



NOTICE OF MEETING

NOTICE is hereby given that a **Meeting of the Community Services and Planning Committee** will be held in the Roxy Meeting Room Bingara, on **Thursday 11 March 2021** (commencing at **9.15 am**) to discuss the items listed in the Agenda.

Your attendance is respectfully requested.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Max Eastcott".

Max Eastcott
General Manager

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GWYDIR SHIRE COUNCIL

B U S I N E S S P A P E R

AGENDA

COMMUNITY SERVICES AND PLANNING

COMMITTEE

March 11, 2021

9.15 am

OFFICIAL OPENING AND WELCOME – MAYOR

APOLOGIES

CONFIRMATION OF THE MINUTES

RECOMMENDATION:

THAT the Minutes of the Community Services and Planning Committee held on Thursday, November 12, 2020 as circulated be taken as read and CONFIRMED.

PRESENTATION

CALL FOR THE DECLARATIONS OF INTERESTS, GIFTS RECEIVED AND CONFLICTS OF INTEREST

COMMITTEE OF THE WHOLE - CONFIDENTIAL ITEMS

1. Request from the Warialda Chamber of Commerce

It is recommended that the Council resolve into Committee of the Whole with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (b) of the Local Government Act, 1993, on the grounds that the report contains a discussion in relation to the personal hardship of a resident or ratepayer.

MAYORAL MINUTE (If any)

DEFERRED ITEMS – Nil

OFFICERS' REPORTS (As listed)

COMMITTEE OF THE WHOLE – OPEN

Councillors' Reports

Item 1 Monthly Town Utilities Report for February 2021

FILE REFERENCE 21/5016

DELIVERY PROGRAM

GOAL: 5. Organisational Management

OUTCOME: 5.1 CORPORATE MANAGEMENT

STRATEGY: 5.1.3 Administrative functions - GM - internal

AUTHOR General Manager

STAFF DISCLOSURE OF INTEREST Nil

TOWN UTILITIES

This report details the work carried out by Town Utilities during February.

Water and Sewer

During February, Water and Sewerage operators attended 25 service line repairs and three water main breaks and repaired six sewer blockages. Other work was undertaken at the Warialda Truckwash facility, The Living Classroom, Myall Creek, The Roxy, Bingara swimming pool, Bingara Caravan Park and Whitfeld Place, Bingara.

Ten members of the Bingara U3A group enjoyed a tour of the Bingara Water Treatment Plant on Monday 11 February. The group showed a lot of interest and were appreciative of the tour.



Bingara U3A group at Water Treatment Plant

Truck wash data for February

There were 45 trucks use the facility in February, average wash down time was 55 minutes and total water used was 195KL. The estimated income for February is \$2,444 less monitoring fees.

Grant Projects

Federal Drought Program

All Abilities Park – shade sails, turf and irrigation will be included as part of the Federal Drought funding. Prices for landscaping and turf have been requested and work will be undertaken during March. Shade Sails have been measured and quotations requested.

New fencing was erected at Bingara pool and Cunningham Park during February.



New fence at Bingara Pool

A new 350KL Rhino water tank was installed at Upper Horton during February as part of the project to improve water supply to the sports ground; it will also be used for storage of water for fire-fighting.



New tank installed at Upper Horton

State Drought Program

Cunningham Park shelters and BBQ have been ordered and will be installed by end of June 2021. The structures are similar to the Gwydir river foreshore shelters.

Plans have been developed for Cunningham Park toilet block. The new toilet block will be installed facing Copeton Dam Road and will include an accessible toilet. Work is expected to start on the building in April 2021. When complete the old existing toilet block will be demolished and a picnic shelter installed in the same location.

COVID 19 – Stimulus Program

Funding has been received under the Covid 19 Stimulus Package to erect shelters and picnic tables in both Captain Cook Park and Nicholson Oval, Warialda.

Batterham's lookout in Bingara will also have major works undertaken including guard rails and barrier fencing under this funding program.

Crown Land Phase 2 Stimulus funding

Request for quotations for the refurbishment of the Grandstand at the Bingara Showground was advertised in February. Three local builders have shown interest in the project.

Parks and Gardens

As part of the town improvements in Bingara, a number of Chinese Pistachio trees were planted in West Street, Bingara during February. Work has commenced in Riddell Street outside the school to plant additional trees.



Trees in West Street

All parks and gardens continue to be maintained. Council undertakes weekly inspections of playgrounds and cleaning of handrails and touch areas.

Mowing, weed control, irrigation, hedging, and trimming were routinely undertaken during February.

Myall Creek and the Glacial area are inspected on a weekly basis.

Workshops and Depots

Following a request to Council by the Warialda Rotary Club in November, a lockable gate has been fitted in the fence on the walkway over Reedy Creek to allow the Rotary Club access to mow the creek bank.



New gate in fence over Reedy Creek

As part of the Gwydir River Foreshore Management Plan, Council agreed to install 'honesty boxes' in six of the free camping areas along the Gwydir River allowing campers to contribute. The locked boxes will be concreted into the ground to a depth of 1 metre.



Anthony Logan with one of the honesty boxes

Staff

One new Heavy Commercial Vehicle apprentice and two school based trainee mechanics commenced in February.

Workshops

| | |
|--|-----|
| Total number of services for the month - Bingara and Warialda | 27 |
| Total number of individual jobs for the month - Bingara and Warialda | 103 |

Repairs completed in Warialda workshop.

P1684 Compactor - remove and replace exhaust manifold (cracked); replace all brake lines and brake shoes and have boosters repaired; clean out radiator; check operation of air conditioning; change all diffs and planetary

P1933 lime spreader truck - fit new batteries

P1713 Jet master - repairs to PTO; fit rear broom; repairs to bent rear hopper

P1905 Toro mower - replace worn out deck

P1662 Isuzu water cart - replace air valves x 3 and brake booster; repairs to air conditioner

P1715 light truck - replace batteries x 2

P1317 slasher - replace clutches x 4

P1963 Versatile tractor - fit new batteries

P1474 Ammann pad foot roller - fitting of hard facing plates to pads (welding)

P1931 Kia Carnival - sent to Tamworth to have gearbox recalibrated

P1891 Reclaimer - repairs to water delivery hose

P1857 Naroo car - service and install 2 new tyres.

P1950 Kubota skid steer - install 2 new brooms.

P1851 Toyota Kluger - replace right hand front wheel bearing

P1686 Isuzu light truck - replace front shackle pins and bushes

Repairs completed in Bingara workshop

P1437 light truck - repair coolant leak

P1428 Western Star - repairs to air conditioner

P1717 Toyota utility – replace engine

P1655 utility - repairs to fuel tank wiring

P1629 light truck - fit 2 new tyres

P1677 utility - fit 2 new safety lights and 2 new front tyres

P1464 Jet patcher truck - fit 3 new tyres

P1721 grader - fit new cutting edge

P1133 mini roller - fit new scraper arms

P1464 excavator fit new track roller fit new pin to hitch

P1786 water cart - rebuild PTO pump

P1827 Toro mower - repairs to PTO

P1866 tractor - fit new rear tyre

P1725 tractor - repairs to front hub

P1466 Jet patcher - electrical repairs to auxiliary motor



P1684 – Compactor – in for major repairs

OFFICER RECOMMENDATION

THAT the report be received

ATTACHMENTS

There are no attachments for this report.

The internal demolition of the building was undertaken prior to the lodgment of this development application.

Site location

The proposed development is to be situated on the allotment known as Lot 94, DP 664155, 49 Railway Parade, Gravesend and is owned by Craig and Kate Warby (the applicant). The property is located within the village of Gravesend with road frontage to Railway Parade, which forms part of the Gwydir Highway, a major highway running east-west (generally) through the northern section of NSW. The village of Gravesend is located west of Warialda (26km), 46 kilometres North West of Bingara and 54 kilometres East of Moree (see Figure 1 – Location Map below). The property does not have access to the urban laneway, known as Old Church Lane, along the southern boundary but have requested an access be provide as a part of this development. According to land title records the total area of Lot 94, DP 664155 is 1012 square metres (See Figure 2 – Property Map).

