63.0 HZ centre frequencies inclusive, and not more than 5 dB(A) above the background level (LA90) during the day when measured at the nearest affected residence.

For assessment purposes, the above LAeq sound levels are to be adjusted in accordance with EPA guidelines for tonality, frequency weighting, and impulsive characteristics where necessary, at any time the plant is in operation, at the boundary of the site.

Note: The method of measurement of sound shall be carried out in accordance with Australian Standard 1055.1 - 1989.

A report and certification prepared by an appropriately qualified or accredited person shall be submitted to the Certifying Authority demonstrating compliance with this condition prior to the issuing of any Occupation Certificate for the development.

(Reason: To ensure that noise generated from the development does not result in offensive noise to any other party)

33. Prior to the issue of any Occupation Certificate the stormwater system must be constructed and operational in accordance with the approved plans. An appropriately qualified and practising Civil Engineer or Registered Surveyor shall provide signed Works-as-Executed drawings and certification to the Certifying Authority that the stormwater drainage system has been constructed in accordance with this consent and the provisions of AS3500.

(Reason: To ensure there is adequate stormwater drainage in place for the development.)

34. Certified Works-as-Executed drawings accompanied by written confirmation from Upper Hunter Shire Council Infrastructure Services Department that the water main has been relocated shall be submitted to, and approved by the Certifying Authority prior to the issue of any Occupation Certificate.

(Reason: To ensure appropriate sewer infrastructure is available to the allotments.)

35. Prior to the issue of any Occupation Certificate, if any asbestos based products and other hazardous materials have been removed from the site, a clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to the Principal Certifying Authority (and a copy forwarded to Council) which certifies that asbestos and/or other hazardous materials have been removed from the property.

The certificate must also be accompanied by tipping receipts, which detail that all asbestos and/or hazardous material waste has been disposed of at an approved waste disposal facility.

(Reason: To ensure that the development is safe for occupation and will pose no health risks to occupants.)

36. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall be provided with a report prepared by a suitably qualified acoustic consultant certifying that rail noise will not cause exceedance of the following LAeq levels within the development:

(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,

(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

(Reason: To ensure that occupants are not unreasonably affected by rail noise)
37. The premises shall be connected to the sewer system in accordance with the Australian Standard 3500. A works as executed plan on Department of Fair Trading Sewer Service Diagram is to be submitted to Council within seven (7) days following the final drainage inspection and prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance with the Australian Standard & Local Authority requirements.)

38. Where a redundant layback will occur at the frontage of the property, a new concrete kerb and gutter must be constructed to replace the redundant layback prior to the issue of any Occupation Certificate.

(Reason: To enhance the streetscape.)

39. All disturbed and unvegetated areas of land to the front of the building and nature strip are to be fully turfed or landscaped to prevent soil erosion and migration prior to the release of any Occupation Certificate.

(Reason: To preserve the amenity of the streetscape.)

40. 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.)

41. Prior to the issue of any Occupation Certificate a sealed driveway shall be constructed from the kerb and gutter to the building in accordance with the profile on the approved plans.

The crossover and layback shall be constructed in accordance with Council’s standard drawing number SVL-001.

Note: Approval under Section 138 of the Roads Act 1993 is required prior to the commencement of any works within the road reserve.

(Reason: To facilitate appropriate vehicular access to the site.)

Conditions that must be complied with at all times:

42. At all times, external lighting shall comply with AS4282-1997 Control of the obtrusive effects of outdoor lighting and must be fitted with a device that can control the level of illumination.

(Reason: To ensure there is adequate lighting for the safety of users which does not adversely impact on the amenity of adjoining residents.)

43. All plant and equipment (including but not limited to air conditioning equipment) shall be screened from view and must not be visible from adjoining properties or public roads.

(Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

44. Surveillance equipment (CCTV) shall be provided throughout common areas (including the car park) of the development to enhance the physical security of the premises and assist with the identification of people involved in anti-social or criminal behaviour. The following must applied:

a) Cameras installed in and around the motel to maximise surveillance opportunities. Cameras must not be installed in locations that could impinge on the privacy of adjoining private properties.

b) Video monitors enabling staff to monitor activities on the camera.

c) Recording equipment is installed away from the counter area such as to avoid tampering.

d) CCTV footage kept for a minimum of 21 days.

e) Appropriate warning signs displayed advising patrons of CCTV in use.
Documentary evidence demonstrating compliance with the above requirements shall be submitted to the Certifying Authority prior to the issue of any Occupation Certificate for the development.

(Reason: To ensure appropriate surveillance measures are in place to deter crime and anti-social behaviour.)

45. At all times no deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

(Reason: To ensure the acoustic amenity of surrounding properties.)

46. At all times waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

(Reason: To ensure the acoustic amenity of surrounding properties.)

47. At all times all loading and unloading operations shall be carried out wholly within the confines of the site and within loading bays designated on the approved plans.

(Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian amenity.)

48. 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.)

49. No consent is given or implied for any form of illumination or floodlighting to any sign.

(Reason: To ensure appropriate forms of signage that are consistent with Council’s controls and those that are desired for the locality, and do not interfere with amenity of nearby properties.)

Australian Rail Track Corporation (ARTC):

50. Stormwater from the development must not be discharged into the rail corridor.

(Reason: To ensure the development does not result in an increase in the flow of water being directed at the rail corridor.)

51. Reflective materials shall not be used on the exterior surfaces of the development and all external lighting shall comply with AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.

(Reason: To ensure the development does not pose a risk to the safety of rail operations)

52. Adequate measures must be in place during the construction phase of the development to ensure that works do not interfere with the safe operation of the rail corridor or cause damage to rail infrastructure including the existing acoustic wall on the eastern site boundary. The ARTC must be consulted prior to the use of any cranes on the site.

(Reason: To ensure the development does not pose a risk to the safety of rail operations)
ADDRESS: LOT B DP 152433
70 Guernsey Street Scone

APPLICATION No: DA 177-2018

PROPOSAL: Motel, demolition of dwelling and demolition of outbuildings

PLANS REF: PLANNING RELATED DRAWINGS / INFO

<table>
<thead>
<tr>
<th>DRAWINGS NO.</th>
<th>DRAWN BY</th>
<th>DATE</th>
<th>RECEIVED</th>
</tr>
</thead>
<tbody>
<tr>
<td>A01 – A04, A06, A08, A09, A11 (Revision F)</td>
<td>EJE Architecture</td>
<td>11/03/2019</td>
<td>14/03/2019</td>
</tr>
<tr>
<td>A05, A07, A10 (Revision G)</td>
<td>EJE Architecture</td>
<td>14/03/2019</td>
<td>14/03/2019</td>
</tr>
<tr>
<td>A12 (Revision E)</td>
<td>EJE Architecture</td>
<td>11/03/2019</td>
<td>14/03/2019</td>
</tr>
<tr>
<td>A13, A14 (Revision D)</td>
<td>EJE Architecture</td>
<td>11/03/2019</td>
<td>14/03/2019</td>
</tr>
<tr>
<td>A15 (Revision B)</td>
<td>EJE Architecture</td>
<td>11/03/2019</td>
<td>14/03/2019</td>
</tr>
</tbody>
</table>

CONSTRUCTION RELATED DRAWINGS / INFO

OWNER: Scone RSL Club Ltd

APPLICANT: Scone RSL Club Ltd
PO Box 185
SCONE NSW 2337

AUTHOR: Mr M Pringle

DATE LODGED: 12 December 2018

AMENDED: 14 March 2019

ADD. INFO REC’D: 26 February 2019

DATE OF REPORT: 1 May 2019

SUMMARY OF FACTS

ISSUES: Heritage Impact, Privacy, Acoustic Impacts

SUBMISSIONS: Two submissions received

RECOMMENDATION: Approval
DESCRiPTION OF PROPOSAL

The application seeks approval for the demolition of an existing dwelling and outbuildings and construction of a two storey motel comprising 21 units, reception, car parking for 23 vehicles, landscaping and signage at Lot B DP152433, 70 Guernsey Street, Scone.

Units 1 to 20 will be located on the first floor above a ground floor car park and will be accessed via a lift and stairwell. The car parking area along with Unit 21 and a separate foyer/reception area will be located on the ground floor. Units 18 and 21 have been identified as accessible units. Vehicular access will be provided by a proposed concrete driveway off Guernsey Street.

The proposed development will be set back 12.4 metres from the front property boundary, one (1) metre from the rear boundary (adjoining the rail corridor) and 1.5 metres from the northern and southern side boundaries. Some parts of the building along the northern and southern elevations project into the side setback and will be approximately 750mm from the side boundary to the north and 1.2 metres from the southern boundary.

The building will be supported by round concrete columns and will be constructed of rendered masonry walls, timber battens and louvres and metal roof sheeting.

 SITE DESCRIPTION

The subject site is identified as Lot B DP 152433, 70 Guernsey Street, Scone. The site has an area of 1,250m², is predominantly flat and is occupied by a single storey weatherboard dwelling and shed.

The lot is bounded by the Great Northern Railway line to the east, a two-storey dwelling and shed to the north, Scone Baptist Church and Manse to the south and the Scone RSL Club to the west on the opposite side of Guernsey Street.

