

**MINUTES OF THE DEVELOPMENT & ENVIRONMENTAL SERVICES COMMITTEE OF UPPER HUNTER SHIRE COUNCIL HELD ON TUESDAY 13 OCTOBER 2020 IN THE COUNCIL CHAMBERS COMMENCING AT 10.00am**

**PRESENT:**

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

**APOLOGIES:**

Mr Mathew Pringle (Director Environmental & Community Services)

Moved: Cr Watts

Seconded: Cr Campbell

CARRIED

**IN ATTENDANCE:**

Mayor Maurice Collison, Mr Glenn Inglis (Acting General Manager), Mrs Christine Robinson (Manager Planning, Building & Regulatory Services), Mr Paul Smith (Senior Environmental Planner), Lynda Posa (Public Member), Yannis Comino (KDC), Angela Kapernick (Administration Officer), Stevie Hayne (Administration Officer)

**ADOPTION OF MINUTES:**

The Committee adopted the minutes of the Development & Environmental Services Committee meeting held on 11 August 2020.

Moved: Cr Watts

Seconded: Cr Campbell

CARRIED

**DISCLOSURES OF INTEREST:**

Nil.

**PUBLIC PARTICIPATION:**

Lynda Posa  
Yannis Comino from KDC

**SITE INSPECTIONS:**

Nil.

**BUSINESS ITEMS:**

**DESC.10.1 Development Application 78/2020 – Replacement Units**

The Manager Planning, Building & Regulatory Services, Mrs Christine Robinson, gave a brief overview of the proposed development. No submissions were received following public exhibition. Mrs Robinson advised that an external consultant had assessed the development application.

**DESC.10.2 Development Application 38/2020 – Commercial Alterations/Additions and Additional Use of Café – 51 Main Street, Scone**

The Manager Planning, Building & Regulatory Services, Mrs Christine Robinson, gave a brief overview of the proposed development. The development application is being referred to the committee as one submission was received following public exhibition. The main concerns were to do with traffic, parking, privacy and noise associated with the intensification of the development.

**DESC.10.3 Development Application 50/2020 – Extension of Trading Hours**

The Manager Planning, Building & Regulatory Services, Mrs Christine Robinson, gave a brief overview of the proposed development. The development application is being referred to the committee as an amendment to the development application was submitted to extend trading hours to open at 5am, rather than 6am. Numerous submissions were received for the original development application, no submissions have been received for the amended development application.

Yannis Comino from KDC spoke on behalf of the applicant and advised that the extended trading hours have been in operation since 30 July 2020, with no complaints to date. Mr Comino stated that the amended application alleviates the previous concerns from the original development application. Mr Comino is happy with the amended motion.

Cr Watts stated that this process has been back and forth to Upper Hunter Shire Council, three times. The twelve month trial for extended hours from 30 November 2020 to 30 November 2021, has received no submissions. Cr Watts moved that the extension of operating hours be approved and the reference to a trial period be removed from the conditions of consent.

**DESC.10.4 Development Application DA 74/2020 – Carport 43 Eveleigh Court, Scone**

The Manager Planning, Building & Regulatory Services, Mrs Christine Robinson, gave a brief overview of the proposed development. No submissions were received following public exhibition.

**COUNCILLOR QUESTIONS:**

Cr Fisher asked Ms Robinson to notify Councillors of applications that would be put straight to Council meeting rather than Development & Environmental Services Committee, for assessment.

Ms Robinson advised that due to the assessment time and allowing that there would be an additional four weeks before the next Development & Environmental Services Committee meeting, the following applications were proposed to go straight to the Council meeting:

1. 131 Kelly Street, Scone  
Upper Hunter Shire Council, old Scone Sports Store. Assessment made by an external consultant, hoping to have report for next Council meeting;
2. Golden Fleece Hotel  
Proposed conversion of motel to units. Awaiting assessment from external consultant, in preparation for generating report in time for next Council meeting;
3. Service Station beside Scone McDonalds, Kelly Street, Scone.  
Has previously been before the Development & Environmental Services Committee and is now ready to report directly to next Council meeting.