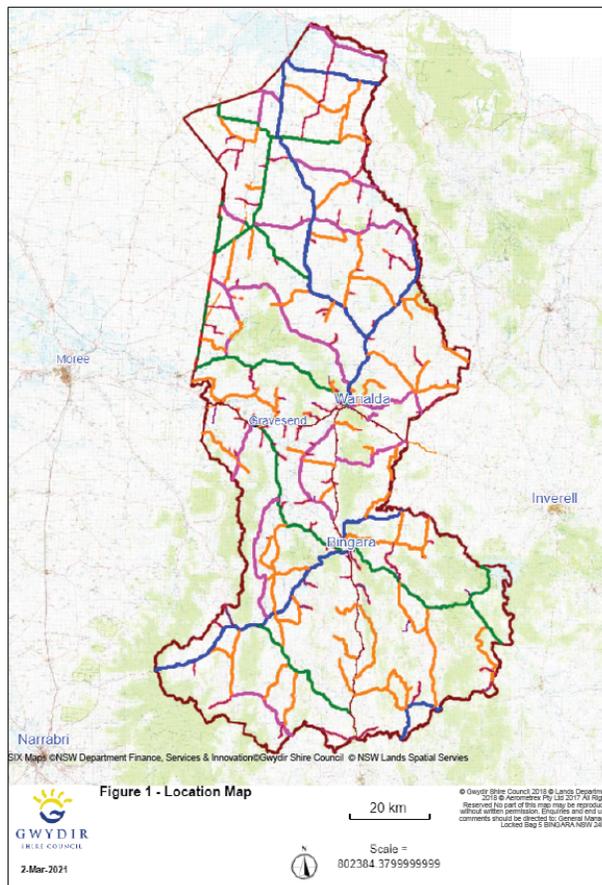


Figure 1 – Location Map



Figure 2 – Property Map

Site Description and Uses

The existing building located on 49 Railway Parade was erected in or shortly after 1957 as a bank by National Australia Bank (BA 11/57). The building was then converted to a dwelling in 1980 (BA 47/80). The current proposed change of use will convert the building from a dwelling to a neighbourhood shop/café/take away food and drink premises and will include areas to eat in.

The subject land slopes away from the road frontage with Railway Parade at approximately 1-5%. The site soils are classified as chromosols consisting of red-brown earths (sandy loam to light clay loam overlying a clay subsoil with a coarser texture). The land is classified as a category 4 according to the Land and Soil Capability Mapping for NSW. Category 4 land have moderate to severe limitations for cultivation and livestock grazing. The soils are not identified as having salinity or acid sulphate issues.

Surrounding land uses

The property 49 Railway Parade is bounded by a dwelling to the west (47 Railway Parade), an unoccupied shop with detached occupied dwelling to the east (51 Railway Parade), the Gravesend Hotel across Railway Parade to the north (16 Railway Parade) and an occupied residential property across Old Church Lane to the south (10-14 Old Church Lane). The predominant use/s of the surrounding properties is residential and commercial.

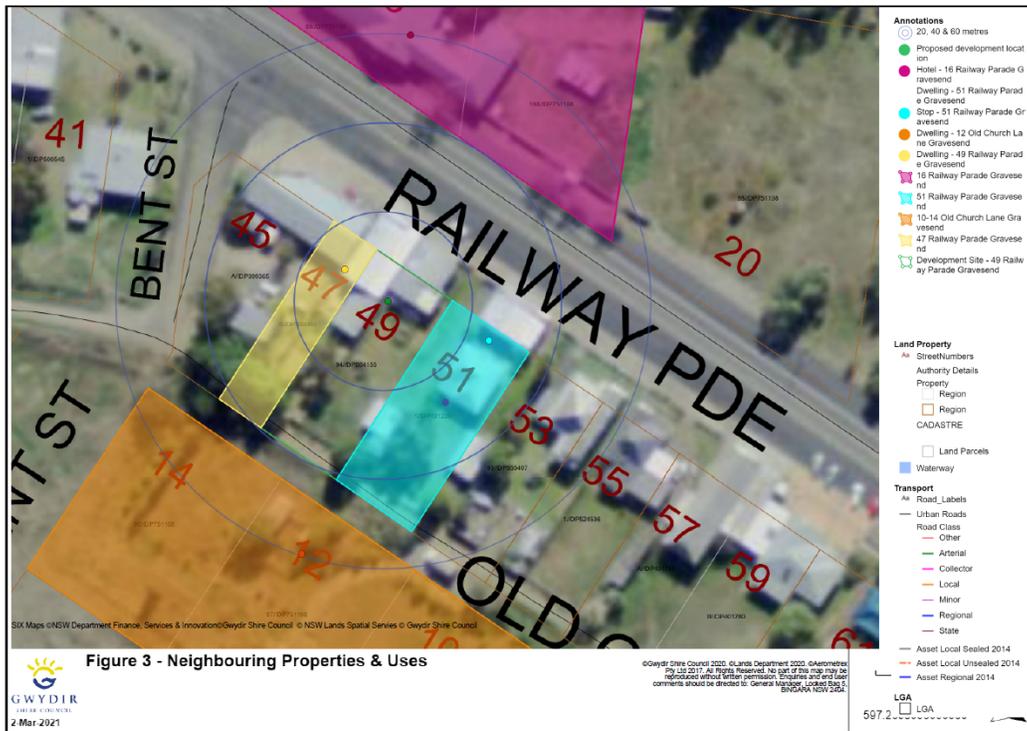


Figure 3 – Neighbouring Properties and Uses



Figure 4 – Site Analysis

Figure 3 above depicts the location of the proposed development site in relation to neighbouring properties and their uses. Figure 4 above provides further detail of distances between the proposed development and the neighbouring buildings which is also provided in Table 1 below.

| Locations | Direction | Approx. Distance (m) from proposed development and neighbouring building |
|----------------------------|-----------------|---|
| Dwelling 47 Railway Parade | West northwest | 3 |
| Dwelling 12 Church Lane | South west | 55 |
| Dwelling 51 Railway Parade | South southeast | 10 |
| Shop 51 Railway Parade | East | 7 |
| Hotel 16 Railway Parade | North | 30 |

Table 1 Location of adjoining and nearby properties

The closest dwelling to the proposed development is 47 Railway Parade, Gravesend. An external fire rated wall (FRL 90/90/90) will be installed along the entire western wall of 49 Railway Parade in accordance the National Construction Code – Building Code of Australia for Class 6 building. Additionally, there will be no windows along this wall to prevent privacy impacts and the transference of noise and/or fire. The other building of concern is the detached dwelling located behind the shop at 51 Railway Parade, which will be located approximately 10 metres from the proposed outdoor dining area. At present, this dwelling shall likely be impacted by noise and overlooking from the deck area (nominated as BYO outdoor dining).

CONSULTATION

Public consultation, referrals and submissions

The application was notified, in accordance with Section 3 of the Gwydir Shire Council Community Participation Plan 2019 as detailed in the following table.

The public consultation included:

- Notification of nearby and potentially affected landholders and residents during the exhibition period.

| | |
|---|---|
| Notification Type: Type A | <ul style="list-style-type: none"> • Notification via letters of owners of all adjoining and surrounding properties and any other individual, organisations and/or public authorities likely to have an interest in the proposed development; and • Exhibition on proposed development on Council's websites and may also be exhibited at Council's Officers. |
| Notifications: | |
| Landowners/Occupiers | Adjacent/adjoining landowners were notified in writing - submission period of 14 days. |
| Exhibition period | Website - 14 days |
| Advertising in Local Newspaper | - |
| Referrals/Concurrences & Comments: | |
| External consultations | - |
| Internal consultations | - |
| Other | Nil |
| Submissions received: | |
| Public Submissions | 2 public submission was received |

| | |
|----------------------------|---|
| received | |
| Other Submissions received | - |

Table 2 – Gwydir Shire Council Participation Plan 2019

THE DEVELOPMENT PROPOSAL

The main component of the applicant’s proposal includes the following:

- ⇒ Change the existing use of the building from a dwelling to a mixed use which includes the operation of neighbourhood shop, café and take away food and drink premises.
- ⇒ The conversion shall include:
 - ⇒ internal and external building alterations (Kitchen, shop floor area, storage area, staff water closet, closure of window, relocation of front door and windows and addition of a side door to access outdoor dining deck),
 - ⇒ the addition of a 31.82 square metre outdoor dining area/deck (enclosed with a balustrade and accessibility ramp with direct access from the footpath),
 - ⇒ the replacement of the existing fence along the eastern boundary,
 - ⇒ the construction of a new fence along part of the northern boundary (boundary along Railway Parade),
 - ⇒ the installation of a rear lane access, and
 - ⇒ the installation of an enclosed (1800mm fenced) ice unit/dispenser/refrigeration unit with separate access from the footpath along Railway Parade.

Figure 5 below provides the proposed layout development.