The adjoining properties to the south, west and north contain heritage items listed under Schedule 5 of the Upper Hunter LEP 2013 and the site is located within the West Scone Heritage Conservation Area. The following items of local heritage significance are located in close proximity to the site:
RELEVANT HISTORY

The subject site has a history of residential use with the existing dwelling believed to date from approximately the 1920’s.

An application for the installation of a swimming pool on the property was approved by Council on 1 February 2004. It appears that the approval was never acted upon.

There is no record of any other approvals for the site on Council’s files.
**REFERRALS**

- **Water & Sewer**
  Council’s Water and Sewer department has assessed the application and raised no concerns with the proposal. A condition of consent has been recommended requiring the existing water main in front of the development site in Guernsey Street to be relocated and upgraded in order to service the proposed motel.

- **Heritage Advisor**
  Council’s Heritage Advisor assessed the application and raised a number of concerns regarding the demolition of the existing dwelling at 70 Guernsey Street and the impacts of the proposed development on the heritage significance of the adjoining items at 68 Guernsey Street (stone cottage), 74 Guernsey Street (Baptist Church), 71 Guernsey Street (Scone RSL Club (former boorer’s mill)) and 73 Guernsey Street (Mill Cottage) as well as the West Scone Conservation Area.

  In an initial response dated 7 February 2019, the Heritage Advisor indicated that 70 Guernsey Street has historic significance as a record of suburban development of Scone in the Inter-War period. Furthermore, that: ‘70 Guernsey Street has aesthetic and representative significance as an example of an Inter-War dwelling constructed in a standard builder’s type of this period and is a contributory element in the conservation area.’

  The Heritage Advisor provided a number of recommendations regarding the proposed demolition works which are to be incorporated into conditions of consent, should the application be approved. In addition, further information was requested including an assessment of the outbuilding and a structural assessment of the existing dwelling. It was later agreed by the Heritage Advisor that this additional information was unnecessary.

  In relation to the proposed motel, a number of recommendations were made to amend the design of the building to reduce its massing and scale and its impacts on the adjoining heritage items and conservation area.

  The applicant provided a response to the Heritage Advisor’s comments on 1 March 2019 which included amended drawings of the proposal incorporating the following design changes:

  1. The proposed motel has been moved back a further two (2) metres from the front boundary which is a further 2 metres back from the existing dwelling on site and almost in line with the stone cottage on 68 Guernsey Street to the north.
  2. The height of the motel has been reduced by 1.2 metres.
  3. The size of the front balcony has been reduced.
  4. The height of the front balcony has been reduced to 6.7 metres.
  5. The windows on the Western elevation have been amended to be vertically proportioned.

  The Heritage Advisor subsequently provided further comments and recommendations on the amended proposal on 1 April 2019. It was recommended that further amendments be made to the proposed motel to reduce its impact on the stone cottage to the north and the conservation area including increasing the side setbacks of the building to allow for a landscape buffer, particularly on the northern side. Notwithstanding this recommendation, it would be impracticable to increase to the building’s setbacks given the narrow width of the site and any reduction in the floor area of the building is likely to compromise the feasibility of the development.

  Numerous conditions of consent have been recommended by the Heritage Advisor, should the application be approved, to address the heritage impacts of the proposal.

  It is considered that the revised proposal would not have an unacceptable or significantly detrimental impact on the heritage significance of the adjoining heritage items or conservation area. Indeed, any impact would be considered minor and not of such significance as to warrant refusal of the application.

  Further discussion regarding the heritage impacts of the proposal is provided in a later section of this report.
Engineering/Stormwater Drainage
Council’s Manager Strategic Assets assessed the application and raised no objection to the proposed development subject to a condition of consent requiring all stormwater from the development to be discharged via a piped system directly to Figtree Gully. The proposed vehicular access arrangements have been assessed as satisfactory.

External referrals for concurrence

Australian Rail Track Corporation
As the site of the development adjoins the railway corridor, the application was referred to ARTC for comment. The ARTC raised no objection to the proposal subject to Council taking the following matters into account in its assessment of the application:

1. Impacts of the development on the railway corridor during construction including use of cranes and potential damage to the acoustic wall.
   
   Comment: This issue will be addressed through recommended conditions of consent.

2. Consideration of the provisions of Development Near Rail Corridors and Busy Road – Interim Guidelines.
   
   Comment: An acoustic report has been submitted which addresses the requirements of this document.

3. Stormwater from the development must not affect the rail corridor.
   
   Comment: A condition of consent has been recommended in this regard.

4. Lighting and external finishes of the building should not pose a risk to the safety of rail operations.
   
   Comment: Conditions of consent have been recommended requiring the use of non-reflective materials and external lighting to comply with AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.

SUBMISSIONS

Surrounding properties were notified of the development proposal between 9 January 2019 and 23 January 2019. An advertisement was placed in the Scone Advocate on 9 January 2019.

Four (4) submissions were 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>
<tbody>
<tr>
<td>Mr Murphy</td>
<td></td>
</tr>
</tbody>
</table>
|                             | - No wheelchair access
|                             | - Concerns regarding asbestos dust during demolition
|                             | - Removal of silky oak tree
|                             | - Timing of DA exhibition period over Christmas
|                             | - Suggestion that a plaque be erected in memory of the original custodians of the land (the Wanaruah and Kamilaroi people).
| Anne French and Ruth Armitage (owners of 68 Guernsey Street, Scone) | 
|                             | - The proposal fails to comply with heritage conservation guidelines and objectives.
|                             | - Loss of amenity at 68 Guernsey Street
|                             | - Deficiencies and inaccuracies in the Statement of Heritage Impact

These matters are addressed in detail in a later section of this report.
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

<table>
<thead>
<tr>
<th>Land Use Table</th>
<th>COMMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning classification</td>
<td>B4 Mixed Use</td>
</tr>
</tbody>
</table>
| Zoning objectives | - To provide a mixture of compatible land uses.  
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.  
The proposed development is consistent with the objectives of the B4 Mixed Use zone. |

| Zoning permissibility | The proposal is permissible as a motel in the B4 zone. |

<table>
<thead>
<tr>
<th>Clauses (Part 4)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Height of buildings (Clause 4.3)</td>
<td>The height of the proposed development (8.02m) complies with the height limit of 10 metres applicable to the site as shown on the Height of Buildings Map.</td>
</tr>
<tr>
<td>Floor space ratio (Clause 4.4 and 4.5)</td>
<td>The floor space ratio of the proposed development (0.7:1) complies with the maximum floor space ratio of 1:1 applicable to the site as shown on the Floor Space Ratio Map.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Part 5 – Miscellaneous provisions</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Heritage conservation (Clause 5.10)</td>
<td>As the proposed development involves the demolition of a building and erection of a new building within a heritage conservation area and on land adjoining a number of heritage items, the provisions of Clause 5.10 are applicable. In this regard, the application is accompanied by a Statement of Heritage Impact (SHI) which provides a detailed assessment of the impacts of the proposal on the heritage significance of the conservation area and adjoining heritage items. The SHI considers the historical context of the site and surrounding properties, the heritage significance of the existing and adjoining development and provides a detailed assessment of the proposed development against the provisions of Part 9 of the Upper Hunter DCP 2015. The SHI concludes that the proposal makes every effort to create a contemporary structure which is still sympathetic and harmonious with the West Scone Conservation Area, the Guernsey Street Streetscape and amongst a number of locally significant heritage items including the 1861 former Mill and Mill Cottage (Scone RSL). The proposal will have no appreciable impact upon the significance of the conservation area and surrounding locally listed heritage items.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Part 6 – Additional Local Provisions</th>
<th></th>
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</thead>
</table>
| Flood Planning (Clause 6.2) | The subject site is located within a low hazard flood zone and is impacted by the 100 year ARI flood associated with Figtree Gully.  
The proposed development is consistent with the objectives of Clause 6.2 as it has been designed to minimise the flood risk to life and property; is compatible with the land’s flood hazard and avoids significant adverse impacts on flood behaviour and the environment.  
In accordance with Clause 6.2(3), it is considered that the proposed |
development:
(a) is compatible with the flood hazard of the land as the floor levels of habitable rooms are predominantly above the flood planning level.
(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affection of other development or properties as the building has been designed so that floodwaters will not be impeded.
(c) incorporates appropriate measures to manage risk to life from flood.
(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.
(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

<table>
<thead>
<tr>
<th>Airspace operations (Clause 6.7)</th>
<th>The proposed development does not penetrate the Obstacle Limitation Surface for the Scone Memorial Aerodrome (which is at an RL of 265m above the site). Therefore the proposal will have no impact on airspace operations associated with the aerodrome.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Essential Services (Clause 6.10)</td>
<td>All essential services including reticulated water and sewer, power, stormwater drainage and vehicular access are available to the development.</td>
</tr>
</tbody>
</table>
86 Excavation in, above, below or adjacent to rail corridors

(1) This clause applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land:
   (a) within, below or above a rail corridor, or
   (b) within 25m (measured horizontally) of a rail corridor, or
   (b1) within 25m (measured horizontally) of the ground directly below a rail corridor, or
   (c) within 25m (measured horizontally) of the ground directly above an underground rail corridor.

(2) Before determining a development application for development to which this clause applies, the consent authority must:
   (a) within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and
   (b) take into consideration:
      (i) any response to the notice that is received within 21 days after the notice is given, and
      (ii) any guidelines issued by the Secretary for the purposes of this clause and published in the Gazette.