Ms Robinson confirmed that all of the development applications proposed to go straight to the Council meeting have all previously been on Public Exhibition, prior to the assessment.

Cr Abbott

- Noted there were changes to the development application for the Service Station and questioned if the application was required to go back on Public Exhibition. Cr Abbott noted that she was not happy in fast tracking this application.

Ms Robinson advised that she would look if this application has already been placed back on Public Exhibition.

Mr Inglis assured Councillors that proper procedure would be followed and all applications would be advertised, where required. Submitting the development applications to the Council meeting was an "Acceleration Program" to lower our processing times, there would be no short cutting of any statutory requirements.

Cr Abbott

- Wilson Memorial Hospital, Murrurundi – National Trust has identified it as an important building and will be listing it in the Buildings to Protect register. Wilson Memorial Hospital was designed by the renowned architect, Mr George McRae who also designed the Queen Victoria Building and the lower and top entrances of Taronga Park Zoo, and we have a remaining building in our Shire. The State Library request done by the Upper Hunter Shire Council was a sound submission, yet it was refused because of a cover letter provided by Hunter New England Health which raised issues about the integrity of the problems really only associated with the new extensions, which can be demolished and will be demolished and we will get a lovely new hospital. Question on behalf of the Murrurundi community – can Upper Hunter Shire Council resubmit the state listing application as soon as possible, now that we all know that there has been recognition of the Wilson Memorial's Hospitals importance by the National Trust? Murrurundi Arts & Crafts Council are seeking to use it as their base and gallery and the old hospital is in very good condition with a new roof. It seems there is a major imbalance of power between Hunter New England Health and the wishes of our community in Murrurundi. They have known of the Community desire to preserve this building since consultation commenced. Murrurundi community member, Mr Ray Hynes has told Cr Abbott he met with three project team members one year ago, and they admitted to him that their Heritage Investigation was inadequate. Cr Abbott's question is should Murrurundi history, indeed the Shires history, be lost because of that error? Could Upper Hunter Shire Council please redo the submission as soon as possible?

Meeting closed at 10:30am



**Environmental & Community Services**

**DEVELOPMENT & ENVIRONMENTAL SERVICES COMMITTEE REPORTS**

**DESC.10.1                      DEVELOPMENT APPLICATION NO. 78/2020 REPLACEMENT UNITS**

**RESPONSIBLE OFFICER:** Mathew Pringle - Director Environmental & Community Services

**AUTHOR:** Paul Smith - Senior Environmental Planner

**PURPOSE**

On 10 July 2020, Council received Development Application No. 78/2020 for the demolition and replacement of two (2) attached units at Lot 13 DP 999519, 25-27 Liverpool Street, Murrurundi.

The application is being referred to the Development and Environmental Services Committee as Council is the applicant and land owner.

**RECOMMENDATION**

That Council approve Development Application No. 78/2020 for the demolition and replacement of two (2) attached units at Lot 13 DP 999519, 25-27 Liverpool Street, Murrurundi subject to the conditions of consent in Attachment 1.

**BACKGROUND**

Applicant: Upper Hunter Shire Council  
Owner: Upper Hunter Shire Council  
Location: Lot 13 DP 999519, 25-27 Liverpool Street, Murrurundi  
Proposal: Demolition and replacement of two (2) attached units  
Zone: R1 General Residential

The existing units numbered 3 and 4 were destroyed by an internal fire in May 2019. There are six (6) existing units that are also on site which are not identified as forming part of this application. The following development applications have been submitted in respect of the land since 2009:

-78/2020-1	Development Application	09/07/2020	25-27 Liverpool St, Murrurundi, 2338, NSW <b>Demolition and replacement of multi-unit housing</b>
-30/2010-1	Development Application	23/02/2010	27 Liverpool St, Murrurundi, 2338, NSW <b>2 Carports 6.86mx10.44m</b>
-52/2009-1	Development Application	03/03/2009	27 Liverpool St, Murrurundi, 2338, NSW <b>2 Carports Liverpool Lodge 1-10mx4m &amp; 1-7.5mx4m</b>

## Environmental & Community Services

### REPORT/PROPOSAL

The proposed development is to be located within the grounds of Lot 13 DP 999519 and will comprise of the demolition of existing fire damaged units numbered 3 and 4 and construction of two new attached units (refer to Attachment 2).