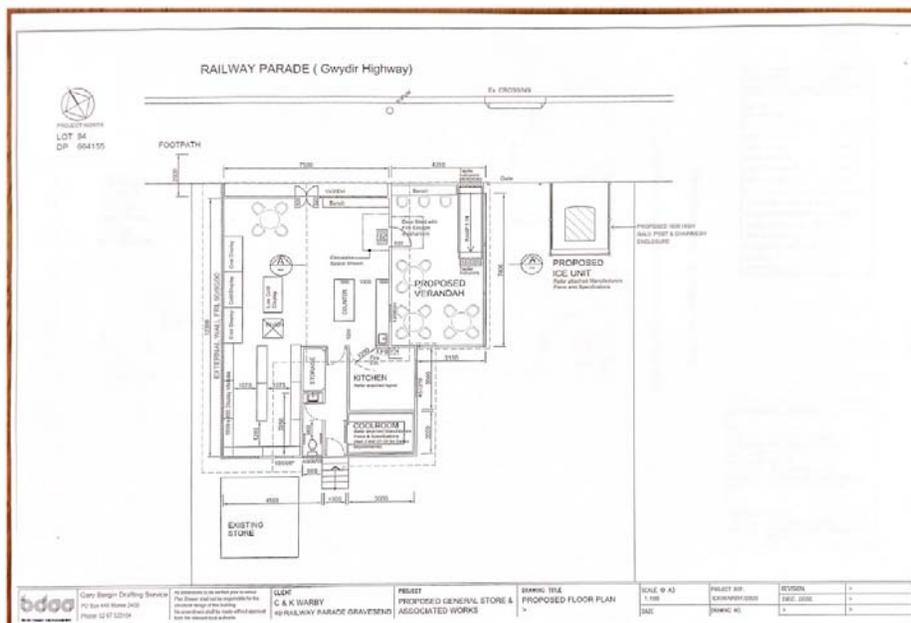


Figure 5 – Proposed Floor Plan

The proposed development also intends to obtain a packaged liquor license and provided a BYO outdoor dining area, Figure 6 below shows the areas intended for these uses.

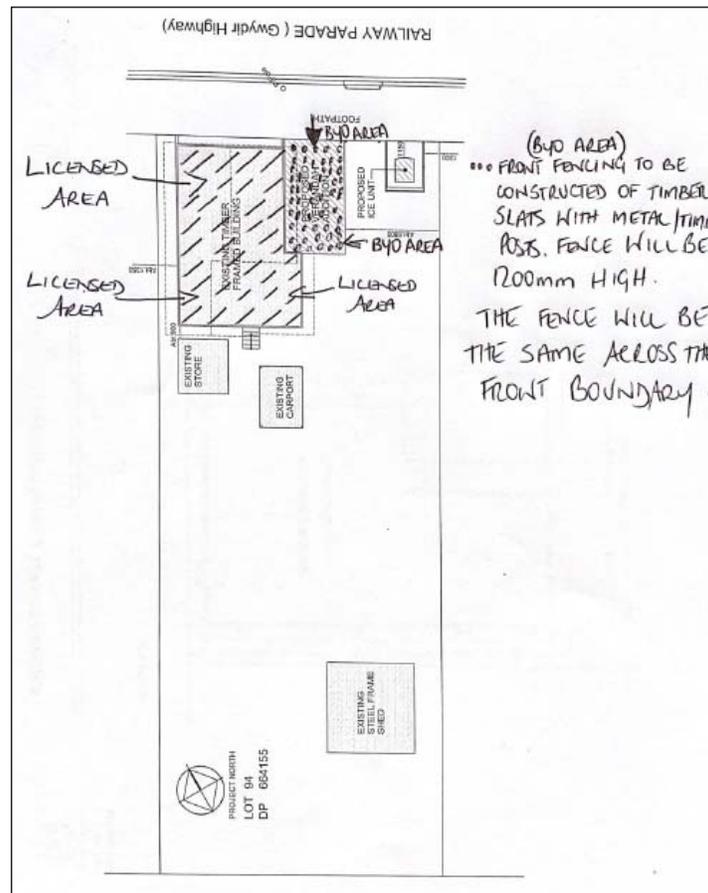


Figure 6 – Front Fence and Licensed Area

The primary purpose of the proposed development is to provide the Gravesend community with a place to obtain day to day grocery and fresh food items (e.g. fresh bread, fruit and vegetables, dairy, eggs, newspapers, other standard food and household items). Equally, the purpose of the development is to provide a place to dine in, socialise or obtain take away light meals, hot and cold food and drinks.

The proposed operating hours for the development were stated in the Statement of Environmental Effects as Monday to Sunday, 5am to 10pm. These hours were further clarified by the proponent in their response to the submissions received by Council during the notification and exhibition period. Thus, the proponent states:

- That the BYO facility would not be operational until 10am daily, even though permission is sought to have trading hours from 5am – 10pm.
- The regular trading hours have not been confirmed as yet but are generally expected to be 7am to 6pm Monday to Friday with shortened hours on the weekend.

- There will be occasions that hours will be extended past these times due to seasonal demands and private social gatherings, e.g. harvest, planting, daylight savings and birthday parties.
- The operating hours will fall between the different regulated noise control times.
- The package liquor license shall set hours of availability for the sale of take-away alcohol

The site of the development has existing access to mains electricity and water, an onsite sewerage management system and access off Railway Parade.

The proponent has requested that a piped culvert be provided by Council to enable access to the property (49 Railway Parade, Gravesend) from the rear lane (Old Church Lane). It is intended that during the construction and operation of the proposed development, all employee and service personnel will access (and park in the rear of the property) the site via Old Church Lane. All delivery vehicles (e.g. groceries, frozen goods, packaged liquor and other items) shall park along Railway Parade. Deliveries shall occur three or four times a week, shall not obstruct the traffic flow and will be short in duration.

Due to the distance between the proposed BYO Outdoor Dining deck/area and the detached dwelling at 51 Railway Parade, Gravesend, being approximately 10 metres, some privacy and noise impact concerns have been raised. At present, the boundary fence between the two properties consist of a low ring-lock fence with a vine growing over it (see Figure 7 below). The proponent intended to replace this fence with a 1800mm high solid fence, this fence is considered exempt from obtaining development consent under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

However, during the site inspect it became apparent that a fence with a height of 1800mm would not be enough to adequately mitigate any noise or privacy impacts. It has been recommended to the proponent that a 2100mm high solid fence should be erected for at least some of the boundary line (between the front boundary and the rear of the neighbouring detached dwelling at 51 Railway Parade). A fence with a height of more than 1800mm will need consent from Council. The proponent wishes the 2100mm high fence to be determined as part of the proposed development. See Attachment 4.



Figure 7 – View of Dwelling at 51 Railway Parade while standing at proposed kitchen window at 49 Railway Parade.

Note: the piece of Colorbond leaning on the fence is approximately 1800mm high

STATUTORY PLANNING CONSIDERATIONS

Gwydir Local Environment Plan 2013 (GLEP)

The proposed development site is in the RU5 Village zone under the GLEP. The proposed development is for the conversion of a Class 1a building to a Class 6 building and the operation of a Neighbourhood shop/café/take away food and drink premises. As such is permissible development in the RU5 Village zone with Council consent.

The proposed development is also compliant with all other relevant sections of the GLEP. For more detailed information regarding the above see Attachment 1 of this report.

Section 94 Development Contribution Plan No. 1 – Traffic Generating Development (DCP)

The proposed development is not development to which the DCP applies.

For more detailed information regarding the above see Attachments 1 and 2 of this report.

Gwydir Local Strategic Planning Statement

The proposed development is considered consistent with the values and objectives of the Gwydir Local Strategic Planning Statement.

New England North West Plan 2036

The proposed development is considered consistent with the objectives of the New England North West Regional Plan and the key priorities of the Gwydir Shire.

State Legislation

Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulations 2000

The proposed development is not classified as *designated development* under the provisions of Schedule 3 of the *Environmental Planning and Assessment Regulation, 2000*. See Attachment 3 of this report.

Further, the proposal does not require approvals listed under Section 91 of the *Environmental Planning and Assessment Act, 1979* and is therefore not classified as an integrated development.

Consequently, it is determined that the proposed development is local development.

Other State Legislation relevant to the proposed development

The proposed development is considered compliant with the following Acts.

For further detail see Attachment 1 of this report.

- *Liquor Act 2007*
- *Food Act 2003* and Food Regulation 2015
- *Protection of the Environment Operations Act 1997*

State Environmental Plan Polices and Development Codes (SEPP's)

The proposed development is considered to be compliant with the following relevant SEPP's. For further detail see Attachment 1 of this report.

- State Environmental Planning Policy 55 – Remediation of Land
- State Environmental Planning Policy (Koala Habitat Protection) 2019

Federal Legislation

The proposed development is considered compliant with the following relevant Federal Legislation. For further detail see Attachment 1 of this report.

- Environment Protection and Biodiversity Conservation Act 1999

Site Suitability and Potential Impacts

The perceived impacts of the conversion of the existing building into a neighbourhood store/café/take away food and drink premises are limited to the neighbouring dwellings. These impacts, mainly noise and privacy impacts, can be adequately mitigated by the erection of a 2100mm high fence along the eastern boundary and the approval of appropriate operating hours to preserve the neighbourhood's right to peace and quiet in the most sensitive hours of the day (e.g. prior to 7am and after 9pm).