(3) Subject to subclause (5), the consent authority must not grant consent to development to which this clause applies without the concurrence of the rail authority for the rail corridor to which the development application relates.

(4) In deciding whether to provide concurrence, the rail authority must take into account:
   (a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:
      (i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and
      (ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and
   (b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.

(5) The consent authority may grant consent to development to which this clause applies without the concurrence of the rail authority concerned if:
   (a) the rail corridor is owned by or vested in ARTC or is the subject of an ARTC arrangement, or
   (b) in any other case, 21 days have passed since the consent authority gave notice under subclause (2) (a) and the rail authority has not granted or refused to grant concurrence.

Comment:

The ARTC has granted its concurrence to the application subject to Council taking a number of matters into account including construction methodology, stormwater, lighting and external finishes. Conditions of consent have been recommended in this regard.

87 Impact of rail noise or vibration on non-rail development

(1) This clause applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration:
   (a) residential accommodation,
   (b) a place of public worship,
   (c) a hospital,
(d) an educational establishment or centre-based child care facility.

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:
(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,
(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

The development application is accompanied by a Rail Traffic Noise & Vibration Impact Assessment which has been prepared in accordance with the requirements of the guideline document ‘Development near Rail Corridors and Busy Roads – Interim Guidelines – 2008’.

The Acoustic assessment concludes that the proposal will comply with the requirements of ‘Development near Rail Corridors and Busy Roads – Interim Guidelines – 2008’ subject to a number recommendations regarding construction materials and methods. A condition of consent is recommended requiring the proposal to comply with the recommendations of the report and for those requirements to be reflected on the Construction Certificate drawings. A further condition is recommended requiring a suitably qualified consultant to provide certification that the development complies with the requirements of Clause 87 of the Infrastructure SEPP prior to the issue of any Occupation Certificate.

SEPP No. 55 – Remediation of Land

The subject property has a history of residential use and it is considered that the site is not likely to be subject to contamination that would require remediation of the land relative to the proposed development and use of the land.

SEPP No. 64 – Advertising and Signage

3 Aims, objectives etc

(1) This Policy aims:
(a) to ensure that signage (including advertising):
(i) is compatible with the desired amenity and visual character of an area, and
(ii) provides effective communication in suitable locations, and
(iii) is of high quality design and finish, and
(b) to regulate signage (but not content) under Part 4 of the Act, and
(c) to provide time-limited consents for the display of certain advertisements, and
(d) to regulate the display of advertisements in transport corridors, and
(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

(2) ….

It is considered that the proposed signage is generally consistent with the aims of the policy.
8 Granting of consent to signage

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

(a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and

(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.

In order to minimise the visual impact of the address signage on the conservation area, a condition of consent is recommended requiring the signage text to be reduced in size with text of street number only at 400mm height and the sign reduced to 1000mm x 600mm. Furthermore, the signage in the spandrel on the front elevation should have a maximum height of 400mm and the spandrel should be a maximum of 600mm in height. A condition of consent has been recommended in this regard. Subject to these conditions, the proposed signage has been assessed as satisfactory against the criteria in Schedule 1 of the SEPP.

REGIONAL ENVIRONMENTAL PLANNING POLICIES

There are no REP's applicable to the site.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

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

DEVELOPMENT CONTROL PLANS

<table>
<thead>
<tr>
<th>Development control plan</th>
<th>Considered?</th>
<th>Comment (only if necessary)</th>
</tr>
</thead>
</table>
| Upper Hunter Development Control Plan 2015 | YES         | Part 5a Commercial Development – General

The proposed development is consistent with the objectives of Part 5a. The proposed building respects the setbacks of other buildings along the streetscape and will be of a height that is compatible with other buildings in the locality. The proposal will not result in unreasonable overshadowing or compromise the privacy of adjoining properties and is of a design that enhances the character of the local area. The selection of colours and materials is appropriate for the heritage conservation area and is compatible with adjoining heritage items. The proposal provides two accessible units and two accessible parking spaces as well as accessible paths of travel in accordance with Outcome G – Designing for Accessibility.

Part 8a Tourist and Visitor Accommodation

The proposed development is consistent with the objectives of Part 8a of the DCP in relation to tourist and visitor accommodation. The proposed development complies with the controls relating to site location and development design, facilities and services, heritage, access and parking and outdoor advertising.

Part 8b Advertising and Signage
The proposed development includes the installation of two signs, one on the building façade (6.4m x 0.6m) and one address sign on a front feature wall (3.34m x 0.66m). As noted previously, conditions of consent have been recommended that the signs be reduced in size to minimise the visual impact on the conservation area and streetscape. Subject to these requirements, the proposed signs would be consistent with the objectives of Part 8b and will complement the building façade. The proposed signs would be in keeping with the scale and character of existing signage in the area; will contribute to the visual interest of the streetscape and will not detract from the visual quality of the conservation area.

Part 9 Heritage Conservation

It is considered that the proposed development does not detract from the significance of the West Scone Heritage Conservation Area. The design of the building is sympathetic to, and does not overly dominate, the adjoining heritage items. As stated in the Statement of Heritage Impact, the proposed design draws on design cues such as form, roof pitch, fenestration, material, colour and detail from its setting for the purpose of integrating with the conservation area and not to detract from it. Views from the street to the stone cottage and Baptists Church are not affected by the proposal which is well set back from the front boundary. Large side setbacks to the stone cottage and Baptist Church also contribute to maintain the setting of these items. Cues from the adjoining heritage items are reinterpreted in the form of masonry details on the façade of the proposed development.

Whilst the side setbacks of the proposed building are not consistent with the setbacks of immediately adjoining development, there are many examples of similar and lesser setbacks throughout the conservation area.

In accordance with the design guidelines under Section H. Building Elements Materials, Finishes and Colour Schemes, the proposed building colours are based on a warm palette and will not detract from the conservation area. Essential services such as rainwater tanks, air conditioning ducts, solar panels etc will not be visible on the main elevation of the building.

The proposal will involve the removal of two mature trees, a silky oak and a palm tree, which are located at the rear boundary of the site adjacent to the railway corridor and approximately 80 metres from the street. The removal of these trees will have a negligible impact on the conservation area. The proposal incorporates some soft landscaping within the front setback which will soften the visual impact of the development and enhance the streetscape.

The proposal has been assessed as compliant with the assessment criteria prescribed by Part 9a of the Upper Hunter DCP.

Part 10a Floodplain Management

In accordance with the Part 10a, the proposed building design will not result in significant impacts upon the amenity of the area by way of overshadowing, privacy impacts, incompatibility with streetscape or inappropriate construction. The design respects the low hazard flooding constraints of the land and will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties. The proposal is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, will not significantly adversely affect the environment and is
consistent with the principles of ESD. As noted previously, a condition of consent is recommended requiring the applicant to submit a flood evacuation plan prior to the issue of an Occupation Certificate to ensure appropriate measures are in place to further minimise risk to life and property from flood.

Part 11f Soil & Water Management

The proposed development will involve minimal earthworks with the existing ground levels to be maintained.

Conditions of consent are recommendation requiring suitable erosion and sediment control measures to be installed and maintained throughout the construction phase and whilst any soils remain exposed.

In accordance with Section M. Stormwater Design Objectives, the proposed stormwater management system will control stormwater in a way that minimises nuisances and damage to adjoining properties, will mitigate pollutants from entering waterways and has been designed to avoid local flooding. Rather than requiring the installation of onsite stormwater detention, Council’s Manager Strategic Assets has recommended that stormwater be conveyed directly from the development to Figtree Gully via a piped system given the proximity of the site to this major drainage line and its location within the catchment.

Part 12a Access and Vehicle Parking

A total of 23 off-street parking spaces are proposed to service the development (including two accessible spaces) which complies with the minimum requirement of 1 space per unit plus 1 space per two employees as prescribed by Part 12a of the Upper Hunter DCP. However, it is noted that the car park design does not provide sufficient manoeuvring space to allow all vehicles to turn and exit the car park in a forward direction. To achieve this requirement, it is recommended that the accessible parking spaces be positioned adjacent to each other and share the shared area (incorporating bollard). The proposed shared area adjacent to Unit 21 can then be converted into a turning bay to allow vehicles to manoeuvre and exit in a forward direction. The proposed driveway width (4.9m) complies with the minimum required width of 3.6m. A condition of consent is recommended requiring the parking area to be constructed in accordance with AS2890 prior to the issue of an Occupation Certificate.

<table>
<thead>
<tr>
<th>Section 94A Levy Contributions Plan 2008</th>
<th>YES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upper Hunter Section 94 Contributions Plan 2017</td>
<td>N/A</td>
</tr>
<tr>
<td>Upper Hunter Servicing Plan for Water Supply and Sewerage</td>
<td>YES</td>
</tr>
</tbody>
</table>

In accordance with the Section 94A Contributions Plan, a condition of consent is recommended requiring the payment of a contribution of $31,577 (1% of the development cost) prior to the issue of any Construction Certificate.

In accordance with the Upper Hunter Servicing Plan for Water Supply and Sewerage, a condition of consent is recommended requiring the payment of water and sewer headworks charges prior to the issue of a Construction Certificate. The rates have been calculated using Council’s 2018/19 fees and charges and the Standard ET figures prescribed by the Water Directorate 2017.
PLANNING AGREEMENTS

There are no planning agreements relevant to the proposal.