The replacement units will contain a bedroom, kitchen, living area and bathroom/laundry facilities.

The proposed building will be constructed of concrete floors, double brick and plasterboard on internal walls, brick veneer on external walls and roofing tiles. The surfaces will have a low reflective value.

### OPTIONS

1. That Council approve Development Application No. 78/2020 for the demolition and replacement of two (2) attached units at Lot 13 DP 999519, 25-27 Liverpool Street, Murrurundi subject to the conditions of consent in Attachment 1.
2. That Council refuse Development Application No. 78/2020 for the demolition and replacement of two attached units at Lot 13 DP 999519, 25-27 Liverpool Street, Murrurundi stating reasons for refusal.

### CONSULTATION

The development application was placed on public exhibition from 24 July 2020 to 7 August 2020. No submissions were received.

### 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:



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



Protect the natural environment.



## Environmental & Community Services

---

### b. Delivery Program

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

### c. Other Plans

## IMPLICATIONS

### a. Policy and Procedural Implications

As Council is the applicant and land owner, the development application has been assessed by an independent planning consultant.

### b. Financial Implications

Development Application fees of \$1,109 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 the applicant in the Land and Environment Court where they are not satisfied with the outcome of a determination.

### e. Sustainability Implications

A BASIX Certificate Number 1112118M has been provided and confirms that the Multi Dwelling development will meet the government's requirements for sustainability if it is built in accordance with the commitments set out within.

### f. Other Implications

Nil

## CONCLUSION

The development 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 (Attachment 1) for the following reasons:



## Environmental & Community Services

- The proposal complies with the Upper Hunter Local Environmental Plan 2013 and relevant State Environmental Planning Policies.
- The proposal complies with the Upper Hunter Development Control Plan 2015
- The proposal has been assessed as satisfactory against Section 4.15 of the Environmental Planning & Assessment Act 1979
- The proposal will not have an adverse impact on the surrounding locality.
- The proposal will have a positive social impact by providing for the housing needs of the local community.

## ATTACHMENTS

- 1 Draft conditions of consent - DA 78-2020\_REVA\_sc
- 2 DA 78/2020 - Section 4.15 Assessment
- 3 DA 78/2020 - Upper Hunter Shire Council - Plans - 010-20 Sheets 1-6

## RECOMMENDATION

That Council approve Development Application No. 78/2020 for the demolition and replacement of two (2) attached units at Lot 13 DP 999519, 25-27 Liverpool Street, Murrurundi subject to the conditions of consent in Attachment 1.

**Moved: Cr Campbell**

**Seconded: Cr Abbott**

**CARRIED**

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Campbell	
Councillor Fisher	
Councillor Watts	
Councillor Abbott	
<b>Total (4)</b>	<b>Total (0)</b>



**Environmental & Community Services**

---

**DESC.10.2**

***DEVELOPMENT APPLICATION DA 38/2020 - COMMERCIAL ALTERATIONS/ADDITIONS AND ADDITIONAL USE OF CAFE - 51 MAIN STREET SCONE***

**RESPONSIBLE OFFICER:** Mathew Pringle - Director Environmental & Community Services

**AUTHOR:** Lachlan Melichar - Health & Building Surveyor

---

***PURPOSE***

On 23 March 2020, Council received Development Application No 38/2020 for commercial additions/alterations, and an additional use as a café, at 51 Main Street, Scone.

The application is being reported to the Development and Environmental Services Committee as a submission objecting to the development has been received.

***RECOMMENDATION***

That Council approve Development Application No. 38/2020 for commercial additions/alterations, and an additional use as a café, at 51 Main Street, Scone, subject to the conditions of consent in Attachment 1.

