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G u n n e d a h
 Land of Opportunity

MEETING NOTICE

COMMITTEE **PLANNING ENVIRONMENT AND DEVELOPMENT COMMITTEE**

DIRECTORATE **Planning and Environmental Services**

DATE **Wednesday 2 May 2018**

TIME **4:00pm**

VENUE **Council Chambers, 63 Elgin Street, Gunnedah**

ATTACHMENTS **Director Planning and Environmental Services Report**

AGENDA

- 1. Present/Apologies
- 2. Declarations of Interest
- 3. Report of Director of Planning and Environmental Services
 - 3.1 Development Application No. 2017/095 – installation of new Telecommunication Facility (Optus Tower) and demolition of part garage – Lot 16 Sec 40 DP 758492 167-169 Conadilly Street, Gunnedah 3
 - 3.2 Development Application No. 2018/022 – Change of Use to a Food and Drink Premises, replacement of Signage and construction of Access Ramp – Lot 3 and 4 DP 29920 – 215 Conadilly Street and 111 Marquis Street, Gunnedah 19

Andrew Johns
 DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES

Apologies to: 6740 2120

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The ordinary, extraordinary and committee open meetings of Council will be audio recorded for minute-taking purposes and may be broadcast live over the internet.

*** Local Government Act 1993 – Definition of Closed Meeting Items**

10A Which parts of a meeting can be closed to the public?

- (1) A council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises:
- (a) the discussion of any of the matters listed in subclause (2), or
 - (b) the receipt or discussion of any of the information so listed.
- (2) The matters and information are the following:
- (a) personnel matters concerning particular individuals (other than councillors),
 - (b) the personal hardship of any resident or ratepayer,
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
 - (e) information that would, if disclosed, prejudice the maintenance of law,
 - (f) matters affecting the security of the council, councillors, council staff or council property,
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
 - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.
 - (i) alleged contraventions of any code of conduct requirements applicable under section 440.

VISION

**TO BE A FOCUSED COMMUNITY VALUING GUNNEDAH'S IDENTITY
AND QUALITY LIFESTYLE.**

MISSION

**TO PROMOTE, ENHANCE AND SUSTAIN THE QUALITY OF LIFE IN GUNNEDAH SHIRE
THROUGH BALANCED ECONOMIC, ENVIRONMENTAL
AND SOCIAL MANAGEMENT IN PARTNERSHIP WITH THE PEOPLE.**

ORGANISATIONAL VALUES

In partnership with the community:

- 1. EQUITY**
- 2. INTEGRITY**
- 3. LEADERSHIP**
- 4. OPENNESS & ACCOUNTABILITY**
- 5. CUSTOMER SATISFACTION**
- 6. COMMITMENT TO SAFETY**
- 7. EFFICIENT & EFFECTIVE USE OF RESOURCES**

Director Planning and Environmental Services' Report

ITEM 1	Development Application No. 2017/095 – Installation of a Telecommunication Facility and Demolition of part of an existing garage – Lot 16 Sec 40 DP758492 – 167-169 Conadilly Street, Gunnedah
MEETING	Planning, Environment and Development – 2 May 2018
DIRECTORATE	Planning and Environmental Services
AUTHOR	Town Planner
POLICY	Nil
LEGAL	Environmental Planning & Assessment Act, 1979 Gunnedah Local Environmental Plan, 2012 Gunnedah Development Control Plan, 2012
FINANCIAL	Nil
STRATEGIC LINK	Community Strategic Plan 2.4.5 Implement and advocate for planning strategies and systems that are streamline to foster and encourage the establishment of new business Operational Plan 2.4.5.1 Ensure compliance with legislation through assessment of development applications
ATTACHMENTS	Submission to Development Application 2017/095

OFFICER'S RECOMMENDATIONS:

That the Development Application No. 2017/095, for the installation of a telecommunication facility and demolition of part of an existing garage, at Lot 16 Sec 40 DP 758492 – 167-169 Conadilly Street, Gunnedah be approved subject to the following conditions of consent:

A. That development consent be granted subject to the following conditions:

- A1.** The proposed development shall be carried out generally in accordance with the details set out in the following:
- Development Application form lodged 13/09/2017
 - Statement of Environmental Effects, prepared by Metasite, dated 30/08/2017, ref: S2317; and
 - Submitted plans:
 - Prepared by HUAWAI Technologies (AU) Pty Ltd, dated 02/05/2017, Drawing No. S2317G-P1, Rev: 01 (Draft Site Layout), Drawing No. S2317G-P2, Rev 01 (Draft Site Elevation);
 - Prepared by Metasite, dated 14/08/2017, ref: 17196, DWG No. SG17196, Sheet No. 2 (Detail Plan);

except as otherwise provided by the conditions of consent.

Reason: To ensure compliance with application and plans.

B. Prescribed conditions

Note: The following conditions are prescribed conditions and may or may not relate directly to this development.

B1. Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

(cf clauses 78 and 78A of EP&A Regulation 1994)

- (1) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
 - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
 - (b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

- (1A) For the purposes of section 80A (11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.

- (2) This clause does not apply:
 - (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
 - (b) to the erection of a temporary building, other than a temporary structure to which subclause (1A) applies.

- (3) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:
 - (a) development consent, in the case of a temporary structure that is an entertainment venue, or
 - (b) construction certificate, in every other case.

Note. There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.

Reason: To ensure compliance with the statutory requirements.

C. Prior to Commencement of Building Works

- C1.** Prior to the commencement of any building works the developer is to apply to an Accredited Private Certifier or Council for a Construction Certificate for the erection of the building. **NO BUILDING WORKS SHALL COMMENCE WITHOUT FIRST OBTAINING A CONSTRUCTION CERTIFICATE.**

Reason: To meet statutory requirements.

- C2.** Prior to work commencing appropriate measures are to be implemented in relation to erosion and sediment control. Such measures are to be maintained during the construction of the development in accordance with Council's Gunnedah Development Control Plan 2012.

Reason: To ensure erosion and sediment control on the development site.

D. Prior to the issue of a Construction Certificate

- D1.** Prior to issue of a Construction Certificate construction plans, specifications and documentation as required by conditions of this consent and being consistent with this development consent and the Building Code of Australia, are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance.

- D2.** Prior to the issuing of a Construction Certificate by the Council or an Accredited Certifier, the Long Service Levy is to be paid.

Reason: To comply with statutory requirements.

- D3.** Prior to the issuing of a Construction Certificate, the Developer shall pay to Council a levy as applicable at the time of payment, relative to the total project value, in accordance with the Council's Section 94A Contributions Plan 2013 under Section 94A of the Environmental Planning and Assessment Act 1979. The current levy payable is \$4,000.

Note: The Gunnedah Shire Council's Section 94A Contributions Plan 2013 can be viewed on Council's web site at: <http://www.gunnedah.nsw.gov.au>

Reason: To make provision for public amenities and services within the community.

- D4.** A Traffic Control Plan for the temporary closure of Little Barber Street during construction works and operation of construction equipment and machinery is to be submitted and approved by Council prior to the issue of a Construction Certificate.

Reason: To ensure compliance.

E. General

Outdoor Lighting

- E1.** Outdoor lighting is to comply with *AS/NZS 11583.1 Pedestrian Area (Category P) Lighting* and *AS4282 Control of Obtrusive Effects of Outdoor Light*.

Reason: To ensure compliance.

- E2.** No permanent structures are to be placed on any easement.

Reason: To ensure legal requirements.

- E3.** The Telecommunication Facility structure is not to incorporate any signage or advertising signs.

Reason: To ensure compliance with application and plans.

- E4.** The Telecommunication Facility structure is not to exceed a total height of 22.5 metres from the current ground level.

Reason: To ensure compliance with application and plans.

Traffic and Parking

- E6.** Onsite car parking accommodation shall be provided for a minimum of seventeen (17) vehicles, to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. Such being set out generally in accordance with the details indicated on the submitted plans, except as otherwise provided by the conditions of this consent.

Reason: To ensure adequate on site car parking is provided.

- E7.** The developer is to clearly signpost and mark all onsite parking spaces in accordance with Figure 4-1: Clubhouse Hotel _ Formalised Parking Area, of the Parking Assessment, prepared by Northern Transport Planning and Engineering Pty Ltd, dated Nove 2017. All parking spaces are to be marked to ensure compliance with *AS 2890 Off Street Parking* for parking space dimensions.

