

**MINUTES OF THE DEVELOPMENT & ENVIRONMENTAL SERVICES COMMITTEE OF UPPER HUNTER SHIRE COUNCIL HELD ON TUESDAY 12 MAY 2020 VIA VIDEO CONFERENCE COMMENCING AT 10.02am**

**PRESENT:**

Cr Kiwa Fisher (Chair), Cr Sue Abbott and Cr Ron Campbell.

**APOLOGIES:**

**RESOLVED that the Committee accept the apology received from Cr Lee Watts.**

Moved: Cr Abbott                      Seconded: Cr Fisher                      CARRIED

**RESOLVED that the Committee accept the apology received from Mayor Wayne Bedggood.**

Moved: Cr Fisher                      Seconded: Cr Campbell                      CARRIED

**IN ATTENDANCE:**

Mr Mathew Pringle (Director Environmental & Community Services), Mr Paul Smith (Senior Environmental Planner) and Mrs Priscilla Rowland (Senior Administration Officer).

**ADOPTION OF MINUTES:**

**RESOLVED that the Committee adopt the minutes from the Development & Environmental Services Committee meeting held on 14 April 2020.**

Moved: Cr Campbell                      Seconded: Cr Fisher                      CARRIED

**DISCLOSURES OF INTEREST:**

Nil

**PUBLIC PARTICIPATION:**

Nil

**AGENDA ITEMS:**

**DESC.05.1 DA 35/2018 STORAGE SHED AND DISPLAY OF MOTOR VEHICLES AND FARM MACHINERY**

Cr Fisher indicated the Committee had received correspondence from two members of the public in relation to the proposal. He read Jamie Munn's email aloud to the Committee which highlighted concern in regard to the following:

- Security
- Lack of replacement of trees proposed
- Dust
- Pollution from run-off
- Light Pollution

Cr Fisher also read aloud an email from Peter Brayley, a director of Kasmaco Investments P/L (the applicant). Mr Brayley's correspondence requested the following:

- That no further landscaping be required.
- That Condition 7 be removed.

## **BUSINESS ITEM:**

### **DESC.05.1 DA 35/2018 STORAGE SHED AND DISPLAY OF MOTOR VEHICLES AND FARM MACHINERY**

The Director of Environmental & Community Services (Director), provided an overview of the proposal.

Development Application No. 35/2018 for the storage and display of motor vehicles and farm machinery at Lot 102 DP 1074572, 2 Muffett Street, Scone was received by Council on 5 May 2018. The application is being reported to the Committee and Council as it does not fully comply with the Upper Hunter Development Control Plan 2015 (UHDCP) and one submission was received.

Mr Pringle advised that Council previously considered Development Application 83/2016 for drainage works and hardstand area however the application was withdrawn by the applicant on 28 October 2016. Despite not obtaining development consent, the site has been used for the storage and display of motor vehicles and farm machinery. The current application was subsequently submitted.

The development application does not comply with the UHDCP with respect to off-street car parking. Table 28 in Part 12a - Access and Vehicle Parking requires vehicle sales and hire premises provide 0.75 spaces per 100m<sup>2</sup> of site area. The proposed storage and display area is approximately 3,875m<sup>2</sup> therefore requiring 29 parking spaces. The number of required spaces is not provided, however, given the proposed use of the site a variation to UHDCP is considered to be acceptable.

The UHDCP also specifies that an application is required to be accompanied by a landscaping plan and report demonstrating that the development would not have a detrimental impact on the amenity of the area. These have not been received by Council.

The Director indicated that one submission was received in response to public exhibition of the application. He noted the issues raised in the submission were consistent with Mr Munn's further email correspondence, read aloud to the Committee at the commencement of the meeting.

It was highlighted that the development is permissible in IN1 General Industrial land zoning (applicable to majority of the site) however the use is not permissible on land zoned RE2 Private Recreation. This RE2 zoning applies a small portion of the lot, running along one boundary.