***BACKGROUND***

**Application No:** DA 38/2020  
**Applicant:** Roberts & Roberts Design  
**Owner:** Mr H P Ariel  
**Proposal:** Commercial additions/alterations, and an additional use as a café  
**Location:** Lot 1 DP 781279, 51 Main Street, Scone  
**Lodged:** 23 March 2020  
**Zone:** B2 – Local Centre

The existing nursery is operating pursuant to DA 160/2004, for which development consent was granted on 10 August 2004.

***REPORT/PROPOSAL***

The proponent seeks the consent of Council to establish an additional land use within the confines of the existing retail space servicing the nursery located at 51 Main Street Scone, for the purposes of a cafe.

Minor alterations are proposed to facilitate this, including the making of two openings within the servery/preparation areas, in addition to the installation of appropriate fixtures.

Furthermore, it is proposed to carry out works to the external of the building inclusive of the replacement of existing signage with updated branding, the installation of new signage to the front façade, the installation of an awning over footpath and landscaping within the road reserve.





## **Environmental & Community Services**

---

Finally, it is proposed to replace an existing shade sail structure along the northern boundary with a metal skillion roof, in addition to extending an existing shade structure adjacent to the western boundary at the rear of the property.

A submission has been received that raises concerns with traffic, parking, privacy and noise associated with the intensification of the development consequent of the additional use.

These issues have been subject to due consideration within the planning assessment report (Attachment 2) and conditions have been recommended in Attachment 1 so as to mitigate these concerns.

### **OPTIONS**

1. Approve Development Application No. 38/2020 commercial additions/alterations, and an additional use as a café, at 51 Main Street, Scone, subject to the conditions of consent in Attachment 1.
2. Pursuant to Section 4.16(4) of the *Environmental Planning and Assessment Act 1979*, grant partial consent to Development Application No. 38/2020 commercial additions/alterations, and an additional use as a café, at 51 Main Street, Scone, subject to the conditions of consent in Attachment 1 as relevant to the aspects of the approval as granted.
3. Refuse Development Application No. 38/2020 commercial additions/alterations, and an additional use as a café, at 51 Main Street, Scone, and state the reasons for refusal.

### **CONSULTATION**

Surrounding properties were notified of the proposed development between 1 April and 20 April 2020.

One (1) submission was received by Council from an adjoining land owner. The issues raised in the submission are addressed in the attached report.

A copy of the submission is provided in Attachment 4 of this report.

### **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.

## Environmental & Community Services

---

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

We are working to achieve the following Community Priorities:



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

### b. Delivery Program

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

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

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

### c. Other Plans

NIL

## IMPLICATIONS

### a. Policy and Procedural Implications

NIL

### b. Financial Implications

Development application fees totaling \$670.00 have been paid by the applicant.

### c. Legislative Implications

An assessment of the development application has been undertaken pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* (see attached report). The proposed development is permissible with consent within the B2 – Local Centre land use zone.

### d. Risk Implications

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

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



## Environmental & Community Services

---

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

### e. Sustainability Implications

The proposal seeks to diversify an existing business and provide additional income streams that will enhance the viability of the business for the future; potentially enhance opportunities for local employment and will assist in drawing patrons to the fringes of the CBD (Main St and the businesses therein).

The café will also have sustainability implications from a social perspective as it will provide an opportunity for training in hospitality industry and possibly horticulture.

### f. Other Implications

NIL

## CONCLUSION

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

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

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

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

## ATTACHMENTS

- 1 Attachment 1 - Recommended Conditions of Consent
- 2 Attachment 2 - Planning Assessment Report
- 3 Attachment 3 - Plans
- 4 Attachment 4 - Submission



**Environmental & Community Services**

---

**RECOMMENDATION**

**That Council approve Development Application No. 38/2020 for commercial additions/alterations, and an additional use as a café, at 51 Main Street, Scone, subject to the conditions of consent in Attachment 1 to the report.**