Reason: To ensure onsite parking is clearly marked.

- E8.** Any damage caused to kerb, guttering and/or footpath during building operations, shall be rectified by the developer in accordance with Council's Driveway crossing standards and specifications.

Reason: To ensure the integrity of Council's road infrastructure is maintained in an acceptable standard.

F. During Construction Works

F1. Inspections by the Principal Certifying Authority – Mandatory Critical Stage Inspections

48 hours prior to the covering of the following works, the Principal Certifying Authority appointed pursuant to Section 81(2)(b) of the Environmental Planning and Assessment Act 1979 shall be notified that works are ready for inspection. (Note: Inspections in **bold type** are mandatory critical stage inspections under the Act and **MUST** be carried out by the Principal Certifying Authority. If these inspections are not carried out by the Principal Certifying Authority an Occupation Certificate cannot be issued).

- (a) **Piers (if any) prior to pouring of concrete**
- (b) **Footing trenches with reinforcement prior to pouring of concrete**
- (c) Retaining walls and reinforcement (if any) prior to pouring of concrete
- (d) **Concrete slab formwork with reinforcement prior to pouring of concrete**
- (e) **Structural framework including roof members. When completed prior to the fixing of any internal sheeting**
- (f) **Wet area, damp proofing and flashing before lining**
- (g) Works in relation to road reserves, footpath, kerb and gutter, road shoulder and drainage within public lands or road reserves
- (h) **Bearers and joist inspection, including tie down requirements and ant capping. When completed and prior to the laying of the floor.**
- (i) In situ concrete formwork (excluding paving) with reinforcement prior to pouring of concrete.
- (j) **Final inspection prior to use of the building.**

The above listed works may not be covered until approval is obtained from the Principal Certifying Authority or his/her duly appointed delegate.

Reason: To ensure compliance before, during and after construction.

- F2.** A stamped copy of the development consent, the approved plans and specifications are to be kept at the construction site at all times during the construction period.

Reason: To ensure compliance with approved application and plans.

- F3.** The storage of any construction equipment and all building materials shall be confined within the boundaries of the allotment.

Reason: To ensure site safety.

- F4.** All traffic control measures identified in the approved Traffic Control Plan are to be constructed and implemented.

Reason: To ensure appropriate traffic control measures are undertaken.

- F5. Excavations and backfilling**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

Reason: To ensure compliance.

F6. Support for neighbouring buildings

If an excavation associated with the erection of the telecommunication facility extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- (a) must preserve and protect the building from damage, and
- (b) if necessary, must underpin and support the building in an approved manner, and
- (c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. In this clause, ***allotment of land*** includes a public road and any other public place.

Reason: To ensure site stability.

F7. Protection of public places

If the work involved in the erection of the telecommunication facility:

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- (b) building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

Reason: To ensure site safety.

F8. Work on the development shall be limited to the following hours to prevent unreasonable disturbance to the amenity of the area:-

Monday to Friday - 7.00am to 5.00pm;
Saturday - 8.00am to 1.00pm if audible on other residential premises,
otherwise 7.00am to 5.00pm;

No work to be carried out on Sunday or Public Holidays.

Note: The builder shall be responsible to instruct and control sub-contractors regarding the hours of work.

Council will exercise its powers under the Protection of the Environment Operations Act, 1997, in the event that the building operations cause noise to emanate from the property on Sundays or Public Holidays or otherwise than between the hours detailed above.

Reason: To ensure amenity of the neighbourhood is maintained.

Demolition Works

F9. Part of the existing Garage that is indicated to be demolished, shall only be demolished in accordance with the requirements of AS2601-2001 "The Demolition of Structures" and the requirements of the Workcover Authority of New South Wales including but not limited to:

- (a) Protection of site works and the general public.
- (b) Erection of hoardings where appropriate.
- (c) Asbestos and lead based paints handling and disposal where applicable.

The disposal of demolition materials is to be to an approved licensed waste disposal depot so determined by the NSW Environment Protection Authority.

Reason: To ensure compliance and safety of workers.

F10. All work on the demolition is to be carried out strictly in accordance with current Workcover requirements and only between the hours of 7.00am and 5.00pm on weekdays and 8.00am and 4.00pm on Saturdays. No demolition work shall occur on Sundays or Public Holidays.

Reason: To ensure compliance and protect amenity of area.

F11. The developer shall ensure all practicable measures are taken to minimise the release of dust into the atmosphere from the onsite and from vehicles transporting material off-site.

Reason: To ensure compliance and safety of workers and general public.

F12. The deliberate burning of the building and/or demolition material shall not be permitted.

Reason: To ensure compliance and safety of workers and general public.

G. Prior to issue of an Occupation Certificate

G1. Operation of the Telecommunication Facility is not to occur until all work has been completed, all conditions of consent have been satisfied and an Occupation Certificate issued by the Principal Certifying Authority.

Reason: To meet statutory requirements.

H. Continued Operations

H1. All vehicular movement to and from the site shall be in a forward direction to ensure that the proposed development does not give rise to vehicle reversing movements on or off the Public Road with consequent traffic accident potential and reduction in road efficiency.

Reason: To ensure compliance with Council's requirements.

H2. The sealing to all vehicular parking, manoeuvring and loading areas is to be maintained at all times.

Reason: To ensure compliance.

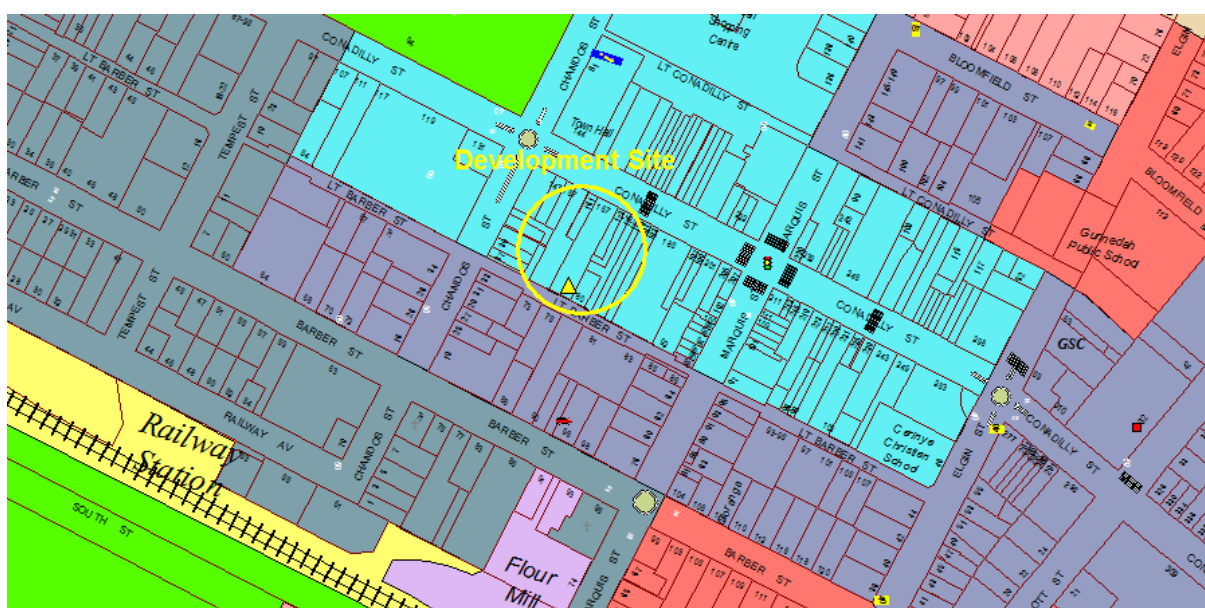
PURPOSE

The Development Application is being referred to Council as a submission has been received which contained matters that could not be satisfied as a condition of consent.

Applicant: Optus Mobile Pty Ltd
 Owner: Collygra Pty Ltd, D and C Waghorn, B Gleeson & J Hawkins
 Property Description: Lot 16 Sec 40 DP758492
 167-169 Conadilly Street, Gunnedah

Proposed Development

The development is seeking consent for the construction of a telecommunication facility (with a height of 22.5m, consisting of a monopole, antenna structure and ground infrastructure), and the demolition of part of an existing garage. The telecommunication facility will be located to the rear of the property along the boundary to Little Barber Street.