The proposed development site has existing access to the main road, being Railway Parade/Gwydir Highway) and adequate street parking, thus it is not expected that traffic using the proposed development shall overpower the existing road infrastructure.

The construction of a secondary access from Old Church Lane shall provide the business owners and employees rear access to the property and to the proposed onsite parking area (owners' and employees' parking only). The Council has agreed to provide this access off the rear lane.

No other significant impacts are expected, and the expected impacts are considered adequately mitigated, as such the site is therefore considered suitable for the development.

Full details for this section are discussed in Attachment 1 of this report.

CONSULTATION

The proposed development was notified under Gwydir Shire Council's Community Participation Plan for a period of 14 days. Council received two submissions regarding the proposed development.

The concerns raised in the submission were referred to the applicant for comment. A summary of the public submissions along with the applicant's response is provided below.

1. *Privacy/overlooking impacts on the neighbouring dwellings are a major concern, given the proposed opening hours and type of operation (BYO Alcohol and outdoor dining);*

Construction of an 1800mm high corrugated iron fence on the eastern boundary will take place. This was not included in the initial DA as a DA is not required for this. Removal of existing fence can be done in consultation with neighbouring landowner.

Further to above recommendation, we could instead construct a 2100mm high corrugated fence to further negate any privacy & noise concerns, if Council would allow this to take place.

2. *Noise impacts on the neighbouring dwellings are a major concern, given the proposed opening hours and type of operation (BYO Alcohol and outdoor dining);*

The BYO facility would not be operational until 10am daily, even though permission is sought to have our Trading Hours from 5am – 10pm.

The proposed hours are allowing us to trade during seasonal periods throughout the year i.e. Harvest, Planting & Daylight Savings.

Our hours of trade will fall between the difference regulated noise control times. Our understanding is that the noise control limits do not apply to persons sitting in an outdoor dining space.

3. *Availability of take-away alcohol from 5.00am in the morning to 10.00pm at night – 7 days per week;*

Refer to point 2.

Take away alcohol will not be available prior to 10am daily as per licensing regulations. The sale of liquor will conclude as per the daily hours of operation, e.g. Mon – Thursday 10am -6pm or Friday 10am – 8pm.

4. *Overall hours of operation being 5.00am to 10.00pm, 7 days per week;*

Our regular trading hours are not confirmed as yet and will be determined by our customer base, however, it is anticipated that they may be 7am to 6pm Monday to Friday with shortened hours on the weekend.

There will be occasions that our hours will extend past these times due to seasonal demands and private social gatherings, i.e. Harvest, Planting, Daylight Savings or Birthday Party.

We were advised by staff at Gwydir Shire Council to submit our maximum hours to cover seasonal variations i.e. Harvest, Planting, Occasional Social Gatherings. We have followed this advice as per hours noted on our DA.

5. *The need for a licensed take-away bottle shop in a small community that already has a Hotel which is in close proximity to the proposed development; and*

Our application for a licensed / BYO premises came about as a result of continued community requests and comments. We have been made aware that the current licensed establishment does not have a regular and consistent supply of take away alcohol and does not cater to the needs of the majority of the Gravesend community.

6. *No indication of any appropriate privacy screening or boundary fencing/screening in the proposed development application that would help with expected privacy and noise issues that could be experienced by the two neighbouring dwellings.*

Please refer to point 1 above.

The proposed development was not referred internally (to other Council Departments) nor externally (to NSW Government Departments or Agencies)

CONCLUSION

It is considered that the development application submitted to Council by Craig and Kate Warby, being the conversion of an existing building from a dwelling to a neighbourhood shop/café/take away food and drink premises, has satisfactorily addressed the:

- S4.15 matters for consideration of the *Environmental Planning and Assessment Act, 1979*, and
- potential impacts of the proposal can either be mitigated or managed,
- proposal in generally in the public interest

Based on this assessment, it is considered that the merits of the proposal warrant development approval subject to the recommended draft conditions of consent.

Conditions of consent establish compliance controls and performance and environmental audits to mitigate the environmental impacts of the proposal to an acceptable level.

OFFICER RECOMMENDATION

THAT this report be received, noted and that the proposal for the change of use of the existing building from a dwelling (Class 1a) to neighbourhood shop/café/take away food and drink premises (Class 6), including:

- internal and external building alterations (kitchen, shop floor area, storage area, staff water closet, closure of window, relocation of front door and windows and addition of a side door to access outdoor dining deck)
- the addition of a 31.82 square metre outdoor dining area/deck (enclosed with a balustrade and accessibility ramp with direct access from the footpath)
- the installation of a rear lane access to be provided by the Council, and
- the installation of an enclosed self-serve ice unit with continual and direct access from the footpath along Railway Parade located on the property known as Lot 94 DP 664155, 49 Railway Parade, Gravesend, be approved subject to the attached draft schedule of conditions.

FURTHER that the existing fence between 49 and 51 Railway Parade be replaced with a 2100mm high solid fence. This fence is to run from the front boundary line to a point level with the rear of the detached dwelling located at 51 Railway Parade, Gravesend (approximately 25 metres). Where the fence is located on a slope the fence must not be more than 2400mm above ground level (existing) at each step. The fence shall be completed prior to the operation of the business.

ATTACHMENTS

AT- Attachments

***Change of Use of an Existing Building from a Dwelling to
a Neighbourhood Shop/Café/Take Away Food and Drink
Premises***

Attachment 1

STATUTORY PLANNING CONSIDERATIONS

In determining the Development Application, Council is required to consider those matters listed under Section 4.15 of the *Environmental Planning and Assessment (Amendment) Act, 1979*. Matters of consideration are as follows:

1 S4.15 (1) (a)(i) Provision of any Environmental Planning Instrument

1.1 Gwydir Local Environmental Plan 2013

The subject development is located with the Gwydir Shire Council area and as such is governed by the Gwydir Local Environment Plan 2013 (GLEP).

The relevant aims of this GLEP plan are:

- (a) *to encourage the proper management, development and conservation of environmental, economic and social resources in Gwydir,*
- (b) *to facilitate economic growth and development consistent with the aim specified in paragraph (a) and that:*
 - (i) *minimise the cost to the community of fragmented and isolated development, and*
 - (ii) *facilitates the efficient and effective delivery of amenities and services, and*
 - (iii) *facilitates stimulation of demand for a range of residential, enterprise and employment opportunities and promotes agricultural diversity, and*
 - (iv) *utilises, where feasible, existing infrastructure and roads when considering new development and future potential development,*
- (c) *to facilitate development in accordance with flood management planning,*
- (d) *to facilitate development that is compatible with adjoining and nearby uses,*
- (e) *to facilitate development that is appropriate in scale and type to the characteristics of the zone,*
- (f) *identify, protect and conserve places of European heritage significance and Aboriginal heritage and cultural significance,*
- (g) *to identify, protect, conserve and enhance natural assets.*

Proponents Submission

No comment

Staff Comment

The proposed development is for the conversion of an existing dwelling (formerly converted from a bank building) to a neighbourhood shop/café/ BYO outdoor dining/take away food & drink premise located at 49 Railway Parade Gravesend.

The proposed development will not impact on timber, mineral, soil, water nor areas of archaeological or heritage significance or high scenic or recreational value.

There are no known places of archaeological or heritage significance.

**Change of Use of an Existing Building from a Dwelling to
a Neighbourhood Shop/Café/Take Away Food and Drink
Premises**

It is considered that the proposed development satisfactorily meets the aims of the GLEP.

1.1.1 Land Use Definition

The proposed development is categorised as a mixed commercial development within the following definitions under the Gwydir Local Environment Plan 2013.

mixed use development means a building or place comprising 2 or more different land uses.

The land uses will include:

neighbourhood supermarket means premises the principal purpose of which is the sale of groceries and foodstuffs to provide for the needs of people who live or work in the local area.

Note—

See clause 5.4 for controls relating to the gross floor area of neighbourhood supermarkets.

*Neighbourhood supermarkets are a type of **shop**—see the definition of that term in this Dictionary.*

restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

Note—

*Restaurants or cafes are a type of **food and drink premises**—see the definition of that term in this Dictionary.*

take away food and drink premises means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

Note—

*Take away food and drink premises are a type of **food and drink premises**—see the definition of that term in this Dictionary.*

Proponents Submission

No comment

Staff Comment

The proposed development meets the above land use definitions.

1.1.2 Zoning

The proposed development site is located within the RU5 - Village zone under the Gwydir Local Environmental Plan 2013. Neighbourhood Shop/Café/Take away food and drink premise are permissible in this zone with consent.

The objective of the RU5 Village zone is:

***Change of Use of an Existing Building from a Dwelling to
a Neighbourhood Shop/Café/Take Away Food and Drink
Premises***

- To provide for a range of land uses, services and facilities that are associated with a rural village.