**Moved: Cr Abbott**

**Seconded: Cr Watts**

**CARRIED**

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Campbell	
Councillor Fisher	
Councillor Watts	
Councillor Abbott	
<b>Total (4)</b>	<b>Total (0)</b>



**Environmental & Community Services**

---

**DESC.10.3**

***DEVELOPMENT APPLICATION NO. 50/2020 EXTENSION OF TRADING HOURS***

**RESPONSIBLE OFFICER:** Mathew Pringle - Director Environmental & Community Services

**AUTHOR:** Paul Smith - Senior Environmental Planner

---

***PURPOSE***

The purpose of this report is to consider Development Application No. 50/2020 for the extension of business hours from 5.00am to 6.00am at 22 Kelly Street Scone (Lot 2 DP 1145990).

The application originally sought approval for the extension of business hours to 24 hours but has been amended by the applicant to extend trading hours by one (1) hour only. The application was deferred by Council at its meeting held on 31 August 2020 to enable the amended application to be placed on public exhibition.

***RECOMMENDATION***

That Council approve Development Application No. 50/2020 for extended trading hours from 5.00am to 6.00am at 22 Kelly Street Scone (Lot 2 DP 1145990) subject to the conditions of consent in Attachment 1.

***BACKGROUND***

Applicant: McDonalds Australia Ltd  
Owner: Frasuluca Pty Ltd  
Location: Lot 2 DP 1145990 No. 22 Kelly Street Scone  
Zone: B2 Local Centre

On 28 April 2020, Council received Development Application No. 50/2020 for the extension of business hours to be 24 hours at 22 Kelly Street Scone (Lot 2 DP 1145990). The assessment of the development application identified a number of issues including noise, lighting, litter, increased traffic and antisocial behavior. It was considered that the noise impacts in particular had not been adequately addressed and it was recommended that the development application be refused (refer to Attachment 2 Section 4.15 Assessment Report).

At the 31 August 2020 meeting Council resolved to:

*defer Development Application No. 50/2020 for the extension of business hours to 24 hours at Lot 2 DP 1145990, 22 Kelly Street Scone pending the submission of further information.*

The applicant has responded by amending Development Application No. 50/2020 to extend current trading hours from 5.00am to 6.00am only (ie total trading hours would be from 5.00am to 11.00pm).



## **Environmental & Community Services**

---

### **REPORT/PROPOSAL**

The applicant has applied to Council to amend Development Application No. 50/2020 to extend trading hours from 5.00am to 6.00am which would mean that the total hours of trading would be from 5.00am to 11.00pm. It is proposed that this will be sufficient to mitigate issues likely to impact on the amenity of adjacent residents

An addendum assessment report is provided in Attachment 3. The assessment of the original development application identified a number of deficiencies with the acoustic assessment (Muller Acoustic Consulting, January 2020). The proponent has not revisited the acoustic assessment to address or clarify these issues and no peer review was commissioned. In accepting that there may be deficiencies in the acoustic assessment there is some potential for sleep disturbance for residents from 5.00am to 6.00am (which is considered to be night in the EPAs *Noise Policy for Industry*).

The applicant has also advised:

*under the Environmental Planning and Assessment (Covid -19 Development – Extender Operation) Order 2020, issued 13 July 2020, the Scone McDonald's has been trading the extended hour of 5:00am to 6:00am. During this period, the applicant has received no complaints from the community or Council and highlights the minimal impact the requested extended one hour of morning trade will have on the surrounding community.*

While this provides some indication that the extended trading hours are not having an impact it does not provide certainty that there is no impact or there will not be an impact – particularly as more people become aware of the extended trading hours. In this regard, it is recommended that a precautionary approach is taken by granting consent to extend the hours for a trial period.

### **OPTIONS**

1. That Council approve Development Application No. 50/2020 for extended trading hours from 5.00am to 6.00am at 22 Kelly Street Scone (Lot 2 DP 1145990) subject to the conditions of consent in Attachment 1.
2. That Council refuse Development Application No. 50/2020 for extended trading hours from 5.00am to 6.00am at 22 Kelly Street Scone (Lot 2 DP 1145990), stating reasons for refusal.