Site Location

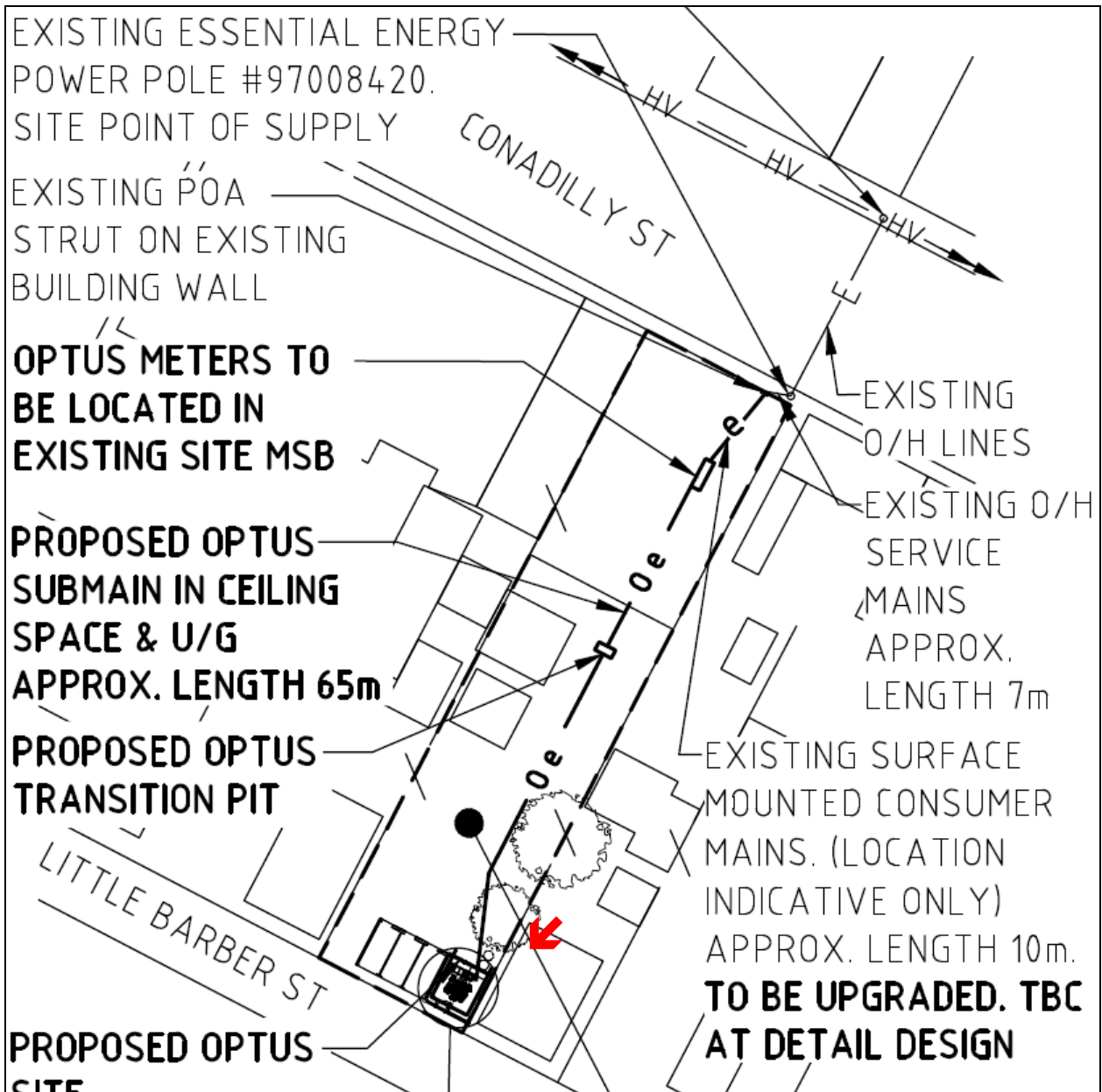


Figure 1 – Overall Site Plan

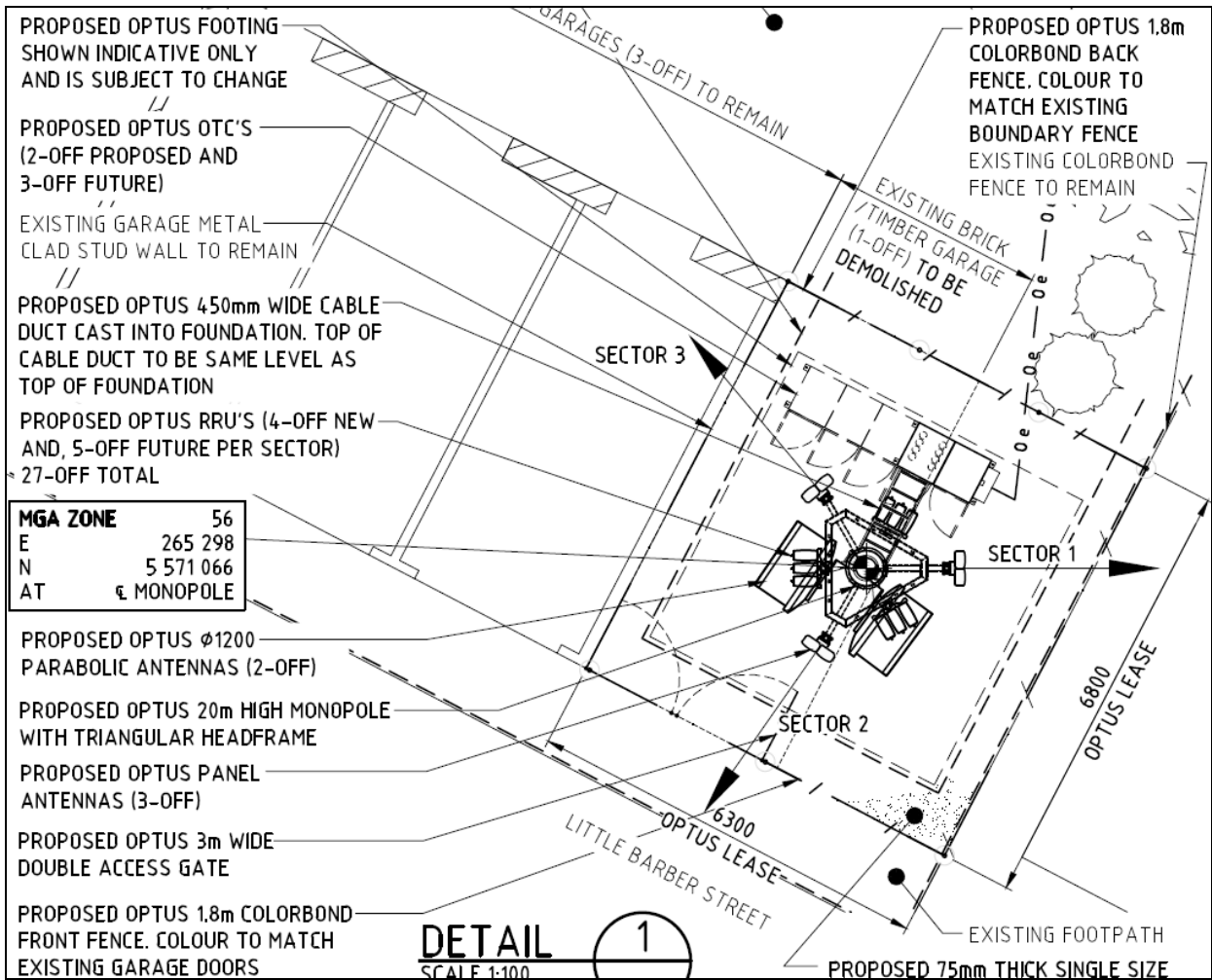


Figure 2 – Detailed Site Plan

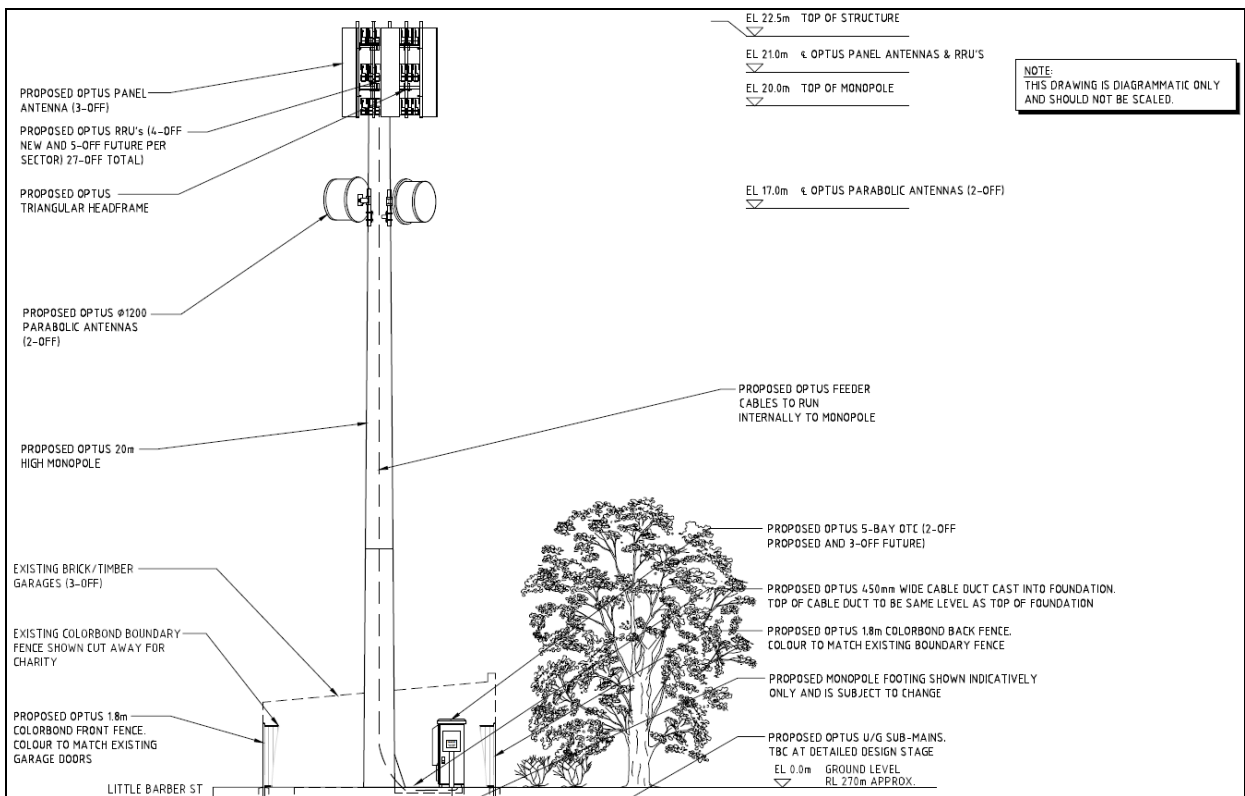


Figure 3 – Elevation Plan

COMMENTARY

**4.15(1)(a)(i) the provisions of any environmental planning instrument
Gunnedah LEP, 2012**

The development site is zoned B2 Local Centre under the provisions of the Gunnedah Local Environmental Plan, 2012 (GLEP 2012). The use of the development site as a telecommunications facility is permissible within the land zoning subject to development consent. It is considered that the development is consistent with the objectives of the B2 zone, being the construction of infrastructure that will support the viability of the Gunnedah business centre precinct. The following clauses from the GLEP 2012 are applicable to the development:

4.4 – Floor Space Ratio

The allowable floor space ratio for the development site is 1.5:1. The development involves the part demolition of an existing garage to enable the construction of a telecommunication facility. The existing site coverage is 715m². The removal of part of the existing garage reduces the site coverage by 24m² with the telecommunication facility to be undertaken on 48m² of the site. Hence, the resulting site coverage will be 0.4:1. The floor area does not exceed the floor space ratio.

6.2 – Airspace Operations

The telecommunication facility will have a height of 22.5 metres (top of structure). The Obstacle Contours Region level for this area has a ceiling height of 40 metres. The tower will not exceed the Obstacle Contours Region levels. The structure does not exceed a height that required referral to aviation authorities.

6.5 – Essential Services

The development site has the provision of existing services. There will be no increase in service demand as a result of the proposed development. The development site has frontage to Conadilly Street and Little Barber Street for pedestrian and vehicle access.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

The development site is less than 1 hectare in size and is not regarded as potential Koala habitat.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The current use of the site is as a hotel. The development application proposes to construct a telecommunication facility at the rear of the site. The proposed land use is not expected to result in contamination of the site. Information included in the submitted Statement of Environmental Effects and a search of Council's records does not identify a history of usage that would result in contamination of the site. Hence, no further investigation was required.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The development site is located within the B2 Local Centre zone which is identified within this SEPP as being a land zoning to which this SEPP applies. The development proposal does not include the removal of any trees or vegetation from the site.