REGULATIONS

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

LIKELY IMPACTS OF THE DEVELOPMENT

Context and Setting
The proposed development is in keeping with the site context and the existing character of the area. The proposal respects the heritage significance of the locality and has adequate regard for the scale, nature and form of surrounding development.

Potential Impact on Adjacent Properties
The proposed development has been designed to respect the privacy of adjoining properties. In this regard, no balconies are proposed on the northern side of the building adjoining the residential property at 68 Guernsey Street and all windows to the first floor rooms on the northern side will be screened by privacy louvres to prevent overlooking of the adjoining private open space. Whilst the adjoining property to the south is predominantly used as a place of public worship (Baptist Church) the existing Manse at the rear of the property is currently used for private residential purposes. Accordingly, a condition of consent is recommended requiring the balconies to Units 13, 14 and 15 to be screened with privacy louvres to minimise overlooking.

Shadow diagrams submitted with the development application demonstrate that the proposed building will not result in unacceptable overshadowing of adjoining properties.

Access, Transport and Traffic
The car parking layout does not provide sufficient space for all vehicles to turn and exit the car park in a forward direction. Accordingly, a condition of consent has been recommended requiring an amended car parking design to be submitted to address this issue. The required amendment would not result in the loss of any parking spaces.

Conditions of consent have also been recommended requiring all loading and unloading to be undertaken within the site and not on the public road and that the proposed carpark and driveway be designed and constructed in accordance with AS2890.

Public Domain
It is noted that there is currently a footpath on the opposite side of Guernsey Street with no footpaths, existing or proposed, along the eastern side. Accordingly, it is considered that the provision of a footpath along the frontage of the development site is unnecessary as it would provide minimal public benefit.

Utilities
All utility services are available to service the development.

Flora and Fauna
The proposed development requires the removal of two (2) trees, a Canary Palm and a Grevillea Robusta (Silky Oak), at the rear boundary of the site, adjacent to the rail corridor. These trees are not considered to be of any ecological or heritage significance. A condition of consent is recommended requiring a replacement tree to be planted within the front setback of the development.

Natural Hazards
The subject site is affected by low hazard flooding associated with Figtree Gully. Flood level data for Figtree Gully suggests flood depths for the 100 year ARI flood would be between 0.2m to 0.5m in the vicinity of the site. As discussed in an earlier section of this report, the design of the proposed building has adequate regard for the flood constraints of the site with all but one of the motel units being located on the first floor above the flood planning level. In light of this, the risks to life and property as a result of flooding are considered to be low. A condition of consent is recommended that a flood evacuation plan be prepared for the development and submitted to Council for approval prior to the issue of an Occupation Certificate.

Technological Hazards
The site is not likely to be subject to any technological hazards such as contamination that would preclude the proposed development.
Stormwater

Stormwater collected from the roof of the proposed building will be drained to a charged 5,000 litre water detention tank to be located on ground level at the rear of the development. The tank will utilise a slow release system to direct stormwater to Council’s stormwater system in Guernsey Street. As noted previously, Council’s Manager Strategic Assets has recommended a condition of consent requiring stormwater from the development to be discharged via a piped system directly to Figtree Gully, rather than the kerb in Guernsey Street.

Social and Economic Impact on the Locality

The proposal will have positive social and economic impacts on the locality by providing employment opportunities both during the construction and operational phases of the development; providing an additional quality accommodation facility to service the needs of local residents, visitors and tourists and by generating additional income for the local economy.

Site Design and Internal Design

The proposal has been designed to maximise the use of space and ensure an efficient internal and external layout.

SUITABILITY OF THE SITE FOR THE DEVELOPMENT

It is considered that the site attributes are conducive to the proposed development.

In this regard, the site is generally flat, is cleared of significant vegetation, is not constrained by any natural or technological hazards and has direct access to a public road and all utility services. The site is ideally located in close proximity to the town centre and a range of local attractions and recreational facilities such as the RSL Club, White Park and Scone Golf Course.

The proposed development is compatible with the character of the locality and is unlikely to result in any land use conflicts.

THE PUBLIC INTEREST

The proposed development is considered to be in the public interest given its social and economic benefits for the local community and minimal environmental impacts.
SUMMARY OF LIKELY IMPACTS OF THE DEVELOPMENT

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

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<td>4. Landscaping/open space provision</td>
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<td>7. Physical relationship to and impact upon adjoin development (views, privacy,</td>
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<td>8. Site Management issues</td>
<td>YES</td>
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<td>10. Section 89 LGA 93 including Clause 12 considerations of Local Government Regulations</td>
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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 of the controls.

As such, consent to the development may be granted.

SUBMITTORS CONCERNS

The issues raised in the submissions are addressed as follows, if they have not already been addressed in the body of this report:

- **No wheelchair access**
  
  **Planning comment:**
  
  The proposed development demonstrates compliance with the relevant Australian Standards and the Building Code of Australia with respect to disabled access. As shown on the architectural drawings, the proposal includes two accessible units, an accessible lift between the floors, two accessible parking spaces and accessible paths of travel through the development.

- **Concerns regarding asbestos dust during demolition**
  
  **Planning comment:**
  
  A condition of consent is recommended requiring demolition work to be carried out in accordance with AS2601-2001 Demolition of Structures. The standard contains a range of provisions relating to the management of asbestos. A further condition is recommended in relation to the disposal of asbestos.

  **Removal of silky oak tree**
  
  **Planning comment:**
  
  The silky oak is not considered to be of any ecological or historical significance and its removal will have minimal impact on the conservation area and streetscape. A condition of consent is recommended requiring a replacement tree to be planted within the front setback of the development.

  **Timing of DA exhibition period over Christmas**
Planning comment:
The development application was not exhibited over the Christmas period. The application was placed on exhibition for a period of 14 days from 9 January 2019 to 23 January 2019. The application was available for viewing at Council offices and on Council’s website. Notification letters were sent to property owners in the local area surrounding the development site.

- Suggestion that a plaque be erected in memory of the original custodians of the land (the Wanaruah and Kamilaroi people).

Planning comment:
There is no evidence to suggest that this particular site is of any significance to the Wanaruah and Kamilaroi people. Furthermore, as the land has been developed and used for residential purposes for many decades, the likelihood of finding any artefacts or items of cultural significance is considered to be very low. It would be inappropriate to impose a requirement that a plaque be erected without the historical evidence to warrant the installation of such a plaque.

- The proposal fails to comply with heritage conservation guidelines and objectives.

Planning comment:
In response to concerns raised by the submission and Council’s Heritage Advisor in relation to non-compliances with the Upper Hunter DCP 2015 and Heritage Guidelines, amended plans were submitted by the applicant incorporating the following design changes:

1. The proposed motel has been moved back a further two (2) metres from the front boundary which is a further 2 metres back from the existing dwelling on site and almost in line with the stone cottage on 68 Guernsey Street to the north.
2. The height of the motel has been reduced by 1.2 metres.
3. The size of the front balcony has been reduced.
4. The height of the front balcony has been reduced to 6.7 metres.
5. The windows on the Western elevation have been amended to be vertically proportioned.

It is considered that the above changes have reduced the bulk and scale of the development, improving the visual setting of the adjoining heritage items and reducing the visual impact on the streetscape.

The roof form, architectural details, materials, colours and finishes of the proposal are compatible with surrounding development within the West Scone Conservation Area.

The amended proposal has been assessed as satisfactory against the Upper Hunter DCP 2015.

- Loss of amenity at 68 Guernsey Street

Planning comment:
In response to concerns regarding privacy impacts on the adjoining dwelling at 68 Guernsey Street, the applicant amended the proposal by deleting all balconies on the northern side of the building and providing privacy louvres to screen all windows to the first floor rooms on the northern side.

Increasing the side setbacks of the development to further reduce the closeness of the motel to 68 Guernsey Street is not practicable given the narrow width of the site.

Concerns relating to light spill and noise from the car park can be addressed by extending the privacy louvres along the northern elevation downward to hang below the ceiling height of the ground floor car park. A condition of consent has been recommended this regard.

A condition of consent is also recommended requiring the fencing along the side boundaries of the site to be 2m high lapped and capped timber fencing to further mitigate the impacts of lighting and noise from the car park on adjoining properties.
The submitter’s recommendation that a solid wall be constructed along the northern side of the car park is impracticable given that space for vehicle overhang is required as well as clear fire egress along the northern boundary. In addition, the construction of a solid wall may impact on air circulation within the car park.

Conditions of consent are recommended to ensure that air conditioning units are unobtrusive and quiet to minimise impacts on adjoining properties.

A recommendation that the upstairs floor plan be flipped would not significantly alter the privacy impacts of the development given that windows to first floor rooms will be provided with privacy screens in any case.

The extruded balcony on the front façade contributes to the visual interest of the building and highlights the gabled roof form that is typical of the surrounding West Scone Conservation Area. The balcony also helps to reduce the perceived bulk of the building when viewed from the street.

- **Deficiencies and inaccuracies in the Statement of Heritage Impact**

**Planning comment:**

To address a number of flaws and deficiencies in the Statement of Heritage Impact (SHI), the applicant submitted an amended SHI which provided a much more detailed and accurate assessment of the history and heritage significance of 68 Guernsey Street. Subsequent to the amended SHI, a further submission was received recommending the following additional corrections/alterations:

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<td>Delete these two sentences. Armitage family documents show that the second storey was part of the original plan for the house and was not a conversion, alteration or addition. It was a continuation of the plan after the hiatus referred to in Figure 16.</td>
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The above corrections/alterations have been noted for the purposes of this assessment.