The Director recommended approval of the development subject to additional conditions of consent. He suggested an additional condition (4a) to mitigate dust issues – *That by 31 August 2020 all areas to be used for the storage and display of motor vehicles and farm machinery shall be sealed or covered with a course gravel (minimum diameter of 70mm) to a minimum depth 100mm.*

He also asked the Committee to consider the addition of Condition 12 - *All washing of vehicles and machinery shall be undertaken within an approved wash bay. No wastewater shall be disposed of on site.*

#### **Committee questions and comments:**

- **Cr Campbell**

Cr Campbell indicated that he had inspected the site prior to attending the Committee meeting. He noted that some areas have not been covered with the blue metal material and believed that further coverage would likely alleviate some of the dust issues experienced by neighbouring properties. He further explained that dust is likely being generated from other sources such as dust storms and the drought.

- **Cr Abbott**

Cr Abbott had concerns and questions in relation to the following:

- Replacement of trees.
- Clarification as to whether fauna was removed.
- The impact of dust on neighbouring residents.
- Washing of vehicles on site.
- Non-compliance with aspects of the UHDCP.
- Application assessment timeframe.
- Use of the land without development consent.
- Drainage works completed and whether approval was obtained.
- Potential impact on the watercourse that intersects the site.
- Whether an assessment had been undertaken in relation to potential contamination.
- Does not support applicant's request to remove condition 7.

The Director responded with the following information:

- The washing of vehicles – It was recommended that a condition of consent be imposed requiring all washing of vehicles to be undertaken within an approved wash bay. He confirmed it could be done on site but any wastewater would be contained within the wash bay and could be treated and recycled. Any excess wastewater would need to be discharged into Council's sewerage network, subject to a trade waste agreement.
- Application has taken approximately two years as Council has requested additional information from the applicant on multiple occasions. The application was also amended through the process.
- In relation to contamination, the 4.15 assessment report notes there is no disturbance of the land itself and it is considered suitable for the intended use.
- Condition 7 should be retained and is a standard condition.
- Drainage watercourse - The owner has undertaken some work on this and it is believed that they have cleaned out the drain and laid gravel in it to improve the flow. Council undertook additional drainage works adjacent to the site in Muffett Street and the owner contributed to this. These works were done with approval.
- There were some trees that have been removed. It's likely that the submitter intended to say that flora had been removed, not fauna. As the intended use of the land is for storage and display of vehicles, submission of a landscaping plan was not pursued. The Committee could impose an additional condition in relation to this.
- It is recommended the additional condition be included requiring all areas to be covered with the coarse gravel. This should address dust issues caused by site. There is potential that the dust could be coming from other sources.
- When Council became aware that the site was operating without consent, the owner was approached and they subsequently submitted the current development application. Council would not normal proceed with enforcement action while there is a development application pending.

- **Cr Fisher**

Cr Fisher commented on the following:

- Condition 7 should be retained.
- Application of UHDCP car parking requirements not necessary in this instance
- Landscaping would provide a visual screen to mitigate impacts on neighbours.
- Acknowledged comments made by Mr Brayley that the streetscape has been improved
- Supported the addition of the two conditions as suggested by the Director.

- **Cr Campbell**

Cr Campbell reiterated that dust shouldn't be an issue once the site is suitably covered with gravel. He also suggested some short growing trees/shrubs be planted along the southern boundary fence and asked if it could be included to the conditions.

Cr Fisher responded with comments in relation to dust mitigation and spoke about addition of Condition 4a. He indicated he would support an additional landscaping condition to assist with dust reduction if the other Committee members were also in support.

Cr Campbell & Cr Fisher were in agreeance to add a condition similar to the following - *By 31 August 2020 the applicant shall submit a landscaping plan to Council for approval. The landscaping plan shall include areas of landscaping along the southern boundary of the site and shall incorporate trees and shrubs with a mature height of 3m.*

### **General Councillor Questions**

- **Cr Abbott**

Cr Abbott asked if the Draft Delivery Program 2017/2018 – 2020/2021 and Operational Plan 2020/2021 (DPOP) could be made more readily accessible to members of the community. Cr Fisher suggested contacting the General Manager and the communications team to discuss. Mr M Pringle said he would pass on the comments.

**The meeting was closed at 11.44am**





## **Environmental & Community Services**

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There is an existing industrial shed on the land and the development application is not proposing to erect any additional buildings on the land. In this regards the storage and display area is considered to be ancillary to the shed. The development is characterised as a vehicle sales and hire premises and is permitted with consent in the IN1 General Industrial Zone.