4.15(1)(a)(iii) provisions of any development control plan**Gunnedah Development Control Plan 2012****1.8 – Consultation**

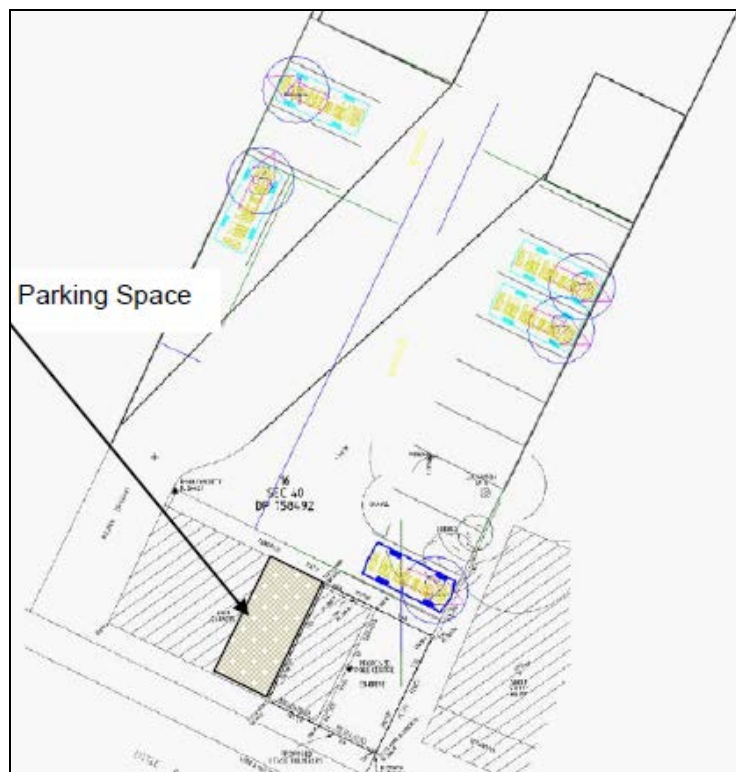
Due to the potential impact of the development, the application was placed on public exhibition for 21 days (extended the exhibition period due to the public holidays) and notified to the adjoining land holders. Council received one (1) submission of objection during the exhibition period. Matters raised within this submission are addressed further in this report.

6.2 – Parking

The proposed development of the telecommunication facility does not generate any increase in traffic or demand for additional onsite parking spaces. The site has an existing unmarked parking area and the provision of four (4) enclosed parking spaces. Part of the development proposal includes the demolition of one of the enclosed parking spaces to enable the construction of the new facility. There is a historical requirement for the provision of four (4) parking spaces within the garages located at the

rear of the site. As a consequence of the removal of the one parking space within the garage, the development will require the provision of this space elsewhere onsite.

An assessment of the unmarked parking area has determined that if it was to be formalised (see layout below), the site could accommodate the provision of 13 parking spaces onsite and 4 enclosed parking spaces, totalling 17 parking spaces. This development will result in the removal of one of these parking spaces. Hence, the parking layout is to be amended to ensure that a minimum of 17 parking spaces are provided onsite.



6.3 – Landscaping

The development site contains existing landscaping at the rear of the site, which is considered to be adequate.

6.4 – Outdoor Lighting

Current exterior lighting will be retained. No new lighting is proposed as part of these works.

6.6.1 – Environmental Effects

Traffic

The development will have no impact on the ability of vehicles to enter and exit the site in a forward direction. The existing vehicle access from Little Barber Street will be unchanged and will not be impacted by the development. Pedestrian access to the existing hotel will remain available directly from Conadilly Street. Due to the nature of the development, it will not generate any vehicle movements during the operation of the site, with a minor exception for maintenance workers. The temporary closure of Little Barber Street during construction is discussed later in the report.