### **CONSULTATION**

Surrounding properties were notified of the original development application between 6 May 2020 and 20 May 2020. An advertisement was placed in the Newcastle Herald on 6 May 2020. Nine (9) submissions were received with the main issues raising concerns about noise, traffic generation, litter, light spill and antisocial behavior.

The amended development application was placed on public exhibition from 14 September 2020 to 28 September 2020. No submissions were received.

## Environmental & Community Services

---

### **STRATEGIC LINKS**

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

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

Goal 2 Promote wellbeing and a connected, healthy and happy Community.

Goal 5 A sustainable and prosperous economy

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.

#### **b. Delivery Program**

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

#### **Other Plans**

Nil

### **IMPLICATIONS**

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

Nil

#### **b. Financial Implications**

Development application fees of \$245.00 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 Attachments 2 and 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.



**Environmental & Community Services**

**e. Sustainability Implications**

N/A

**f. Other Implications**

N/A

**CONCLUSION**

The amended development application has been assessed as satisfactory against Section 4.15 of the Environmental Planning and Assessment Act 1979. The originally proposed 24 hour /7 days per week operation was not inconsistent with the B2 Local Centre zone objectives of the Upper Hunter Local Environmental Plan 2013, however given the close proximity to surrounding residential land uses it was likely to have significant adverse impacts on the amenity of residents. The proposed 5.00am to 6.00am extension of trading hours is a minimal extension and likely mitigate many of the amenity issues. Nevertheless, given that there remains a degree of uncertainty about the noise impacts a 12 month trial period with provision to complaints and review is considered warranted.

It is therefore recommended that the development application be approved subject to conditions of consent. The reasons for this recommendation are:

- The proposal complies with the Upper Hunter Local Environmental Plan 2013
- The proposal complies with the Upper Hunter Development Control Plan 2015
- The proposal has been assessed as satisfactory against Section 4.15 of the Environmental Planning & Assessment Act 1979
- The proposal is unlikely to have an adverse impact on the surrounding locality provided the extended hours of operation are carried out in accordance with the plan of management and the operation of the consent.

**ATTACHMENTS**

- 1 DA 50/2020 – Recommended Conditions of Consent
- 2 DA 50/2020 - Section 4.15 Assessment Report
- 3 DA 50/2020 - Addendum Planning Assessment Report

**RECOMMENDATION**

**That Council approve Development Application No. 50/2020 for extended trading hours from 5.00am to 6.00am at 22 Kelly Street Scone (Lot 2 DP 1145990) subject to the conditions of consent in Attachment 1 to the report being amended to delete all references to a trial period.**

**Moved: Cr Watts**

**Seconded: Cr Campbell**

**CARRIED**

**FOR**

**AGAINST**

Councillor Campbell  
Councillor Fisher  
Councillor Watts  
Councillor Abbott

**Total (4)**

**Total (0)**





Environmental & Community Services

DESC.10.4

**DEVELOPMENT APPLICATION DA 72/2020 - CARPORT - 43  
EVELEIGH COURT, SCONE**

**RESPONSIBLE OFFICER:** Mathew Pringle - Director Environmental & Community Services

**AUTHOR:** Lachlan Melichar - Health & Building Surveyor

**PURPOSE**

On 2 July 2020, Council received Development Application No 75/2020 for a carport, at 43 Eveleigh Court, Scone.

The application is being reported to the Development and Environmental Services Committee as the applicant is seeking a variation to the outcomes to be achieved set out in the Upper Hunter Development Control Plan 2015.

**RECOMMENDATION**

That Council approve Development Application No. 75/2020 for a carport, at 43 Eveleigh Court, Scone, subject to the conditions of consent in Attachment 1.

**BACKGROUND**

**Application No:** DA 75/2020  
**Applicant:** Mr M Reedman  
**Owner:** Mr M Reedman  
**Proposal:** Carport  
**Location:** Lot: 43 DP: 701858, 43 Eveleigh Court SCONE NSW 2337  
**Lodged:** 2 July 2020  
**Zone:** R1 – General Residential

Council has commissioned Monteath and Powys as an external consultant to assess the application and prepare the assessment report attached.