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 Shire Development Control Plan 2008.

The proposal 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. 177/2018 subject to the attached conditions of consent.

REASONS FOR RECOMMENDATION

1. The proposal complies with the provisions of relevant State Environmental Planning Policies and the Upper Hunter Local Environmental Plan 2013.
2. The proposal generally complies with the provisions of the Upper Hunter Development Control Plan 2015. Any non-compliances with the heritage provisions of the DCP have been assessed as minor and acceptable.
3. The proposed development is considered to be in the public interest given its social and economic benefits for the local community and minimal environmental impacts.
4. Concerns raised in the public submissions have largely been addressed through amendments to the design of the proposed development and by the imposition of appropriate conditions of consent.
5. The proposed development would not result in significant adverse impacts on the environment including adjoining properties.
6. The proposed development would not have an unacceptable or significantly detrimental impact on the heritage significance of the adjoining heritage items or West Scone Conservation Area.
7. The proposed development has adequate regard for the level of flood hazard of the site.
8. The site attributes are conducive to the proposed development.

MAT PRINGLE
DIRECTOR ENVIRONMENTAL & COMMUNITY SERVICES
PROPOSED DEVELOPMENT SHADOW LINES FALLS OVER THE SOUTHERN BOUNDARY LINE, BUT DOES NOT REACH ANY EXISTING STRUCTURES.

THE SHADOW LINES FALL OVER AN EXISTING DRIVEWAY LEADING TO THE NEIGHBOURING CHURCH AND ASSOCIATED STRUCTURES.

IT IS ASSUMED THAT THE NEIGHBOURING CHURCH'S POTENTIAL OUTDOOR SPACE IS LOCATED ELSEWHERE ON THE PROPERTY.
ATTACHMENT NO: 2 - DA 177/2018 - PLANNING ASSESSMENT REPORT

ITEM NO: DESC.05.2

Upper Hunter Shire Council – Development & Environmental Services Committee Agenda – 14 May 2019

Page 81
Submission to Upper Hunter Shire Council
Re Proposed Development – DA 177-2018
Motel, car parking and demolition of existing dwelling and outbuildings
70 Guernsey Street Scone LOT B DP: 152433
Date of submission: 6 May 2019
Authors of submission: A.L. French, R. L. Armitage

General Response to the re-issue of DA 177-2018

- The reduction in height of the proposed building and the increased setback of 2 metres from the front boundary are welcomed as steps to reduce the size and visual impact of the building
- The deletion of the balconies on the northern elevation and the reduction in size of the front balcony are also welcomed
- However, these amendments are not considered to go far enough in addressing both the loss of amenity to the residence at 68 Guernsey Street and the disruption of the heritage setting of the immediate area.

Summary of continuing issues

- Loss of amenity at 68 Guernsey Street has not been sufficiently addressed. Light and noise from the open understorey car park will continue to be an issue for both the house and the garden. Air-conditioning of the motel will impact on the amenity of the house. Privacy screens on the first floor windows will not deliver acceptable privacy. Thirteen second-storey rooms are proposed only 1.5 metres from the southern boundary of 68 Guernsey Street.
- The scale and design of the proposed building is still not in keeping with West Scone Conservation Area. The extruding second storey balcony and the understorey carpark are both unsympathetic anomalies in the WSCA. The desire to build a 21 room motel on a single house lot has necessitated a two-storey building which fills the majority of the lot and dominates views and vistas in the streetscape.
Optimum Measure to address the continuing issues

The best measure to address the on-going issues of amenity and heritage fit is to find an alternate site for the motel. This measure needs to be given full and serious consideration.

A larger or double lot would allow for a single storey development.

An internal lot would allow for a double-storey development so that aesthetic disruption to the West Scone Conservation Area would be minimised.

It would appear that little or no progress has been made by the RSL in relation to DA 57-2013. This provides an opportunity for a re-thinking of the use of the RSL’s current site to include a double storey motel.

Failing acceptance of the above measure, we would seek:

1. Construction of a solid wall, the full height of the parking undercroft, along the northern aspect of the proposed motel as a continuation of the reception area wall.

   A floor to ceiling wall with minimum Rw50 rating would greatly assist in mitigating noise, fumes and lights. Lights (both headlights and 24 hour fixed lighting/sensor lighting in the understorey carpark) remain a particular issue.

   The proposed high fence along the northern boundary, though welcomed, would not have the same sound or light reduction capacity as such a wall.

2. Non-obtrusive air conditioning be installed. The development application fails to mention air conditioning. To protect the amenity of the residence at 68 Guernsey Street, air conditioning units/systems would need to be quiet and unobtrusive.

3. Flipping the design of the upstairs floor plan from north to south, beginning at the stairwell and continuing to the rear of the building.

   This would reduce the number of rooms overlooking the house and garden from 14 to 8.

4. Re-design of the front façade. The extruded balcony dominates the front view of the motel and reduces street vistas. It fails to be a sympathetic “reinterpretation of the gables and verandahs in the surrounding neighbourhood” (as claimed in the SEE, December 2018).

   There are two examples of flat-faced multi-storey facades in the WSCA - the Mill and the Grammar School fronting Kingdom Street. A flat-faced two storey facade with an interesting entrance would have more heritage merit than the current design.
**Corrections to “Statement of Heritage Impact” (SHI) for Scone RSL Club’s proposed motel at 70 Guernsey Street Scone**

**Introduction**

The second iteration (prepared January 2019) of the “Statement of Heritage Impact” (SHI) for Scone RSL Club’s proposed motel at 70 Guernsey Street Scone provides a very good history of “Rivelin”, the stone cottage at 68 Guernsey Street and of Bertie Armitage, the owner and builder of the dwelling.

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Scone/corrections to Statement of Heritage Impact
Submission to Upper Hunter Shire Council

Re Proposed Development – DA 177-2018

Motel, car parking and demolition of existing dwelling and outbuildings

70 Guernsey Street Scone LOT B DP: 152433

Date of submission: 22 January 2019

Authors of submission: A.L. French, R. L. Armitage

Summary of objections

The objections raised in this submission are

1. Failure of proposal to comply with heritage conservation guidelines and objectives

   The proposal fails to comply with essential elements of the
   
   • NSW Heritage Office “Design in Context” Guidelines for Infill Development in the Historic Environment
   • Upper Hunter LEP 2013 clause 5.10 – Heritage Conservation, Objective (b) – “to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views”

2. Loss of amenity at 68 Guernsey Street

   Under the current proposal the house at 68 Guernsey Street would suffer considerable loss of residential amenity due to the proximity and nature of the proposed building. The house would be negatively impacted by noise, light and car fume pollution from the proposed carpark. The proposed building will block light, southerly views and cooling southerly winds in summer.

   The proposal provides no remedy for these impacts.

3. Need for re-working of sections of the Statement of Heritage Impact (SHI)

   Flawed research in the SHI means that the heritage value of 68 Guernsey Street has not been correctly assessed. As a public document and an integral component of Scone RSL Club's DA, the SHI should be corrected before Council gives the DA its full consideration.

Abbreviations used in this submission

SEE - Statement of Environmental Effects
SHI – Statement of Heritage Impact
WSCA – West Scone Conservation Area
1. Objection 1 – failure to comply with heritage conservation guidelines and objectives

1.1 The proposal does not comply with the NSW Heritage Office “Design In Context” Guidelines for Infill Development in the Historic Environment, because it fails to “recognise the predominant scale of the setting and respond to the height, bulk, and density of the surroundings” (SEE, Section 5.1.2, p.11).

- The proposed motel is extremely large and would dominate its surroundings. It is effectively a three storey building because of the combination of the ground floor parking, the first floor accommodation and the 3,776 m “high gable roof” (SEE, Section 5.1.2, p.11).
- The building virtually occupies the whole of the lot. The volume of the building is approximately 6,000 cubic metres¹.
- Because of its size, the motel would become the dominant feature of the Guernsey Street streetscape between Liverpool and Kingdon Streets. It would also be easily visible from the vicinities of the railway crossings in Liverpool and Kingdon Streets, and from Coles shopping complex.
- The proponents are aware of the size and impact of the building. They refer to its “visual appearance of bulk” (SEE p. 11), and the need to “limit its negative impact and influence on the West Scone Conservation Area” (SEE p. 11). However, design features which attempt to break the building into smaller elements (such as the gables down each side) will fail to reduce its volume.
- The proposal also attempts to minimise the size by providing artists’ perspectives from angles which reduce the impression of bulk.
- The shadow cast by the proposed motel will be considerable, stretching halfway across the neighbouring southern lot in the middle of winter (SEE, A11). While not impacting on any building, the effect of such a large shadow would add to an appearance of bulk and size.
- The proposal makes frequent disingenuous comparisons with the size of the Mill. Although the proposed building is not as high as the Mill, it is actually twice the width and more than 4 times its length² (The Mill volume is approximately 1,300 cubic metres).
- To argue that a building of such size recognises “the predominant scale of the setting and respond[s] to the height, bulk, and density of the surroundings” (SEE, Section 5.1.2, p.11) is to significantly downplay its large presence.

¹ This calculation is derived from plans and elevations in Development Application 177-2018
² This calculation is derived from plans and elevations in Development Application 57-2013
1.2 The proposal does not comply with the Upper Hunter Shire Council LEP 2013 clause 5.10 – heritage conservation, Objective (b) – “to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views”.