Flood Liability

The development site is not identified as being flood prone during a 1 in 100 year flood event. The location of the telecommunication facility is also largely protected from flooding by the existing buildings in Conadilly Street.

Slope

The development site is flat, with minimal slope from the rear to the front of the site (Conadilly Street). The development does not require any extensive excavation or fill.

Construction Impacts

With residential properties located within the CBD area, specific construction hours are proposed. All construction materials and equipment are to be housed within the site.

Solid and Liquid Waste

The development will not generate any effluent or general waste. Hence, no waste disposal or sewer discharge measures are required. Existing waste disposal measures for the site will remain.

Air Quality (odour and pollution)

The development will not produce any odour or pollution from the ongoing operation of the telecommunication facility.

Noise Emissions

It is expected that the ongoing operation of the telecommunication facility will not result in any noise and vibration.

Water Quality

The development would not cause any decrease in water quality within the surrounding stormwater catchment or Council's water services. The development would not impact on underground water aquifers.

Sustainability

The development would not impact on the existing land use of the site. The potential radiation or Electromagnetic Emissions (EME) levels from the development is expected to be well below Australian Standards emission levels, identified as being approximately 1.28% of the Australian Radiation Protection Nuclear Safety Agency (ARPANSA) levels. The development is not expected to create any ongoing cumulative issues.

4.15(1)(b) *the likely environmental impacts on the natural and built environments and social and economic impacts in the locality*

Context & setting

The development site contains the Clubhouse Hotel, which is positioned along the Conadilly Street frontage with parking areas, outdoor dining areas and enclosed garages being located to the rear of the building. The site is located within the Gunnedah CBD with rear access from Little Barber Street. The surrounding area is predominately used for business and retail operations. The telecommunication facility is to be constructed at the rear of the site.

The facility will be visible and present within the surrounding locality with the facility having a total height of 22.5 metres, as measured from the natural ground level. As a result, the telecommunication facility will project above the surrounding buildings and be present within the skyline. The telecommunication facility will be located to the rear of the lot, fronting Little Barber Street. The existing buildings and surrounding developments will reduce the visual impact of the structure. However, due to the height of the structure, it will be visible above the surrounding roofline. The development will be more visible when viewed from within the Little Barber Street road reserve and from the surrounding businesses within Little Barber Street.

Council requested an artist impression, to determine the visual impacts that the telecommunication facility will have on the surrounding area and streetscape (provided below). These artist impressions show the visibility of the structure surrounding the site and within the CBD and its visibility against the skyline.



Figure 1. Artist impression – Intersection Little Barber Street & Chandos Street



Figure 2. Artist impression – Intersection Little Barber Street & Marquis Street

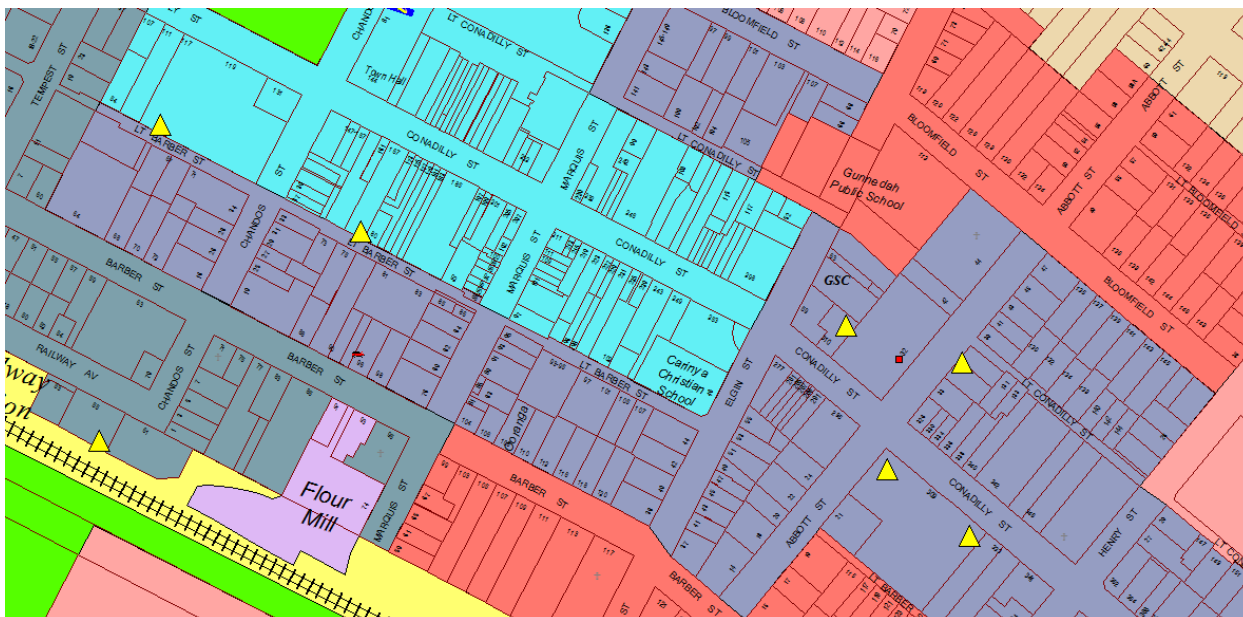


Figure 3. Artist impression – Intersection Barber Street & Chandos Street



Figure 4. Artist impression – Conadilly Street Street

The Statement of Environmental Effects included an investigation conducted by the proponent, into seven (7) potential development sites for the facility. These sites are depicted in the plan below. Of the 7 potential development sites, 6 sites were discounted due to a number of reason, including sites not offering the coverage required, this development causing potential restriction on future developments, owners not accepting of proposal or the existing infrastructure unable to accommodate the capacities required for the development. As a result, the development site was selected as the most appropriate site, for the development.



Access, transport and traffic

The development will not result in any additional vehicle movements to or from the site. The surrounding road network is bitumen constructed with kerb and guttering and meets the current design standards for traffic within the road network. The road widths are suitable for on street parking along Conadilly Street and adequate carriageways for traffic flows in each direction. The development would not impact on pedestrian and disabled access to the site, with all existing access to be retained. Vehicle access to the site will be from the rear of the site being from Little Barber Street.

During the construction, the application identifies that a temporary closure of Little Barber Street would be required to enable the use of machinery within the road reserve. This section of Little Barber Street is limited to one way traffic. It is recommended that a traffic management plan be submitted to Council and be approved, prior to the issue of a Construction Certificate to ensure that the proposed traffic management procedures are acceptable and consistent with Council's procedures.

Heritage

The development site does not contain any identified items of environmental heritage, nor are there any on the adjacent allotments. The site is located in close proximity to the Gunnedah Clock Tower at the town hall, which is identified as of local heritage significance. Due to the distance of the proposed facility from the Gunnedah Clock Tower, it is expected that there is minimal impact on the heritage listing of this item (as seen in Figure 4 above in the report).

Safety, security & crime prevention

The development would not result in any decrease in safety, security and prevention of crime in the surrounding area. It is not envisaged that the development would encourage unsocial behaviour within the surrounding locality. The development will include the construction of a 1.8 metre high colour bond fence for security purposes.

Social & Economic impact in the locality

The development is not expected to generate any increase in employment within the community. As noted previously in the report, the Electromagnetic Emissions (EME) levels from the development are expected to be well below Australian Standards emission levels. Hence, it is regarded that the construction of the facility will not result in any public health issues from increased radiation from radio frequencies.

The telecommunication facility within the CBD will enable the upgrade of the local service by Optus and provide competition within the market. The provision of the new facility will provide a broader coverage and improving mobile phone service within the locality.

Site design and internal design

The development would require the part demolition of an existing garage to create a suitable area for the construction of the telecommunication facility. The facility is to be located at the rear of the property. The site has direct access to Little Barber Street. There will be no alteration to the Conadilly Street frontage.

The proposed facility at the rear of the property will be adjoining an occupied residential dwelling. The proximity of the development to the dwelling house does result in a visual impact on the residence due to the size, scale and the separation between the building and the proposed structure. The proposed colour of the structure will also limit the visual impact. The telecommunication facility is not expected to create any adverse overshadowing of the residence. It is noted that the development site is located within the CBD, where there is limited residential development and a need for greater mobile phone coverage. The development site was chosen to limit the visual impact on residential properties.