The site features an existing dwelling and ancillary residential structures.

**REPORT/PROPOSAL**

The proposal is being reported to D&E because a variation has been sought to Part 4b.2 - Outcome B of the DCP, where a side setback of 450mm is not being provided.

The proposal has been assessed against all other provisions of the DCP and the LEP and has found to be compliant.

Outcome B does permit a carport to be built to a side boundary where the size of the carport does not exceed 36m<sup>2</sup> in size, or 6m in width. However, the proposed carport has a maximum width of 6.5m and a total area of 45.5m<sup>2</sup>, and exceeds that for which a reduced side setback would be allowable.



## **Environmental & Community Services**

---

It is noted that the 6m width is only exceeded at the rear of the carport, with a reduced width presented to the streetscape, from well behind the building line. Furthermore, the degree by which the maximum size has been exceeded is only 26%, which numerically does not represent a significant variation that would give rise to adverse impacts from size alone.

It is noted that the neighbour appears to have been consulted with respect to proximity of the development to the property boundary, nor were any submissions received as a result of public notification.

Whilst the proposal features an eave height of 3.4m, a skillion roofing profile will ensure that the overall maximum height does not vary far beyond this. The location of the carport is adjacent to, and located behind, a shed on the adjoining property and consequently, will not act to overshadow any principal private open space, or give rise to similar adverse impacts on amenity.

In this regard, it is considered that a variation to the required 450mm side setback, so as to allow the carport to be constructed adjacent to the side boundary, is acceptable in this instance.

### **OPTIONS**

1. Approve Development Application No 75/2020 for a carport, at 43 Eveleigh Court, Scone, subject to the conditions of consent in Attachment 1.
2. Defer Development Application No 75/2020 for a carport, at 43 Eveleigh Court, Scone, and request more information in relation to the proposal.
3. Refuse Development Application No 75/2020 for a carport, at 43 Eveleigh Court, Scone, and state the reasons for refusal.

### **CONSULTATION**

Surrounding properties were notified of the proposed development between 10 and 24 July 2020.

No submissions were received by Council.

The application was referred to Monteath & Powys as an external consultant for assessment, who has determined that the proposal is satisfactory.

### **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.



## Environmental & Community Services

- Provide efficient and effective advisory, assessment and regulatory services focused on being Customer 'friendly', responsive and environmentally responsible.
- Plan, facilitate and provide for a changing population for current and future generations.

We are working to achieve the following Community Priorities:



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

### b. Delivery Program

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

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

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

### c. Other Plans

Nil

## IMPLICATIONS

### a. Policy and Procedural Implications

Nil

### b. Financial Implications

Development application fees totaling \$437.00 have been paid by the applicant.

### c. Legislative Implications

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

### d. Risk Implications

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



## Environmental & Community Services

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. Sustainability Implications

NIL

### f. Other Implications

NIL

## CONCLUSION

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

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

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

1. The proposal has been assessed as satisfactory against Section 4.15 of the *Environmental Planning & Assessment Act 1979*.
2. The proposal is consistent with the provisions of the *Upper Hunter Local Environmental Plan 2013*.
3. The proposal is unlikely to have a significant adverse impact on the amenity of the neighbourhood.

## ATTACHMENTS

- 1 Attachment 1 - Recommended Conditions of Consent
- 2 Attachment 2 - Planning Assessment Report
- 3 Attachment 3 - Plans

## RECOMMENDATION

**That Council approve Development Application No. 75/2020 for a carport, at 43 Eveleigh Court, Scone, subject to the conditions of consent in Attachment 1 to the report.**

**Moved: Cr Fisher**

**Seconded: Cr Watts**

**CARRIED**

**FOR**

**AGAINST**

Councillor Campbell

Councillor Fisher

Councillor Watts

Councillor Abbott

**Total (4)**

**Total (0)**