- The general setting of the proposal is a heritage conservation area. Its specific position is between two heritage items and immediately opposite another.
- The setting is currently valued for, among other elements, its wide spacing between houses. The SHI acknowledges that this spacing contributes to the composition and unity of the area (SHI, pp 29 and 30).
- The insertion of a large, dominant building into this setting would completely disrupt the character of the area.
- It would radically alter views from all perspectives, including as mentioned above, from Liverpool and Kingdon Streets.

1.3 The proposal does not comply with the Upper Hunter DCP 2015 Part 9 Heritage Conservation

The proposal fails to adequately comply with the following requirements of the above document:

- General design – the design of the proposed motel detracts from the West Scone Conservation Area because of its size and dominance in the streetscape and beyond
- Side setbacks – it is disingenuous to state that the side setbacks maintain the characteristics of the street when they in fact run the full distance of the lot. It will be impossible to enhance them with significant landscaping, given they are only 1.5 m wide and on the north are overhung by extruding balconies and contain a 1.2 metre fire egress.
- Visual setting – the view to 68 Guernsey Street is not being maintained. This is particularly so from the south and southwest and is evident in the 3D perspectives provided in Diagram A12 of the SEE. The SHI states that the “visual setting for the heritage item is enhanced by the proposal” (SHI, p.24), based on the argument that the proposed front setback is behind the verandah line of the existing dwelling. This is clearly wrong. Figures 9 and 10, SEE, p.13, show that the existing dwelling is much smaller than the proposed building and allows a clear view of number 68.
- Visual setting – the proposed building will render the house at 68 Guernsey Street small and insignificant when viewed from the north. The overwhelming of a heritage item by a modern building contradicts the spirit of heritage conservation.
- Disturbing the existing relationship between buildings and their sites – the proposal states that tree plantings are incorporated in the design. This will have minimal effect, as the footprint of the building, particularly along the northern and southern boundaries, leaves little room for significant plantings (see above comments under Side setbacks).
- Building scale and form – points made in this submission under point 1.1 (re scale and dominance in the streetscape of the proposed building) apply equally to this point.
- Roof form – the roof form, because of its height, will detract from the streetscape, contrary to the statement in the SHI (p.43). The roof form may follow that of other buildings in the WSCA, but it is scaled up significantly.
- Architectural details - the use of vertical timbers in the gables, the sign and the extruded west facing balcony are an exaggeration of the vertical timber batten found in some of the neighbouring heritage item gables. The result gives a chalet-like appearance and therefore significantly detracts from the integrity and aesthetics of the conservation area. It falls to harmonise with existing historic buildings as claimed.

Recommendation

That a smaller motel with a lower roof be considered in order to be genuinely support the claim that the building is sympathetic to the West Scone Conservation Area.

2. Objection 2 – Loss of amenity at 68 Guernsey Street

The SEE states that the proposed motel “is designed and sited to minimise impacts on the amenity of adjoining properties” (section 5.2, p. 13.)

This is clearly wrong. There will be considerable loss of amenity at 68 Guernsey Street in the following ways:

2.1 Proximity of the proposed motel to the southern wall of 68 Guernsey Street

- The distance between the southern wall of 68 Guernsey Street and the ground floor of the motel is 4.9 metres. This distance comprises 3.4 metres from the house to the boundary and 1.5 m setback of the proposed motel from the boundary. The closeness of the motel to the house is exacerbated by the overhang of the balconies on the northern elevation of the motel.
- There is considerable misrepresentation of the distance between the house and the boundary in Diagrams A01 to A06 (SEE). These diagrams depict the distance as being that of a double driveway, leading to a double garage (the one-storey shed). In fact the distance is that of a narrow single driveway. The diagrams suggest that the house is further from the boundary than is actually the case.
- This proximity is significant, given that the proposed development is not a residential dwelling, but is a motel with an open ground-floor carpark for 23 cars, open 24 hours per day and located only 1.5 m from the northern boundary fence.

2.2 Light, noise and fume nuisance

- The open design of the ground-floor carpark will allow light (both from vehicles and fixed lighting), engine noise, patron noise and car fumes to pass directly into the living areas of the stone residence.
- Fume and noise nuisance would be exacerbated by southerly winds.
• As the proposed motel has 24-hour access, these nuisances will be a constant issue.
• The statement that “the expected acoustic impact... on the adjoining neighbours is minimal” (SEE p. 15) under-estimates the impact. As owners of 68 Guernsey Street, we are aware of the noise made by some RSL patrons, particularly on Friday and Saturday nights. There is no reason to expect that this noise will not spill over into the proposed motel as it is obviously designed to “increase patron participation” (SEE p. 17).
• The current boundary fence was not constructed as a noise and light barrier and so will do little to minimise the impact of these nuisances.
• The SHI notes that “the side fences will be either retained or augmented with compatible construction” (SHI, p. 45). This does not give a clear intention. However, replacing the northern boundary fence with a “compatible construction” will not mitigate the light, noise and fume nuisance.
• These could be mitigated by the construction of a solid masonry wall, the full height of the parking undercroft, along the northern aspect of the proposed motel as a continuation of the reception area wall.

3. Objection 3 – Need for re-working of sections of the Statement of Heritage Impact (SHI)

The SHI contains flaws in relation to the history of 68 Guernsey Street. The existence of these flaws has been pointed out in a letter to Council and EJE Heritage dated 20 January 2019 (attached). As a public document and an integral component of Scone RSL Club’s DA, the SHI should be corrected before Council gives the DA its full consideration. If this does not occur, the Council will be knowingly basing its decisions on incorrect and misleading information.

Reassessment of the house against Criteria (a), (b), (f) and (g) in Section 4.1 of the SHI, as well as the Statement of Significance, Section 4.2, may require that some aspects of the design are reviewed.
Attachment A Letter to Upper Hunter Shire Council, 20 January 2019

4 Esk Avenue
MOUNT STUART, TAS 7000

20 January 2019

Mat Pringle
Director Environmental and Community Services
Upper Hunter Shire Council
PO Box 208
SCONE NSW 2337

Dear Mr Pringle

Re: Statement of Heritage Impact, prepared by EJE Heritage for the Scone RSL Club’s Development Application, New Motel, 70 Guernsey Street Scone

We are writing to express our concern at the incorrect historical assumptions contained in the above document. These assumptions relate to the history of the stone residence located at 68 Guernsey Street, immediately to the north of the proposed development, and are due to EJE Heritage’s apparent failure to find documentation relating to this residence.

Our first concern is that the Statement of Heritage Impact will enter the public record with false and incomplete information.

Our second concern is that there appears to have been a lack of rigour in the research undertaken by EJE Heritage in relation to this particular building. We are concerned that the house most impacted by the proposed motel was not researched as thoroughly as other heritage items in the West Scone Conservation Area.

Our third concern is that the final recommendation for approval (p. 49 of the Statement of Heritage Impact), is based on an incomplete analysis of the West Scone Conservation Area.

We are puzzled by the fact that the following available primary and secondary sources were not investigated by EJE Heritage in order to present an accurate history of the house:

- Ourselves (Anne French and Ruth Armitage). As owners of the property and the daughters of the master mason who built the house, Mr Bertie Lovell Armitage, we have access to many relevant papers, documents, photos, and written accounts.
- Scone Historical Society Records Centre: archives, journals, tapes, Armitage family records box number PR 238.
- The Upper Hunter Shire Council archives for Information regarding Bertie Armitage who served for many years in local government, including terms as Scone Municipality Mayor and Deputy Mayor.
- Council’s local heritage list. The house is listed in the Local Environment Plan 2013. A history of the house was provided to the Heritage Advisor in May 2015.
- Hunter Valley News, North West Magazine Supplement, November 1976 (attached)
- The Scone Advocate, Thursday October 6, 2005 (attached).
The above sources provide the “new historical information” which EJE Heritage states would alter the analysis of the significance of the house. They write, “Unless new historical evidence can be found, the dwelling upon it [the subject lot] is not considered to be historically significant.” (Statement of Heritage Impact, p. 34) The new information requires new assessment of the house against Criteria (a), (b), (f) and (g) in Section 4.1 of the Statement, as well as Section 4.2, Statement of Significance.

We therefore request that Council take no further action on this Development Application until the Statement of Heritage Impact is corrected according to the evidence from the above sources, including a revision of the analyses in the sections listed in the preceding paragraph.

A copy of this letter is included in our submission to the Council in response to the RSL’s Development Application. A copy is also provided to EJE Heritage and Elizabeth Evans, Heritage Advisor, Upper Hunter Shire Council.

We look forward to your response to our request.

Yours sincerely

Anne French and Ruth Armitage

Cc
EJE Heritage, 412 King Street, Newcastle, NSW, 2300
Elizabeth Evans, EEvans@upperhunter.nsw.gov.au

Attachments

Article in the Hunter Valley News, North West Magazine Supplement, November 1976.”

Article in the Scone Advocate, Thursday October 6, 2005
AT HOME IN SONE
Beverley Atkinson, B. Arch.

The lady to talk about Scone's rare "rock collection" is Mrs Betty Armitage, whose hus- band Bert was a master mason.

Whereas the town is in a soft river valley, there is a surprising num- ber of quarries not too far away, and Scone has benefitted.