Construction

Any demolition works are to be completed in accordance with AS2601-2001 "The Demolition of Structures" and the requirements of the Workcover Authority of New South Wales. Any construction works must be compliant with the Building Code of Australia.

4.15(1)(c) the suitability of the Site for the Development

The development will have little impact on the existing development onsite, with the structure being located to the rear of the site, clear of the existing operation of the hotel. The development will not require the removal of or alteration to any existing access to the site. The development site is not identified as being bushfire or flood prone land. There will be no need for the removal of any trees from the site.

The development will result in the construction of a telecommunication facility with a height of 22.5 metre. The facility will project above the surrounding skyline and will be visually present within the CBD. The submitted artist impressions illustrate that the facility will be visible within the CBD above the surrounding rooflines. The area of greatest visual impact is when the structure is viewed from Little Barber Street. However, the visible barriers created by the surrounding buildings and the width of the road reserve along Little Barber Street will reduce the visual impact and hence the development site is considered to be suitable for the development.

4.15(1)(d) any submissions made in accordance with this Act or the regulations

The Development Application was placed on public exhibition for a period of 21 days, including notification to adjoining land holders and advertised in the local paper. During the exhibition period, Council received one (1) submission. Matters raised in this submission are as follows:

- *Dominance on the local area*
Artist impressions were requested from the proponent illustrating the size and scale of the development in relation to the surrounding area. The artist impressions depict the telecommunication monopole protruding above the roofline of adjoining residences when viewed from adjoining public road reserves. The telecommunication facility is expected to be visible within the surrounding locality and within the public reserves of the CBD. However, the visual impact illustrated in the artist impressions, is minimal. The positioning of the facility will result in the visual impact being reduced, due to the screening of by adjoining buildings. The facility is not visible when viewed from outside of the street block, within which it is situated. The proposed grey tone of the structure is expected to minimise the impact on the skyline when viewed from a distance.
- *Impact due to overhang and size of facility on adjoining residence*
The location of the monopole, as part of the telecommunication facility, is not expected to create any significant overshadowing of the adjoining properties, due to its shape.
- *Impact on value of land*
The impact of development on the value of land is not a consideration for Council as part of a development application and assessment process.

- *Appropriateness of the facility to be located within the CBD*
The proposed telecommunication facility is a permitted land use within the CBD. The facility has been located to the rear of the existing hotel, reducing the visual impact on the main street. The site was chosen as it will enable the facility to provide the best possible coverage to the businesses within the Gunnedah commercial area and outside a residential location.

4.15(1)(e) the public interest

The application did not require any referral to external public agencies. There are no relevant planning studies, strategies or management plans that are applicable to the proposed development.

Conclusion

The Development Application is seeking consent for the demolition of part of an existing garage and construction of a telecommunication facility which includes the construction of a 22.5 metre high structure consisting of a monopole, array panels and ground infrastructure. The application has been assessed under the provision of the *Environmental Planning and Assessment Act 1979*. The evaluation of this Development Application has concluded that the proposed development is compliant with the legislative requirements for this development.

As per the recommendation of this report, it is concluded that Development Application No. 2017/095, at 167-169 Conadilly Street, Lot 16 Sec 40 DP 758492, should be approved subject conditions.

ITEM 2 Development Application No. 2018/022 – Change of Use to a Food and Drink Premises, replacement of Signage and construction of Access Ramp – Lot 3 and 4 DP29920 – 215 Conadilly Street and 111 Marquis Street, Gunnedah

MEETING	Planning, Environment and Development – 2 May 2018
DIRECTORATE	Planning and Environmental Services
AUTHOR	Town Planner
POLICY	Nil
LEGAL	Environmental Planning & Assessment Act, 1979 Gunnedah Local Environmental Plan, 2012 Gunnedah Development Control Plan, 2012
FINANCIAL	Nil
STRATEGIC LINK	Community Strategic Plan 2.4.5 Implement and advocate for planning strategies and systems that are streamline to foster and encourage the establishment of new business Operational Plan 2.4.5.1 Ensure compliance with legislation through assessment of development applications
ATTACHMENTS	NIL

OFFICER’S RECOMMENDATIONS:

That the Development Application No. 2018/022, for the change of use to a Food and Drink Premises, replacement of signage and construction of access ramp, at Lot 3 and 4 DP29920 – 215 Conadilly Street and 111 Marquis Street, Gunnedah be approved subject to the following conditions of consent:

- A. That development consent be granted subject to the following conditions:

- A1.** The proposed development shall be carried out generally in accordance with the details set out in the following:
- Development Application form lodged 08 March 2018;
 - Statement of Environmental Effects, prepared by Art + Science, dated January 2018 and emailed correspondence, received 12 April 2018; and
 - Submitted plans:
 - Prepared by Art + Science, dated 09/03/2018, Project No. Vigor_J0118, Drawing No. 102 (Plans – Gorund, General Arrangement, Front Elevation);
- except as otherwise provided by conditions of consent.

Reason: To ensure compliance with application and plans.

B. Prescribed conditions

Note: The following conditions are prescribed conditions and may or may not relate directly to this development.

B1. Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

(cf clauses 78 and 78A of EP&A Regulation 1994)

- (1) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
- (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
 - (b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (1A) For the purposes of section 80A (11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.
- (2) This clause does not apply:
- (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
 - (b) to the erection of a temporary building, other than a temporary structure to which subclause (1A) applies.
- (3) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:
- (a) development consent, in the case of a temporary structure that is an entertainment venue, or
 - (b) construction certificate, in every other case.

Note. There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.

Reason: To ensure compliance with the statutory requirements.

B2. Erection of signs

- (1) For the purposes of section 4.17 (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note. Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

Reason: To ensure compliance with the statutory requirements.

C. Prior to Commencement of Building Works

- C1.** Prior to the commencement of any building works the developer is to apply to an Accredited Private Certifier or Council for a Construction Certificate for the erection of the building. **NO BUILDING WORKS SHALL COMMENCE WITHOUT FIRST OBTAINING A CONSTRUCTION CERTIFICATE.**

Reason: To meet statutory requirements.

- C2.** Prior to work commencing appropriate measures are to be implemented in relation to erosion and sediment control. Such measures are to be maintained during the construction of the development in accordance with Council's Gunnedah Development Control Plan 2012.

Reason: To ensure erosion and sediment control on the development site.

D. General

- D1.** Compliance with the Food Act 2003 and Food Safety Standard's and "AS4674-2004 – Design, Construction and Fit-out of Food Premises" is required in respect to all aspects of this food business.

Reason: To ensure compliance.

- D2.** The premises are to be provided with access for disabled persons facilities that comply with AS1428.1

Reason: To ensure compliance.

- D3.** A building in respect of which there is a change of building use must comply with the Category 1 fire safety provisions applicable to the proposed new use.

Note: The obligation under this subclause to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in the relevant development consent and in this clause, **Category 1 fire safety provision** has the same meaning as it has in Part 7B.

Reason: To meet statutory requirements.

- D4.** The WC compartments comprising an airlock which has an area of not less than 1.1m² are to be fitted with self-closing doors at all access doorways or the room containing the closet pan or urinal must be provided with mechanical exhaust ventilation and the doorway to the room adequately screened from view pursuant to Clause F.4.9 of the BCA.

Reason: To ensure compliance.

- D5.** Provide engineers certificate for the structural adequacy of the under awning sign in accordance with:
- (i) AS/NZS 1170.0:2002, Structural design actions, Part 0: General principles, and
 - (ii) AS/NZS 1170.2:2011, Structural design actions, Part 2: Wind actions, and

Reason: To ensure compliance.

E. During Construction Works**E1. Inspections by Council**

48 hours prior to the covering of the following works, Council shall be notified by the licensed builder, owner builder or licensed plumber/drainer that the following works are ready for inspection:

- (a) internal drainage under water test
- (b) external drainage under water test
- (c) water plumbing
- (d) Final inspection of water plumbing, sanitary drainage and stormwater drainage.

(NB) An accredited certifier may not be substituted for Council in respect of these inspections, as Council remains the sole responsible authority for these matters.

Reason: To ensure compliance before, during and after construction.