The development application does not comply with the Upper Hunter Development Control Plan (UHDCP) 2015 with respect to off-street car parking and landscaping. Table 28 in Part 12a - Access and Vehicle Parking requires vehicle sales and hire premises provide 0.75 spaces per 100m<sup>2</sup> of site area. The area of the proposed storage and display area is approximately 3,875m<sup>2</sup>. Hence a total of 29 parking spaces are required. However, the development application does not propose any new buildings, as the proposed storage area will be outside. There are existing car parking spaces associated with the existing workshop. Given the anticipated low visitation to the site and the existing parking no additional off-street car parking is proposed.

The UHDCP requires that development applications for development in the IN1 General Industrial Zone are accompanied by a landscaping plan and report, showing how the outcome of contributing to a high standard of environmental quality and enhancing the streetscape amenity and providing visual relief will be achieved. The applicant does not want to provide any landscaping because it has the potential to obscure the display area. Given that no buildings are proposed and the relatively low-intensity of the development, it is considered that landscaping is not necessary in this particular case.

### **OPTIONS**

1. That Council approve Development Application No. 35/2018 for a storage and display of motor vehicles and farm machinery area on Lot 102 DP 1074572, No 2 Muffett Street Scone, subject to the conditions of consent in Attachment 1.
2. That Council refuse Development Application No. 35/2018 for a storage and display of motor vehicles and farm machinery area on Lot 102 DP 1074572, No 2 Muffett Street Scone, stating the reasons for refusal.

### **CONSULTATION**

Surrounding properties were notified of the development application between 15 March 2018 and 29 March 2018. An advertisement was placed in the Hunter Valley News on 15 March 2018. One submission (provided in Attachment 4) was received requesting a number of matters be clarified, the issues raised are considered in Attachment 3.

### **STRATEGIC LINKS**

#### **a. Community Strategic Plan 2027**

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

- Goal 3 Protect the natural environment
- Goal 5 A sustainable and prosperous economy

We are working to achieve the following Community Priorities:

## Environmental & Community Services

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A stronger economic base to attract and retain residents, particularly our young people.



Protect the natural environment.

### **b. Delivery Program**

Provide efficient and effective advisory, assessment and regulatory services focused on being Customer 'friendly', responsive and environmentally responsible

### **c. Other Plans**

NA

## **IMPLICATIONS**

### **a. Policy and Procedural Implications**

NA

### **b. Financial Implications**

Development application fees of \$110 have been paid.

### **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 Attachment 3).

### **d. Risk Implications**

Council determinations of development applications and modifications 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. In the case of this development application the relevant considerations under the Environmental Planning and Assessment Act 1979 have been made. There is a low risk of any third party legal appeal in relation to this application.

### **e. Sustainability Implications**

As discussed in Attachment 3.



## Environmental & Community Services

### f. Other Implications

NA

### 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 2015.

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 for the following reasons:

- The proposal complies with the Upper Hunter Local Environmental Plan 2013
- The proposal complies with the Upper Hunter Development Control Plan 2015, with exception of landscaping and car parking.
- The proposal has been assessed as satisfactory against Section 4.15 of the Environmental Planning & Assessment Act 1979
- Will not have an adverse impact on the surrounding locality.

**RECOMMENDED that Council approve Development Application No. 35/2018 for the storage and display of motor vehicles and farm machinery at Lot 102 DP 1074572, 2 Muffett Street Scone, subject to conditions of consent in Attachment 1 and the addition of conditions 4a, 4b & 12 as follows:**

- 4a. By 31 August 2020 all areas to be used for the storage and display of motor vehicles and farm machinery shall be sealed or covered with a course gravel (minimum diameter of 70mm) to a minimum depth 100mm.**
- 4b. By 31 August 2020 the applicant shall submit a landscaping plan to Council for approval. The landscaping plan shall include areas of landscaping along the southern boundary of the site and shall incorporate trees and shrubs with a mature height of 3m.**
- 12. All washing of vehicles and machinery shall be undertaken within an approved wash bay. No wastewater shall be disposed of on site.**

**Moved: K Fisher**

**Seconded: R Campbell**

**CARRIED**

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

**FOR**

Councillor Fisher  
Councillor Campbell

**Total (2)**

**AGAINST**

Councillor Abbott

**Total (1)**