Stone from Brown's Quarry, Ravensfield, at Maitland, was used for the first permanent kerbs.

Some are still to be seen in Guernsey Street, near Liverpool Street.

I think they should be protected by Heritage protection measures, as are similar stone kerbs (not such fine ones either) in Sydney and North Sydney for example.

When works are necessary, these are simply lifted and replaced.

A very tough blue sandstone from Lambton's quarry was used at Nabobs.

Further north, buildings were of softer local sandstone, for example St Albans Church of England in Muswellbrook, built in 1869.

Some larger property homes, built of stone from Muswellbrook, were Martinville, St Heliers and Pickering.

Stone was used in the form of a fine stone hotel at one time. Like the stone Merriva Museum, it must have been a real landmark.

Stone, too, has partly stone buildings like the Old Court House.

Stone footings can still be seen at ground level where the demolished Railway Cottage stood in Kingsley Street.

But the glory of Scone Stone is the Armitage family home "Riverton" in Guernsey Street.

It comprises stone gathered and assembled over decades, shaped and fitted by Mr Armitage himself.

It is a wonderful instance of creative reuse, making the most of some beautiful masonry from demolitions including Muswellbrook's Commercial Bank, built 1848, its Court House, remodelled in 1856, its Public School in William Street, 1879, and St Heliers, home of Col. Dunara.

Of interest in all these campaigns for a suitable railway building in Aberdeen is the fact that Riverton's five-gabled man- sions are from the demolished stone railway cottage, 1876, at Aberdeen Station!

Riverton's gain, but what a loss!

Now, when masons are rare and fine rocks remain as depos- its on the sides of huge coal pit spoil mounds, we take a more respectful view of our old stone build- ings, the likes of which will never be built again.

Front window of Scone's "Riverton" was recycled from the former Commercial Bank in Muswellbrook.

Wills - Some true stories!
From the Hunter Valley News, North-West Magazine, Nov 1976

"The house that Bert built" a part of fading era of trade skills

Bert Arnott, a sixth generation master stonemason, splits the attributes of stone quarried in the Upper Hunter and salvaged from old buildings in the region. He started his working life in his father’s workshop as a boy and worked his way to the top. His sons also followed in the footsteps of their forebears, with two of them now running the business. The family’s work is in demand as the demand for stone increases. Bert’s passion for the trade has never wavered and he continues to work hard, passing on his knowledge to his family. The family has been involved in the industry for several generations, and their work is highly respected in the community. The family has been involved in the industry for several generations, and their work is highly respected in the community. The family has been involved in the industry for several generations, and their work is highly respected in the community. The family has been involved in the industry for several generations, and their work is highly respected in the community.

Article continued overleaf
22nd January, 2019

Mr Murphy
Scone Resident

Referred to: Lisa
Response

PUBLIC SUBMISSION REGARDING
Scone RSL Motel Development

Attention: The Mayor & General Manager
Scone Council

Dear Sirs,

Just curious as to why there does not seem to be any wheelchair access to this motel proposed, no disabled access whatsoever.

Surely this is a major oversight?

According to the Australian Bureau of Statistics the latest figures show 4.2 million people in Australia suffer wheelchair-bound disabilities.

This is a staggering 20% of the population – and we find it annoying this DA totally disregards wheelchair patrons.
Can council guarantee no toxic or carcinogenic asbestos dust will become airborne during any demolition work to some structures dating back to 1860s?

It is a shame the 20m high silky oak (Grevillea robusta) has to be removed as it is a major source of nectar for dozens of bird and bee species. But if its removal cannot possibly be avoided (many other developments save these trees if possible) then council will, I'm sure, do what it can.

Another concern is apparent secrecy of this DA being rushed through council during Easter holidays when few objections can be lodged.
Isn’t it also true that pre 1824 Gwenneth Street land was once occupied by local aboriginal tribes such as the Warramah and the Kamilaroi people?

As I recall from my local history studies the famous Scone pioneer and artist Elizabeth Gould had several of these aboriginal helpers staying with her on this land – or not far from here.

Perhaps a plaque dedicated to the memory of the Warramah and the Kamilaroi people – as Scone’s original inhabitants and land owners could be memorized somewhere here?

Kind Regards, Mr Murphy
Our ref: 12492 – Scone RSL Motel Development Application
Date: 01/03/2019

Submission to Upper Hunter Shire Council
RE: Proposed Development – DA 177-2018
RSL Scone Motel
70 Guernsey Street, Scone NSW 2337

ATTENTION: Mat Pringle

Dear Mr Pringle,

RE: DA 177-2018

The following points respond to the Heritage Advice from Elizabeth Evans, the Heritage Advisor at Upper Hunter Council, dated 07/02/2019 and received by the client on 20/02/2019.

70 Guernsey Street Dwelling and Outbuilding

1. 70 Guernsey Street is assessed by the council heritage advisor as having historic, aesthetic, and representative significance.
   - The Statement of Heritage Impact concurs with this assessment, although points out that the history, aesthetics, and representative nature of this dwelling can be found in numerous other examples throughout the locality and regional areas.

2. A further impact assessment is required for the outbuilding.
   - We don’t consider this necessary

3. A structural assessment of the dwelling and outbuilding is required to assess the stability of the dwelling and its potential to be conserved.
   - A structural assessment is unlikely to demonstrate that the building is structurally unsound and the building is not listed for conservation.

4. The significance of the mature trees to be removed should be assessed. The retention of these trees should be considered.
   - The 2 trees proposed to be removed are located at the back of the lot, 74m from the front boundary and 80m from the street, right next to the railway line.
   - As per advice, the massing of the proposal has been moved back 2m from the original proposal which further impacts these trees.
   - The retention of these 2 trees would involve the deletion of units, which would significantly affect the financial viability of the proposal.

5. An archival photographic record of the dwelling and outbuilding and other building fabric on the site will be required if demolition is approved.
   - Noted

6. If relics are found then the work will need to cease.
   - Noted
New work – Motel and landscaping

7. The motel should be set back in line with the stone cottage to the North.
   - The proposal has been amended as per advice, and the building moved back 2m from the original proposal - a further 2m back from the existing dwelling on site.
   - As per advice, the scale of the motel has been reduced in height by 1.2m, to reduce the impact on the adjacent heritage items.
   - The size of the front balcony has also been reduced, in order to respect the neighbouring stone cottage.

8. Side setbacks should be in keeping with surrounding setbacks.
   - See Figures 1-5 of this report for similar or lesser existing building setbacks in the West Scone Conservation area, including those adjacent to heritage items.
   - The proposal abides by the 1.5m setbacks as set out in the Upper Hunter DCP 2015.

9. The height of the building should be limited to the height of the ridge of the adjacent church.
   - The adjacent church is a one storey building.
   - The church is located 18.8m at its closest point away from the proposal.
   - The motel has been reduced in height by 1.2m to 8m, following council recommendations.
   - The height of the front balcony has been reduced to 6.7m.
   - The height of the motel is 2m below the height limit for this area, as set out in the Upper Hunter DCP 2015.

10. The length and massing of the development is out of scale with the conservation area and the guidelines of the DCP.
    - The development abides by the floor space ratio as set out in the Upper Hunter DCP 2015.
    - Similar scale and massing can be seen: across Guernsey Street at the RSL, Inkingdon street at the Grammar school, in buildings on Liverpool street and in many other areas of Scone.
    - Despite this the scale and massing of the development have been reduced, as per advice.

11. There should be some variation in the roof massing as this continuous ridge at 66.2m is atypical of the conservation area.
    - The proposed ridge is 56.75m long, as noted in the architectural drawings.
    - See figure 6 of this report for the continuous ridgeline at heritage item 113 Scone Grammar School, also located in the West Scone Conservation Area, that is 85m long.
    - The balconies on the southern and northern sides provide articulation in the massing.

12. The broken hip roof form is atypical of the conservation area and should be a simple hip.
    - See figures 7-12 of this report for examples of broken hip roof forms in the West Scone Conservation Area, including heritage items 142 and 128.

13. The signage in the spandrel fence should be reduced in height.
    - The building signage is 0.6m high and is located 13.6m from the front boundary, 20.2m from Guernsey Street.
    - The address signage wall has been amended to be a maximum 0.68m high, and located along the front boundary, 6.6m from Guernsey Street.
    - Dimensions and details of the signage have been added in the architectural drawings.
    - See figures 13-14 of this report for similar signage sizes in the West Scone Conservation Area.
    - The signage on the building has been incorporated into the architecture in a way that is respectful of the character of the West Scone Conservation Area.
14. The tree canopy proposed to be removed should be replaced with trees of equivalent growth height.
   - The 2 trees proposed to be removed are located at the back of the lot, 74m from the front boundary and 80m from the street.
   - As per advice, the massing of the proposal has been moved back 2m from the original proposal.

15. All windows that are evident from the street should be vertically proportioned.
   - The windows on the Western elevation have been amended to be vertically proportioned.

16. The colours are shown and colour name needs to be specified.
   - Coloured, realistic renders have been provided to Council in the architectural drawings.
   - Dulux and Colorbond colours have been suggested to match or complement existing adjacent structures.

17. Timber palisade fences should be used and Colorbond fences should not be visible from the street.
   - The proposal does not include Colorbond fencing.
   - A solid timber palisade fence is used on the side boundaries to afford neighbours privacy from the proposed car park on the ground floor.