Proponents Submission

No Comment

Staff Comment

The proposed development is categorised as local development in the RU5 Village zone under the GLEP and is permitted with Councils Development Consent.

The proposed development for the conversion of the existing dwelling into a neighbourhood shop/café/take away food & drink premise will involve the addition of an outdoor dining area, the erection or replacement of some boundary fences, internal building alteration (most which has been undertaken), the establishment of a BYO area and a packaged liquor sales area.

There are no existing and potentially valuable timber production areas or significant areas of native conservation on the property that will be impacted by the development. Access to mineral and other extractive materials will not be compromised. The proposed shed will be located on a previously cleared section of the facilities existing compound and will have minimal impact on trees and other vegetation. The proposed development is not located in an environmentally sensitive area. The proposal will utilise the existing water supply services. There are no known places, items and buildings of heritage significance either Aboriginal or European.

The proposal relates to urban development but is not expected to negatively impact the community for amenities or services but has the potential to add to the value and resilience to the local community. It is considered that the proposed development satisfactorily meets the above objectives of the RU5 Village zone.

1.1.3 Relevant miscellaneous provisions under Part 5 of the GLEP

1.1.3.1 Clause 5.4 Controls relating to miscellaneous permissible uses

Clause 5.4(7) Neighbourhood Shops

If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 120 square metres.

Proponents Submission

No comment

Staff Comment

The site plan supplied by the proponent indicates that the area of retail floor space is 77 square metres (maximum retail sales area). As such the proposed development is compliant with clause 5.4(7) of the Gwydir Local Environmental Plan 2013.

1.1.3.1 Clause 5.10 Heritage Conservation

The objectives of this clause are as follows:

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- (a) *To conserve the environmental heritage of Gwydir,*
- (b) *To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *To conserve archaeological sites,*
- (d) *To conserve Aboriginal objects and Aboriginal places of heritage significance.*

Proponents Submission

No comment

Staff Comment

The proposed site of the development is not listed in Schedule 5 of the GLEP or the NSW Heritage Register as a place of or item of Aboriginal or European or environmental heritage significance. Nor is the site the location of or in close proximity to any known Aboriginal heritage as confirmed by a search of the Aboriginal Heritage Information Management System (AHIMS) web service. As such this clause does not apply to the proposed development

1.1.3.2 Clause 5.11 Bush fire hazard reduction

This clause relates to the carrying out of Bush Fire hazard reduction in accordance with the *Rural Fires Act 1997*.

Proponents Submission

No comment

Staff Comment

The proposed development site is not located within the currently identified Bush Fire Prone areas. However, even land located outside critical bush fire areas can be affected by grass fires and the like, so it is sensible to implement fire mitigation measures in all areas of the Gwydir to protect life, animals and assets.

1.1.4 Relevant additional local provisions under Part 6 of the GLEP

Clause 6.1 Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Proponents Submission

No comment

Staff Comment

Any earthworks will be minimal and ancillary to the proposed development, as such will be assessed under this development and will not require an additional development consent.

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Clause 6.2 Flood planning

The objectives of this clause are as follows:

- (a) To minimise the flood risk to life and property associated with the use of land,*
- (b) To allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) To avoid significant adverse impacts on flood behaviour and the environment.*

Proponents Submission

No comment

Staff Comment

Council records confirm that flooding is not relevant to the subject site.

Clause 6.4 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) The supply of water,*
- (b) The supply of electricity,*
- (c) The disposal and management of sewage,*
- (d) Stormwater drainage or on-site conservation,*
- (e) Suitable vehicular access.*

Proponents Submission

No comment

Staff Comment

It is considered that the proposed development has adequate availability to existing infrastructure, utilities and services.

**1.2 Section 94 Development Contributions Plan No 1
- Traffic Generating Development (GDGP)**

This plan was adopted in April 2011 and was developed to ensure the operation of Traffic Generating Development does not adversely impact on local roads and allow Council to assess the demand for road maintenance, repair and reconstruction arising from Traffic Generating Development.

The purpose of the plan is to:

- a. Provide an administrative framework under which specific public facilities strategies may be implemented and coordinated;
- b. To ensure the operation of Traffic Generating Development does not adversely impact on local roads. Assess the demand for road

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- maintenance, repair and reconstruction arising from traffic generating development;
- c. To authorize the Council to impose conditions under section 94 of the Environmental Planning and Assessment Act 1979 when granting consent to development on land to which this plan applies;
 - d. Provide a comprehensive strategy for the assessment, collection, expenditure accounting and review of development contributions on an equitable basis;
 - e. To minimize any adverse environmental and social impacts in terms of noise and dust to residences, road users and other development in the vicinity;
 - f. Enable Council to be both publicly and financially accountable in it's assessment and administration of this plan;
 - g. To ensure that the existing community is not burdened by the costs of road works resulting from damage caused by heavy vehicles associated with the Traffic Generating Development;
 - h. Demonstrate that the contributions have been set after due assessment for the likely needs and demands of the Traffic Generating Development in terms of access roads and their on-going maintenance;
 - i. Justify the application of a levy for road works for each tonne of extracted/processed/produced material.

This plan applies to all Traffic Generating development and related operations that:-

- Require the use of road haulage vehicles to support the operation of the enterprise;
- Generate additional traffic movements above levels of traditional agricultural activities;
- Development which includes the following enterprises:-
 - Wool Scouring Plants
 - Abattoirs
 - Rendering Plants
 - Saleyards
 - Wood or timber milling or processing works including wood preservation works
 - Wineries or associated works
 - Warehouses
 - Light industry
 - Intensive Agricultural Enterprises
 - feedlots
 - poultry farms
 - piggeries
 - dairies
 - Composting Works
 - Transport Terminals
 - Grain Storage Complex
 - Feed mills
 - Extractive Industries
 - Mine
 - Rural Industry

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Proponents Submission

No Comment

Staff Comment

The proposed development is not considered a traffic generating development and therefore is not required to comply with the Gwydir Shire Council s94 Contribution Plan – Traffic Generating Development.

1.3 Gwydir Local Strategic Planning Statement

The Gwydir Local Strategic Planning Statement identifies clear priorities for the Gwydir Shire that support and develop out local identity, values and opportunities. Short, medium and long-term actions have been developed to help deliver on these priorities and the Gwydir Shires vision for the future.

Proponents Submission

No Comment

Staff Comment

The proposed development is considered consistent with the values and objectives of the Gwydir Local Strategic Planning Statement. In particular, the proposed development aligns with the following "Key Theme/s" and "Planning Priorities":

- Key Theme – Thriving Localities
 - Planning Priorities – Promote Business and Lifestyle Opportunities

1.4 New England North West Regional Plan 2036

The New England North West Regional Plan 2036 is the blueprint that prepares the region to take advantage of any future opportunities to expand jobs, housing, education and health services to create a healthy and thriving regional communities supported by a vibrant and dynamic economy.

The plan is intended to guide the NSW Government's land use planning priorities and decisions to 2036. It is not intended to be a step-by-step approach to all land use planning. Rather, it provides an overarching framework to guide subsequent and more detailed land use plans, development proposals and infrastructure funding decisions.

The Implementation Plan that accompanies this Plan includes Priority actions as well as medium and longer-term actions to coincide with populations and economic change.

Priorities for each council are set out in Local Government Narratives, which will guide further investigations and implementation.

Proponents Submission

No comment

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Staff Comment

The proposed development is considered consistent with the objectives of the New England North West Regional Plan and the key priorities of the Gwydir Shire. In particular, the proposed development aligns with the following goal/s and priorities:

- Attractive and thriving communities
 - Strengthen community resilience

1.5 State Legislative Requirements

1.5.1 Environmental Planning and Assessment Act 1979 & Environmental Planning and Assessment Regulations 2000

The Environmental Planning and Assessment Act 1979 (EP&A Act) and the Environmental Planning and Assessment Regulations 2000 (EP&A Reg) provide for the framework and implementation for planning legislation in NSW. It is under this act and regulations that local councils prepare Local Environmental Plans (LEPs) and levy contributions on developers for the provision and maintenance of public amenities and services, which are used or required as a consequence of development. The EP&A Act also provides for State Environmental Planning Policies known as SEPPs.

Proponents Submission

No Comment

Staff Comment

The proposal before Council is not designated development.

Further, the proposal does not require approvals listed under Section 4.46 (formerly s91) of the *Environmental Planning and Assessment Act, 1979* and is therefore not classified as an integrated development.

Thus, it is determined that the proposed development is local development and is to be assessed and determined by Council.

1.5.2 Environmental Planning and Assessment Regulation 2000

The Environmental Planning and Assessment Regulation 2000 requires that certain documents must accompany a development application. The provision of a Statement of Environmental Effects satisfies this requirement for local development.