E2. Inspections by the Principal Certifying Authority – Mandatory Critical Stage Inspections

48 hours prior to the covering of the following works, the Principal Certifying Authority appointed pursuant to Section 81(2)(b) of the Environmental Planning and Assessment Act 1979 shall be notified that works are ready for inspection. (Note: Inspections in **bold type** are mandatory critical stage inspections under the Act and **MUST** be carried out by the Principal Certifying Authority. If these inspections are not carried out by the Principal Certifying Authority an Occupation Certificate cannot be issued).

(k) **Final inspection prior to use of the building.**

The above listed works may not be covered until approval is obtained from the Principal Certifying Authority or his/her duly appointed delegate.

Reason: To ensure compliance before, during and after construction.

- E3.** A stamped copy of the development consent, the approved plans and specifications are to be kept at the construction site at all times during the construction period.

Reason: To ensure compliance with approved application and plans.

- E4.** No permanent structures are to be placed on any easement.

Reason: To ensure legal requirements.

E5. Protection of public places

If the work involved in the alteration of a building:

- (c) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- (d) building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

Reason: To ensure site safety.

- E6.** Work on the development shall be limited to the following hours to prevent unreasonable disturbance to the amenity of the area:-

Monday to Friday	-	7.00am to 5.00pm;
Saturday	-	8.00am to 1.00pm if audible on other residential premises, otherwise 7.00am to 5.00pm;

No work to be carried out on Sunday or Public Holidays.

Note: The builder shall be responsible to instruct and control sub-contractors regarding the hours of work.

Council will exercise its powers under the Protection of the Environment Operations Act, 1997, in the event that the building operations cause noise to emanate from the property on Sundays or Public Holidays or otherwise than between the hours detailed above.

Reason: To ensure amenity of the neighbourhood is maintained.

F. Prior to issue of an Occupation Certificate

- F1.** Occupation of the building is not to occur until all work has been completed, the conditions of consent satisfied and an Occupation Certificate issued by the Principal Certifying Authority.

Reason: To meet statutory requirements.

- F2.** Prior to the issue of an Occupation Certificate, the developer is to provide evidence that an easement for services with a minimum width of 6.755m under Part 9, Schedule 4A of the Conveyancing Act 1919, is registered to the land title of Lot 4 DP 29920 in favour of Lot 3 DP 29920.

Reason: To ensure that legal right for services is registered to the land title of Lot 4 DP 29920.

- F3.** A Compliance Certificate for each stage under Division 2 of Part 3 of the Water Supply Authorities Act 1987 must be obtained from the Council (as the local water supply authority).

Note: Council requires the following contributions to be paid prior to issuing a compliance certificate to allow continued funding of water and sewer facilities.

- \$3,059.10 for Water headworks
- \$4,199.23 for Sewer headworks

The contributions shall be paid prior to the issue of an Construction Certificate.

The contributions are determined in accordance with the Development Servicing Plan for Gunnedah Shire Council Water Supply and Development Servicing Plan for Gunnedah Shire Council Sewerage commencing on 01 July 2012, a copy of which may be inspected at the office of the Council. The above contributions have been adopted under the Council's 2017/2018 Operational Plan. Revised rates adopted by Council in the subsequent Operational Plans will apply to lots released in later financial years.

Reason: To ensure compliance with Council's Development Services Plans.

G. Continued Operations

- G1.** The advertisement and advertising structure shall be maintained in a good condition and be structurally sound at all times. The advertising structure shall be securely fixed to the awning.

Reason: To ensure compliance and ensure public safety.

- G2.** The development operating hours are limited to the operation of the premises between the following hours:
- Monday – Sunday: 8:30am until 8:30pm

Reason: To ensure compliance with application and plans.

PURPOSE

The Development Application is being referred to Council for determination as the development application requires a variation to a development standard within the Gunnedah Development Control Plan 2012.

Applicant: J Vigor
Owner: Mr M Brady
Property Description: Lot 3 and 4 DP29920
215 Conadilly Street and 111 Marquis Street, Gunnedah

Proposed Development

The Development Application is seeking consent for the change of use of the ground floor of the property from an office premises to a food and drink premises, replacement of signage and construction of an access ramp. The second floor of the property will be retained as an office premises.