18. The street fence should be typical of fences found in the area such as post and rail, or timber picket. Fencing should generally be open or transparent, or backed with a hedge, not solid.
   - The proposal does not include a front fence on the 15.84m front boundary.

The heritage advisor’s recommendations in many areas selectively ignore the varied nature the mix of architectural styles in Conservation area. The proposed roof, form, setbacks, details, and material palette of the proposal have been designed to be respectful of the West Scone Conservation Area.

We trust we have sufficiently addressed the concerns noted in advice from the Heritage Advisor. Where possible and reasonable, we have amended the proposal to accommodate these concerns. We trust you will consider the responses contained in this correspondence favourably in relation to the development proposal as submitted.

Yours faithfully
EJE ARCHITECTURE

Doug White
DIRECTOR

EJE architecture
Registered Architect - NSW ARBN 4394
dwhite@eje.com.au

Prepared by EJE Architecture
Nominated Architect – Bernard Colles #4438
Response to DA Heritage Advice
Figures 1 – 5: The following figures have been taken from aerial satellite photos dated 13/01/2019 in the West Scone Conservation Area, and measure distances between buildings in this area, including Heritage Items included in the Upper Hunter LEP 2013.

Figure 1 – 2.1m distance between building Heritage Item 133 and 80a Kingdon Street

Figure 2 – 1m distance between residences at 75 and 77 Guernsey Street

Figure 3 – 2.3m distance between residences at 74 and 76 Kingdon Street

Prepared by EJE Architecture
Nominated Architect – Bernard Colbry 84438
Response to DA Heritage Advice
Figure 4 – 3.2m distance between Heritage item I20 and 105 Liverpool Street.

Figure 5 – 3.1m distance between buildings at 61 and 45 Kingston Street.

Figure 6 – 65m long ridgeline at Scone Grammar School, located in the West Scone Conservation Area.

Prepared by EJE Architecture
Nominated Architect – Bernard Collins #438
Figure 7 – Broken hip roof at 69 Guernsey Street (Google Street View, 2010)

Figure 8 – Broken hip roof at 78 Guernsey Street (Google Street View, 2010)

Figure 9 – Broken hip roofs at 96 Liverpool Street (Google Street View, 2010)
Figure 13 – Signage advertising on heritage item 12, directly across the road from the proposal (Google Street View, 2010)

Figure 14 – Signage and brand advertising on heritage item 134, located in the West Scone Conservation Area

Figure 15 – Signage and brand advertising on heritage item 128, located in the West Scone Conservation Area
Our ref: 12482 – Scone RSL Motel Development Application
Date: 04/02/2019

Submission to Upper Hunter Shire Council
RE: Proposed Development – DA 177-2018
RSL Scone Motel
70 Guernsey Street, Scone NSW 2337

ATTENTION: Mat Pringle

Dear Mr Pringle,

RE: DA 177-2018

The following points reference the objections raised in a letter to Council from A.L. French and R.L. Armitage (objections 1-3), on the 22nd of January 2019; and also in a handwritten letter from Mr Murphy dated 22nd of January 2019 (objections 4-7).

Objection 1.1 – failure to recognise the height, bulk, and density of the surroundings
- The proposed motel is a two storey building with pitched gable roof. The pitch on this gable roof is a direct reference to the style of the buildings characteristic of the West Scone Conservation Area, seen in figure 4 a) – k) in the Statement of Environmental Effects (SEE).
- The proposed building complies with Upper Hunter Land and Environment Plan 2013 (UH LEP) maximum floor space ratio, detailed in Section 3.4 of the SEE.
- The height of the building complies with the UH LEP height limits, detailed in the SEE Section 4.2. Various materials, roof forms, and other architectural elements have been incorporated into the façade to reduce the perceived bulk of the building when viewed from the street.
- The four artists’ perspectives have been directly modelled from the Architectural Drawings provided, and were created at angles to show the context and surrounding buildings.
- The shadows cast on the neighbouring property are shown in the Architectural Drawings. They do not impact on either building on the neighbouring lot.
- The proposed building is not as tall as the Mill, an adjacent development directly across the road.
- The scale of the proposal is less than that of the previously approved DA 57-2013, located directly across the road.

Objection 1.2: failure to conserve heritage and respect the heritage conservation area, as stated in the UH LEP
- The existing building located on the site is not a heritage item.
- The proposed development respects the style, form, and character of the buildings typical of West Scone Conservation Area — as described in the SEE Section 5.1.
- The Architectural Drawings provided show the perspectives from the street.
- The proposed building site is located in a zone the UH LEP has designated for Mixed Use, which includes tourism accommodation.
- The vista along Guernsey Street from Liverpool Street would not be radically altered as claimed; as the large tree in the front yard of 68 Guernsey Street will screen the proposed building from view until in front of 68 Guernsey Street.
Objection 1.3: failure to conserve heritage as stated in the Upper Hunter Shire Development Control Plan 2015 (UHSC DCP)
- The scale of the proposed building is comparable to the existing RSL Club directly across the road, and less than the previously approved DA 57-2013.
- The proposed building complies with side setbacks for double storey buildings adjacent to single storey dwellings, as outlined in the UHSC DCP.
- The proposed building complies with the UHSC DCP Ba) Tourist and Visitor Accommodation guidelines. Amenity and privacy to the neighbouring properties is accommodated through the proposed full height, fixed louvres on the Northern Side of the building, as shown in the Architectural Drawings.
- The view from the street to 68 Guernsey Street is not being further impeded from the viewpoints in figures 9 and 10 in the SEE, as the proposed building is located further back than the existing dwelling, and the view is already partially impeded by the existing dwelling, and an existing fence approximately 1700 high (see previous comments regarding the accuracy of the perspectives provided).
- Refer to earlier response to Objection 1.2 in regard to the claim that “the proposed building will render the house at 68 Guernsey Street small and insignificant when viewed from the North”. The existing tree will obscure the front of the proposed building when viewed from the North.
- The plans provided in the Architectural Drawings include landscaping. This landscaping is omitted in the elevations for clarity, but is included in the perspectives.
- Points made in this submission in response to Objection 1.1 apply equally to this point.
- The gable roof form is typical of other buildings in the West Scue Conservation Area. The overhanging eaves are to allow for responsible environmental control – reducing the amount of sun let into the building during summer, but allowing the winter sun to heat the building naturally. The roof form of the proposed building has not been artificially “scaled up”.
- The architectural details used in the proposed building harmonise with other buildings in the West Scue Conservation Area. As suggested in the NSW Government “Design in Context” Guidelines, details that contribute to the West Scue Conservation Area are identified, and they in turn inform the contemporary detailing of elements such as the vertical timber battens, window sills, and the stonework in the neighbouring lot, 68 Guernsey Street.

Objection 2 – Loss of amenity at 68 Guernsey Street.
- As previously described, the building complies with the setbacks and building height as set out in the UH LEP.
- As previously described, the land is zoned by UH LEP for Mixed Use. This includes tourist accommodation and associated car parking.
- A setback of 1.5m has been proposed on the Northern side to accommodate the amenity of 68 Guernsey Street. The available lot is less than 16m wide.
- Southerly winds to 68 Guernsey Street are currently hindered by the surrounding streetscape and suburb, and the existing timber fence that does not allow views or wind through, and is approximately 1.7m high.
- Given the location of the proposed development to the South of 68 Guernsey Street, the new building does not block sunlight from the house at 68 Guernsey Street.
- The proposed development and its neighbours are sited adjacent to the train line. Patron noise will also be managed via management initiatives, which will be outlined in the acoustic report.

Objection 3 – Need for re-working sections of the Statement of Heritage Impact
- The SOHI has been revised to reflect the history of 68 Guernsey Street.
Objection 4: Perceived lack of accessibility
- The proposal adheres to the relevant Australian Standards and Building Codes for disability access. As shown in the architectural drawings, there is an accessible unit available on the ground floor, and another unit on the first floor. There is a lift available to the first floor, and the accessible unit is located in close proximity to the lift.
- As shown in the Architectural Drawings, there are allocated accessible parks in close proximity to the associated accessible units.

Objection 5: Tree removal
- As stated in the SEE and SOHI, there are numerous silky oaks located in adjacent blocks.

Objection 6: Apparent secrecy
- The DA has been lodged through the proper council channels and notified in accordance with council protocols.

Objection 7: Aboriginal Significance
- The UHL LEP does not provide a map of Indigenous sites significant to the Wonnaru people.

In response to the other issues raised in your email to the client dated 1st of February 2019, we offer the following responses.
- Our client has engaged a qualified acoustic consultant, and will forward a report once it has been completed.
- We have consulted both the UHL LEP and NSW Planning Portal in regard to the flood risk, and note the indicated flood zones do not traverse the subject site; which is why this is not addressed or acknowledged in the SEE.
- Our preference is to retain the balconies if possible (with enhanced privacy screens if required), as these add a level of articulation the northern façade of the proposed building and break up an otherwise long, straight wall.

We trust we have sufficiently addressed the concerns noted in the submissions. As per your email request, an acoustic report will be submitted as soon as possible. In the meantime, we trust you will consider the responses contained in this correspondence favourably in relation to the development proposal as submitted.

Yours faithfully
EJE ARCHITECTURE

Doug White
DIRECTOR
EJE architecture
Registered Architect - NSW ARBN 4394
dwhite@eje.com.au