Proponents Submission

No Comment

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Staff Comment

A barely adequate Statement of Environmental Effects has been provided. The proposed development is considered compliant with the requirements of the Environmental Planning and Assessment Regulation 2000

1.5.3 Liquor Act 2007

The objects of this Act are as follows:

- (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
- (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
- (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.

In order to achieve these objects, person/s exercising functions under this Act is required to have due regard for the following:

- (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
- (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
- (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

Proponents Submission

No comment

Staff Comment

The proponent intends to apply for a Packaged Liquor Licence under Division 5(29) of the Liquor Act 2007. This means:

- the retail sale of liquor in sealed containers for consumption away from the premises.
- the sale of liquor by wholesale and to employees of the licensed premises.
- the sale or supply of liquor to customers or intending customers whilst on the licensed premises for the purpose of a tasting.

The supply of liquor is restricted to the standard trading period which are:

- Any day of the week, other than Sunday, 5am to midnight;
- For Sunday, 10am to 10pm.

In addition to the above prescribed hours, liquor cannot be supplied or sold on Restricted Trading Days, which are Good Friday and Christmas Day.

Where the sale of liquor forms part of another business activity (s30 of the Liquor Act 2007), as is the case with the proposed development, the following will apply:

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- Liquor may only be sold under the licence in an area of the licensed premises (the liquor sales area) that is adequately separated from those parts of the premises where other activities are carried out.
- That the principal activity of the liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.

Despite the above the Liquor Act 2007 considers the necessity for and restricts the types of premises that can be issued with a Packaged Liquor Licence under s31 which states:

- (1) *A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that—*
 - (a) *in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public, and*
 - (b) *the grant of the licence would not encourage drink-driving or other liquor-related harm.*
- (2) *A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.*
- (3) *In this section—*

general store means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.

service station means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

take-away food shop means premises that are used primarily for the preparation and sale of food for immediate consumption away from the premises (whether or not food is also consumed on the premises).

The proponent has confirmed, that despite the restrictions mentioned above, the Local Area Liquor Licensing Sergeant has given verbal approval of the proposed developments layout and management strategies. The proponent is confident that a Package Liquor Licence will be obtained for part of the premises once development consent has been granted.

The BYO dining area of the proposed development does not fall under the Liquor Act 2007. Any conditions controlling the proposed developments BYO dining area and/or restrictions of hours of operation will be considered during the assessment of this application and be determined by Council. Taking into consideration any impacts on the surrounding residential and business environment, as well as the social and economic needs of the community and the greater public interest. This shall be discussed in greater detail later in this report.

The Draft Schedule of Condition (Attachment 2) will include a condition/s requiring the proponent met the necessary requirements of the Liquor Act 2007 and obtain a Packaged Liquor Licence prior to the sale or supply of any liquor from the premises.

1.5.4 Food Act 2003 & Food Regulations 2015

The objects of this Act include the following:

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- (a) to ensure food for sale is both safe and suitable for human consumption,
- (b) to prevent misleading conduct in connection with the sale of food,
- (c) to provide for the application in this State of the Food Standards Code.

Proponents Submission

No comment

Staff Comment

The Food Act 2003 requires compliance with the following:

s106B Food safety supervisors:

- (1) For the purposes of this Act, a food safety supervisor for premises is a person who:
 - (a) holds a food safety supervisor certificate that has been issued within the immediately preceding period of 5 years, and
 - (b) does not hold the position of food safety supervisor for any other premises or for a mobile catering business, and
 - (c) has the authority to supervise other persons handling food at, or from, the premises and to ensure that the handling is done safely.
- (2) For the purposes of this Act, a food safety supervisor for a mobile catering business is a person who:
 - (a) holds a food safety supervisor certificate that has been issued within the immediately preceding period of 5 years, and
 - (b) does not hold the position of food safety supervisor for any other such business or for the premises of any other food business, and
 - (c) has the authority to supervise other persons handling food in the course of the carrying on of the business and to ensure that the handling is done safely.
- (3) A food safety supervisor certificate is a certificate stating that the person to whom it is issued is qualified to hold the position of a food safety supervisor for the purposes of this Act and that has been issued in accordance with the regulations by an approved training organisation or by another person or body prescribed by the regulations.
- (4) The regulations may make provision for or with respect to the issuing of food safety supervisor certificates, including the qualifications that a person must have to be issued with a food safety supervisor certificate.
- (5) Without limiting subsection (4), any such regulation may provide for the Food Authority to determine those qualifications or any aspect of those qualifications.
- (6) In making a determination in relation to qualifications, the Food Authority is to be satisfied that a person holding those qualifications will know how to recognise, prevent and alleviate the hazards associated with the handling of food.
- (7) Nothing in this Division prevents:
 - (a) the proprietor of a food business from holding the position of food safety supervisor for premises so long as the proprietor complies with the requirements of subsection (1), or
 - (b) the proprietor of a mobile catering business from holding the position of food safety supervisor for the business so long as the proprietor complies with the requirements of subsection (2), or
 - (c) more than one person holding the position of food safety supervisor in respect of particular premises or a mobile catering business.

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s106C Appointment of food safety supervisor for premises:

- (1) The proprietor of a food business must ensure that before any food to which this Division applies is processed and sold by retail on premises in the course of carrying on the business at least one food safety supervisor has been appointed for the premises.
- (2) The proprietor of a food business must ensure that at all times at which food to which this Division applies is processed and sold by retail on premises in the course of carrying on the food business there continues to be at least one person appointed as food safety supervisor for the premises.
- (3) It is a defence to a prosecution for an offence against subsection (2) if the proprietor of the food business concerned establishes that:
 - (a) a person had been appointed as food safety supervisor for the relevant premises but had ceased to be appointed as food safety supervisor, and
 - (b) after that person had ceased to be so appointed and before the appointment (if any) of another person as food safety supervisor for the premises, food to which this Division applies was processed and sold by retail on the premises on not more than 30 days (whether or not consecutive).
- (4) This section does not apply to a food business that is a mobile catering business.
Maximum penalty: 50 penalty units in the case of an individual and 100 penalty units in the case of a corporation.

s106G Inspection of food safety supervisor certificates:

- (1) If a person is appointed for the purposes of this Division as food safety supervisor for premises on which food to which this Division applies is processed and sold by retail in the course of carrying on a food business, the proprietor of the food business must ensure that a copy of the person's food safety supervisor certificate is kept on the premises and is produced for inspection on request by an authorised officer.
- (2) If a person is appointed for the purposes of this Division as food safety supervisor for a mobile catering business, the proprietor of the business must ensure that a copy of the person's food safety supervisor certificate is kept at the proprietor's business address and is produced for inspection on request by an authorised officer.
Maximum penalty: 25 penalty units in the case of an individual and 50 penalty units in the case of a corporation.

The Food Act 2003 requires compliance with the following:

s21 Compliance with Food Standards Code

- (1) A person must comply with any requirement imposed on the person by a provision of the Food Standards Code in relation to the conduct of a food business or to food intended for sale or food for sale.
- (2) A person must not sell any food that does not comply with a requirement of the Food Standards Code that relates to the food.
- (3) A person must not sell or advertise for sale any food that is packaged or labelled in a manner that contravenes a provision of the Food Standards Code.
- (4) A person must not sell or advertise for sale any food in a manner that contravenes a provision of the Food Standards Code.

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- (5) This section does not require compliance with a provision of the Food Standards Code in relation to the conduct of a food business that is primary food production unless a food safety scheme provides that the provision applies to the food business or to a class of food businesses that includes the food business concerned.

The Food Standards Code

(<https://www.foodstandards.gov.au/code/Pages/default.aspx>) has standards that are to be adhered to. The standards in the Australia New Zealand Food Standards Code are legislative instruments under the Legislation Act 2003.

The relevant sections for retail food businesses are PART 3.2 Food Safety Requirements Standard, 3.2.1 Food safety programs Standard, 3.2.2 Food safety practices and general requirements Standard and 3.2.3 Food premises and equipment

The food safety standard sets out the what to do, and the fit-out guide gives guidance on how to do it.

For the operation they will be subject to an annual inspection (this is based on the classification as a high risk business because of the use of potentially hazardous foods (foods that require temperature control)). They will also require a qualified Food Safety Supervisor be appointed and their certificate be on the premises.

The Draft Schedule of Condition (Attachment 2) will include a condition/s requiring the proponent met the necessary requirements of the Food Act 2003 and Food Safety Standards Code.

1.5.4 Protection of the Environment Operations Act 1997

The Protection of the Environment Operations Act 1997 prohibits any person from causing pollution of water or air, and provides penalties for pollution offences relating to water, air and noise.