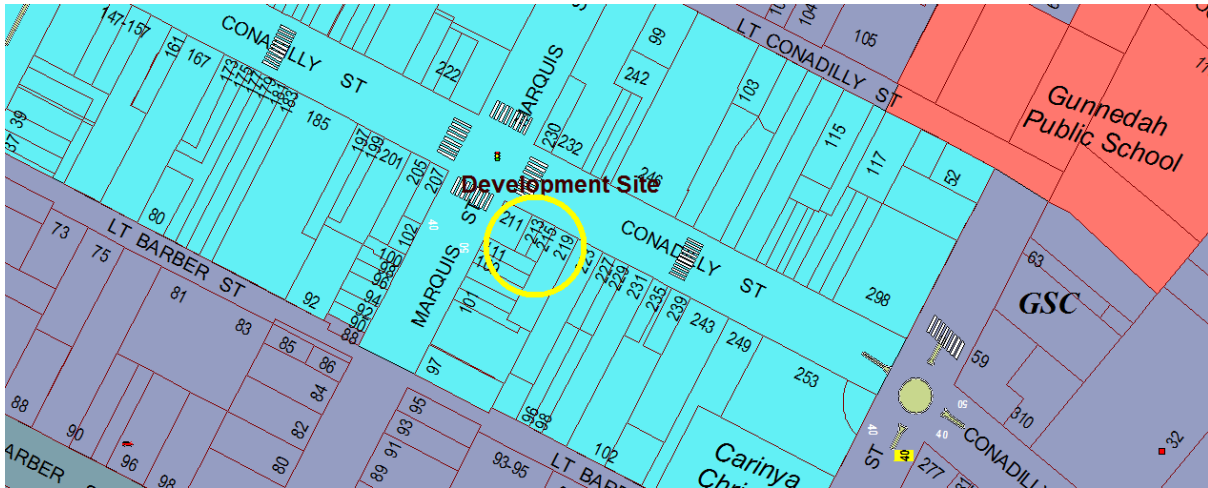


Figure 1, Site Location

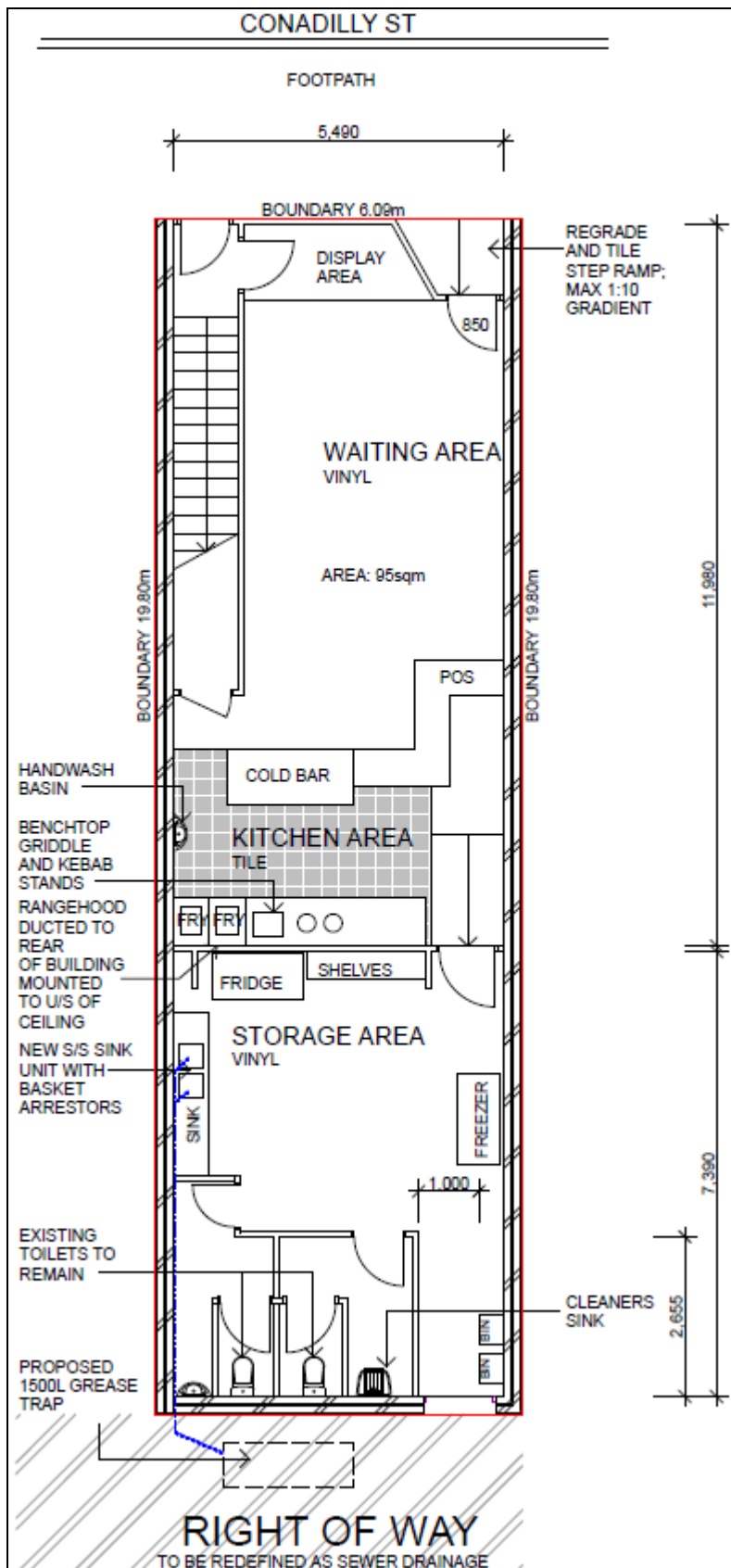


Figure 2, Site Plan

COMMENTARY

Issues

4.15(1)(a)(i) the provisions of any environmental planning instrument

Gunnedah LEP, 2012

The development site is zoned B2 Local Centre under the provisions of the Gunnedah Local Environmental Plan, 2012 (GLEP 2012). The use of the development site as a food and drink premises is permissible within the B2 Zone. It is considered that the development is consistent with the objectives of the B2 zone, being a retail activity within the CBD.

4.4 – Floor Space Ratio

The floor space ratio for the development site is 1.5:1. The site is currently compliant with the floor space ratio. The development will not result in an increase in floor space of the building. Hence, the development will not increase the floor space ratio in excess of the maximum allowable onsite.

6.5 – Essential Services

The development site has the provision of water, sewer, telecommunication and electrical services to the site. Council’s stormwater network is located along the lot frontage within Conadilly Street. The development site has frontage to Conadilly Street for pedestrian access to the site. Vehicle access is provided via an existing right of access providing access in favour of this lot from Little Barber Street.

Due to the physical constraints of the site, the development will require the placement of a grease trap and storage of site collection bins on the adjoining allotment, being Lot 4 DP 29920, 111 Marquis Street, see Figure 2 for details. This lot has been included in this application. To enable the provision of these services on this lot an easement is to be created over this lot to ensure a legal right to have these services within this adjoining lot. A condition has been included within the recommendation for this report, that the registration of this easement over the title of Lot 4 DP 29920 be completed prior to an occupation certificate being issued, to ensure that it is registered on to the land title.



Figure 3, Easement for Services

State Environmental Planning Policy No. 44 – Koala Habitat Protection

The development site is less than 1 hectare in size and hence cannot be regarded as potential Koala habitat under the provision of the SEPP.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The development application proposes the change of use to the premises onsite to a Food and Drink Premises and hence an assessment was required to investigate the potential for contamination of the sites soils. A search of Council’s records does not identify any history of use of the site that could potentially lead to site contamination.

The proposed land use is not expected to result in contamination of the site. Information included in the submitted Statement of Environmental Effects and a search of Council's records does not identify a history of usage that could potentially result in contamination of the sites soils. Hence, no further investigation was required.

State Environmental Planning Policy (*Vegetation in Non-Rural Areas*) 2017

The development site is located within the B2 Local Centre zone, which is identified within this SEPP as being a land zoning to which this SEPP applies. The development proposal does not include the removal of any trees or vegetation from the site.

4.15(1)(a)(iii) provisions of any development control plan

Gunnedah Development Control Plan 2012

1.8 – Consultation

Due to the development proposing a variation to a development standard within the Gunnedah Development Control Plan 2012, the development was notified to the adjoining land holders. The application was notified and placed on public exhibition. No submissions were received.

3.1 – Building Setbacks

The development will not result in any alterations to the footprint of the building onsite. The construction of the access ramp will be constructed entirely within the property boundaries.

3.5 – Utilities

The development site has existing provision of Council's sewer and water services. The change in land use will result in an increase in demand being placed on Council's services. Council's S64 Development Servicing plan for water and sewer are applicable to this development. The contributions have been calculated as being \$3,059.10 for water and \$4,199.23 for sewer. A trade waste application has been lodged with Council for the discharge of trade waste to Council's sewer network.

3.7 – Parking

The development site does not contain any onsite parking spaces as the building is constructed to the lot boundaries. A search of Council's records does not note the payment of a contribution towards onsite parking under Council's former S94 Contributions Plan.

Car parking space provision is based on the increase in demand based on the new proposed use. The proposed change of use to a food and drink premises will require the provision of 1 parking space per 25m² of Gross Leasable Floor Area. The measured leasable floor area is 94.8m². The change of use will result in a parking demand of 4 spaces. As the previous use required provision of 3 spaces, a credit of 3 spaces has been granted. Hence, the increase in parking demand generated by the development will be 1 space.

The development is seeking a variation to Council's Development Control Plan regarding the additional onsite parking demand generated by the change of land use. The variation noted that the additional space required cannot be provided onsite due to the physical constraints of the site. Due to the short time frame that a customer would visit this type of development, it is considered that vehicle parking demand from this development will not create long period parking demand and hence the exclusion of this parking space will not generate overuse of Council's parking facilities. It is considered that Council's on street parking and public carparks within the CBD are capable of accommodating the required additional one vehicle space.

4.15(1)(b) *the likely environmental impacts on the natural and built environments and social and economic impacts in the locality*

Context & setting

The development site is located along Conadilly Street and is located within the Gunnedah Central Business District (CBD). The site contains a two storey building, with both floors of the property being

approved for office use. The surrounding area is predominately used for business and retail operations.

Access, transport and traffic

The surrounding road network is bitumen constructed with kerb and guttering. The road widths are suitable for on street parking along Conadilly Street and adequate carriage ways for traffic flows in each direction. The creation of the access ramp to the front entry from Conadilly Street will enable pedestrian and disabled access to the site with all existing access to be retained. Vehicle access to the site will be from the right of way from Little Barber Street.

Safety, security & crime prevention

The development will not result in any decrease in safety, security and prevention of crime in the surrounding area. It is not envisaged that the development will encourage unsocial behaviour within the surrounding locality. The operational hours will be consistent with other food and drink premises and restaurants within the Gunnedah CBD.

The development application was referred to the NSW Police Force for 21 days, in accordance with the Protocol for the Review of Development Application between New South Wales Police Force and Gunnedah Shire Council. The protocol enabled the incorporation of Crime Prevention Through Environmental Designs principles within the development assessment process by the NSW Police. No comment was received by Council during the referral period. Hence, it was regarded that the NSW Police did not have any comment in relation to this proposal.

4.15(1)(c) the suitability of the Site for the Development

The proposed development is consistent with the existing and future development in the locality. The development has access from a public road and provision of services to the site. The site is not identified as being bushfire or flood prone and does not contain an item of heritage significance.

4.15(1)(d) any submissions made in accordance with this Act or the regulations

The Development Application was notified to adjoining land holders and placed on public exhibition for a period of 14 days. Council did not receive any submissions during the exhibition period.

4.15(1)(e) the public interest

There are no relevant planning studies, strategies or management plans that are applicable to the proposed development.

Conclusion

The Development Application is seeking consent for the change of use to a Food and Drink Premises, replacement of signage and construction of access ramp. The application has been assessed under the provision of the *Environmental Planning and Assessment Act 1979*. The evaluation of this Development Application has concluded that the proposed development is compliant with the legislative requirements for this development.

As per the recommendation of this report, it is concluded that Development Application No. 2018/022, at 215 Conadilly Street and 111 Marquis Street, Lot 3 and 4 DP 29920, should be approved subject conditions.

Andrew Johns
DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES

Shire of
Gunnedah
Land of Opportunity