The objects of the Protection of the Environment Operations Act 1997 are as follows:

- (a) To protect, restore and enhance the quality of the environment in New South Wales, having regard to the need to maintain ecologically sustainable development,
- (b) To provide increased opportunities for public involvement and participation in environment protection,
- (c) To ensure that the community has access to relevant and meaningful information about pollution,
- (d) To reduce risks to human health and prevent the degradation of the environment by the use of mechanisms that promote the following:
 - i. Pollution prevention and cleaner production,
 - ii. The reduction to harmless levels of the discharge of substances likely to cause harm to the environment,
 - iii. The elimination of harmful wastes,
 - iv. The reduction in the use of materials and the re-use or recycling of materials,
 - v. The making of progressive environmental improvements, including the reduction of pollution at source,
 - vi. The monitoring and reporting of environmental quality on a regular basis

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- (e) To rationalize, simplify and strengthen the regulatory framework for environment protection,
- (f) To improve the efficiency of administration of the environment protection legislation,
- (g) To assist in the achievement of the objectives of the Waste Avoidance and Resource Recovery Act 2001.

Proponents Submission

No comment

Staff Comment

The proposed development does not appear as a Scheduled Activity under Schedule 1 Schedule 1 of the Protection of the Environment Operations Act 1997 and therefore is not required to be licenced under this act.

1.6 State Environmental Planning Policies

The proposal before Council is subject to the following relevant State Environmental Planning Policies (SEPP):

| SEPP | Compliance | Comment |
|---|---|--|
| SEPP 19 — Bushland in Urban Areas | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>The SEPP aims to protect and preserve bushland within the urban areas because of its value to the community as part of the natural heritage, its aesthetic value, and its value as a recreational, educational and scientific resource.</i> |
| SEPP 21 – Caravan Parks | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>The SEPP ensures that where caravan parks or camping grounds are permitted under an environmental planning instrument, movable dwellings, as defined in the Local Government Act 1993, are also permitted.</i> |
| SEPP 33 — Hazardous and Offensive Development | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>The SEPP provides considerations for consent for hazardous & offensive development.</i> |
| SEPP 36 – Manufactured Homes Estates | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>The SEPP helps establish well-designed and properly serviced manufactured home estates in suitable locations.</i> |
| SEPP 47 – Moore Park Showground | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>Applies to the land shown edged heavy black on the map marked "Moore Park Showground Amendment No 1."</i> |
| SEPP 50 Canal Development | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.</i> |
| SEPP 55 — Remediation of Land | Not Applicable <input type="checkbox"/> Applicable <input checked="" type="checkbox"/> | <i>This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination.</i> |
| | Comment | <i>See Section 1.6.1 of this report.</i> |

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| SEPP 64 — Advertising and Signage | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high-quality design and finish.</i> |
| SEPP 65 — Design Quality of Residential Flat Development | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.</i> |
| SEPP 70 – Affordable Housing (Revised Schemes) | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP identifies that there is a need for affordable housing across the whole of the State and describes the kinds of households for which affordable housing may be provided and makes a requirement with respect to the imposition of conditions relating to the provision of affordable housing.</i> |
| Aboriginal Land 2019 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP provides for development delivery plans for areas of land owned by Local Aboriginal Land Councils to be considered when development applications are considered, and declares specified development carried out on land owned by Local Aboriginal Land Councils to be regionally significant development.</i> |
| Affordable Rental Housing 2009 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.</i> |
| Building Sustainability Index: BASIX 2004 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>The SEPP provides for the implementation of BASIX throughout the State.</i> |
| Coastal Management 2018 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP promotes an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area.</i> |
| Concurrences 2018 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP allows the Planning Secretary to act as a concurrence authority.</i> |
| Educational Establishments and Child Care Facilities 2017 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP facilitates the effective delivery of educational establishments and early education and care facilities across the state.</i> |
| Exempt and Complying Development Codes 2008 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.</i> |
| Gosford City Centre 2018 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP applies to the Gosford City Centre.</i> |
| Housing for Seniors or People | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>The SEPP aims to encourage provision of housing for seniors, including residential care</i> |

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| with a Disability 2004 | Applicable <input type="checkbox"/> | <i>facilities. The SEPP provides development standards.</i> |
| Infrastructure 2007 | Not Applicable <input type="checkbox"/> Applicable <input checked="" type="checkbox"/> | <i>The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.</i> |
| | Comment | <i>See Section 1.6.2 of this report</i> |
| Koala Habitat Protection 2019 | Not Applicable <input type="checkbox"/> Applicable <input checked="" type="checkbox"/> | <i>This SEPP applies to land within local government areas as listed in Schedule 1 of the SEPP and is not a National Park or Forestry Reserve or a Biodiversity Conservation Stewardship site. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.</i> |
| | Comment | <i>See Section 1.6.3 of this report</i> |
| Kosciuszko National Park – Alpine Resorts 2007 | Not Applicable <input checked="" type="checkbox"/> | <i>This SEPP applies to part of Kosciuszko national park, and to Kosciuszko Road and the Alpine Way. The part of Kosciuszko Park to which the policy applies is the land described as the ski resort area in Part 8A of Schedule 6 to the Act.</i> |
| Kurnell Peninsula 1989 | Not Applicable <input checked="" type="checkbox"/> | <i>This SEPP applies to land within the Shire of Sutherland, known as Kurnell Peninsula, and adjacent waterways.</i> |
| Mining, Petroleum Production & Extractive Industries 2007 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.</i> |
| Miscellaneous Consent Provisions 2007 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP provides for the erection of temporary structures and the use of places of public entertainment while protecting public safety and local amenity.</i> |
| Penrith Lakes Scheme 1989 | Not Applicable <input checked="" type="checkbox"/> | <i>This SEPP applies to the land shown edged heavy black on the structure plan relating to Penrith Lakes</i> |
| Primary Production and Rural Development 2019 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP facilitates the orderly economic use and development of lands for primary production; reduce land use conflict and sterilisation of rural land.</i> |
| State and Regional Development 2011 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP identifies development that is State significant development or State significant infrastructure and critical State significant infrastructure and to confer functions on joint regional planning panels to determine development applications.</i> |
| State Significant Precincts 2005 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP facilitates the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State so as to facilitate the orderly use, development or conservation of those State significant precincts for the benefit of the State, and facilitates service delivery outcomes for a range of public services and to provide for the development of major sites for a public purpose or redevelopment of major sites no longer appropriate or suitable for public purposes.</i> |

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| Sydney Drinking Water Catchment 2011 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP provides for healthy water catchments that will deliver high quality water while permitting compatible development.</i> |
| Sydney Region Growth Centres 2006 | Not Applicable <input checked="" type="checkbox"/> | <i>This SEPP co-ordinates the release of land for residential, employment and other urban development in the Orth West Growth Centre, the South West Growth Centre and the Wilton Growth Area.</i> |
| Three Ports 2013 | Not Applicable <input checked="" type="checkbox"/> | <i>This SEPP provides a consistent planning regime for the development and delivery of infrastructure on land in Port Botany, Port Kembla and the Port of Newcastle.</i> |
| Urban Renewal 2010 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP establishes the process for assessing and identifying sites as urban renewal precincts, and facilitates the orderly and economic development and redevelopment of sites in and around urban renewal precincts.</i> |
| Vegetation in Non-Rural Areas 2017 | Not Applicable <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> | <i>This SEPP protects the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserves the amenity of non-rural areas of the State through the preservation of trees and other vegetation.</i> |
| Western Sydney Employment Area 2009 | Not Applicable <input checked="" type="checkbox"/> | <i>This SEPP protects and enhances the land known as the Western Sydney Employment Area for employment purposes.</i> |
| Western Sydney Parklands 2009 | Not Applicable <input checked="" type="checkbox"/> | <i>This SEPP puts in place planning controls that will enable the Western Sydney Parklands Trust to develop the Western Parklands into a multi-use urban parkland for the region of western Sydney.</i> |

The proposed development has been assessed in relation to the objectives and provisions of these SEPPs.

1.6.1 SEPP 55 - Remediation of Land

The object of this Policy is to provide for a State-wide planning approach to the remediation of contaminated land.

In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment—

- (a) by specifying when consent is required, and when it is not required, for a remediation work, and
- (b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and
- (c) by requiring that a remediation work meet certain standards and notification requirements.

Proponents Submission

No Comment

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Staff Comment

This State Policy is required to be considered in the processing and determination of development applications.

The purpose of this policy is to provide a state-wide planning approach to the remediation of land. In particular, this policy aims to promote the remediation of contaminated land for the purposes of reducing the risk of harm to human health or other aspects of the environment.

In accordance with clause 7 of SEPP 55, following a search of Council records, the subject land is not identified as being potentially contaminated and is considered to be suitable for the intended use. The requirements of the SEPP are therefore satisfied.

It is considered that assessment under the SEPP has been complied with.

1.6.2 SEPP Koala Habitat Protection 2019

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline—

- (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and
- (b) by encouraging the identification of areas of core koala habitat, and
- (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.

Proponents Submission

No Comment

Staff Comment

The site of the proposed development has been previously cleared of all trees as a part of the existing use of the site being a residential allotment consisting a dwelling and detached garage.

The draft Schedule of conditions attached at Attachment 2 will include conditions to restrict the removal of vegetation where necessary

1.7 Federal Legislation

**1.7.1 Environmental Protection and Biodiversity Conservation Act 1997
(EPBC Act)**

The object of this act are:

- (a) to provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance; and
- (b) to promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources; and
- (c) to promote the conservation of biodiversity; and

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- (ca) to provide for the protection and conservation of heritage; and
- (d) to promote a co-operative approach to the protection and management of the environment involving governments, the community, land-holders and indigenous peoples; and
- (e) to assist in the co-operative implementation of Australia's international environmental responsibilities; and
- (f) to recognise the role of indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity; and
- (g) to promote the use of indigenous peoples' knowledge of biodiversity with the involvement of, and in co-operation with, the owners of the knowledge.

Proponents Submission

No comment

Staff Comment

The EPBC Act commenced on 16th July 2000. The EPBC Act includes the assessment and approvals system for actions that have a significant impact on:

- matters of National Environmental Significance (NES); and
- the environment on Commonwealth land.

Should an action be determined to likely have a significant impact, an approval from the Commonwealth Minister for the Environment and Heritage is required.

The EPBC identifies seven matters of national environmental significance being:

1. World Heritage properties;
2. National Heritage places
3. RAMSAR wetlands of international significance;
4. National listed threatened species and ecological communities;
5. listed migratory species;
6. Commonwealth marine areas; and
7. Nuclear actions

The Environmental Assessment identified that no NES matters or Commonwealth land are likely to be impacted by the proposal and therefore an approval from the Commonwealth Minister is not required.

It is considered that assessment under the Act has been complied with.

2. S4.15 (1) (a) (ii) Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

No draft environmental planning instrument is applicable to the development application.

3. S4.15 (1) (a) (iii) Any Development Control Plan (DCP)

There are no DCP's which are applicable to the proposal.

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4. S4.15 (1) (b) The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

So as to comment on the likely impacts of the proposal, the following matters have been considered:

4.1 Access, Transport and Traffic

Proponents Submission

- Access available from front of property (directly from footpath).
- Local traffic movements will increase, the main increase will be locals.
- Traffic will be consistent with main highway which is already busy.
- Requesting culvert to allow access from rear lane.
- No onsite customer parking available
- Up to 3 staff vehicles will park onsite
- Delivery of groceries and stock several times per week

Staff Comment

The proposed development has frontage to Railway Parade which is the section of the Gwydir Highway that runs through the village of Gravesend. This section of the highway consists of a generous pavement area of approximately 21 metres wide, which provides ample area for unobstructed two-way traffic as well as parking on both sides of the road.

The use of the existing on-street parking by patrons of the proposed development is considered acceptable.

The proponent has requested that rear lane access be established for use by employees and possibly service providers. The proponent indicates that previous discussions with a council member has suggested that the construction of a piped rear lane all weather access shall be funded Council.

Parking for employees on site will need to be located away from the properties existing onsite sewerage system which consists of a septic tank and disposal area.

The Draft Schedule of Condition (Attachment 2) will include conditions where necessary

4.2 Utilities and Services

Proponents Submission

No Comment

Staff Comment

The proposed development has existing access to an electricity supply, is connected to the Gravesend mains water supply and has an existing onsite sewerage management system, as well as being within a landline and mobile telecommunications area.

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Any adjustments to the existing electrical and telecommunications supply shall be carried out at the proponent's expense and in accordance with the service providers requirements.

Any adjustments to the existing mains water supply connection and/or onsite water lines and/or existing onsite sewerage management system (consisting of a septic tank and underground disposal area) shall be carried out at the proponent's expense, by a licensed plumber and in accordance with Council's requirements under an approval obtained by the proponent under s68 of the Local Government Act 1993. The s68 approval shall be sort by the proponent prior to the commencement of any works.

The Draft Schedule of Condition (Attachment 2) will include conditions where necessary.

4.3 Heritage and Archaeological

Proponents Submission

No Comment

Staff Comment

The proposal is not in the vicinity of any heritage items in accordance with Council's Local Environmental Plan or under State or Federal Legislation. Nor has any heritage of aboriginal significance being identified within the proposed development site or within the surrounding area according to a search of the Aboriginal Heritage Information Management System website. The consultants found no items of Archaeological or Heritage during the site inspection on the property.

The Draft Schedule of Condition (Attachment 2) will include conditions where necessary.

4.5 Land Use Conflict – Noise and Privacy

Proponents Submission

Construction of an 1800mm high corrugated iron fence on the eastern boundary will take place. This was not included in the initial DA as a DA is not required for this.

Further to the above recommendation, we could instead construct a 2100mm high corrugated fence to further negate any privacy and noise concerns.

There's already an 1800mm high corrugated iron fence on the western boundary. There will be no window on the western side of the building.

The BYO facility would not be operational until 10am, even though permission is sought to have Trading Hours from 5am -10pm. The proposed hours area allowing us to trade during seasonal periods throughout the year i.e. harvest, planting and daylight savings. Our hours of trade will fall between the different regulated noise control times. Our understanding is that the noise control limits do not apply to persons sitting in an outdoor dining space.

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Staff Comment

Noise

Offensive noise can be considered in three ways, being:

- Audibility
- Duration
- Inherent offensive characteristics

Offensive Noise is defined under the Protection of the Environment Operations Act 1997 (POEO) as noise:

- a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances;
 - i. is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
 - ii. interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

A noise assessment is an examination of the nature and characteristics of a noise. It may involve verifying aural factors such as:

- the location of the noise source
- its audibility at certain locations
- the time the noise is made and its duration
- its characteristics
- the reported effect it has on people

Time restrictions when noise should not be heard in a habitable room in a neighbour's residence are as follows:

- Power tools and equipment - before 8am and after 8pm on Sundays and public holidays, before 7am and after 8pm on any other day.
- Musical instruments and electrically amplified sound equipment - before 8am and after midnight on any Friday, Saturday or the day immediately before a public holiday, before 8am and after 10pm on any other day.
- Air conditioners and heat pump water heaters - before 8am and after 10pm on weekends and public holidays, before 7am and after 8pm pm any other day.
- Motor Vehicles (except when entering or leaving residential premises) - before 8am and after 8pm on weekends and public holidays, before 7am and after 8pm pm any other day.
- Refrigeration units fitted on motor vehicles - before 8am and after 8pm on weekends and public holidays, before 7am and after 8pm on any other day.

It is important to note that an article or activity may cause offensive noise at any time of the day or night even if it occurs at a time when the use of the article or activity is permitted to be audible under the Noise Control Regulation.

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The noise-sensitive land use at which noise from a development can be heard are assigned a residential receiver noise category. The following table was taken from EPA's "Noise Policy for Industry", October 2017, and lists the types of receivers and their typical existing background noise levels:

| Receiver category | Typical planning zoning – standard instrument* | Typical existing background noise levels | Description |
|----------------------|--|---|---|
| Rural residential | RU1 – primary production RU2 – rural landscape RU4 – primary production small lots R5 – large lot residential E4 – environmental living | Daytime RBL <40 dB(A) Evening RBL <35 dB(A) Night RBL <30 dB(A) | Rural – an area with an acoustical environment that is dominated by natural sounds, having little or no road traffic noise and generally characterised by low background noise levels. Settlement patterns would be typically sparse. Note: Where background noise levels are higher than those presented in column 3 due to existing industry or intensive agricultural activities, the selection of a higher noise amenity area should be considered. |
| Suburban residential | RU5 – village RU6 – transition | Daytime RBL <45 dB(A) Evening RBL <40 dB(A) | Suburban – an area that has local traffic with characteristically intermittent traffic flows or with some limited commerce or industry. This area often has the following characteristic: evening ambient noise levels defined by the natural environment and human activity. |
| | R2 – low density residential R3 – medium density residential E2 – environmental conservation E3 – environmental management | Night RBL <35dB(A) | |
| Urban residential | R1 – general residential R4 – high density residential B1 – neighbourhood centre (boarding houses and shop-top housing) B2 – local centre (boarding houses) B4 – mixed use | Daytime RBL > 45 dB(A) Evening RBL > 40 dB(A) Night RBL >35 dB(A) | Urban – an area with an acoustical environment that: <ul style="list-style-type: none"> is dominated by 'urban hum' or industrial source noise, where urban hum means the aggregate sound of many unidentifiable, mostly traffic and/or industrial related sound sources has through-traffic with characteristically heavy and continuous traffic flows during peak periods is near commercial districts or industrial districts has any combination of the above. |

Notes: *As cited in Standard Instrument – Principal Local Environmental Plan, New South Wales Government, Version 15 August 2014. RBL = rating background noise level.

Please note the words Daytime, Evening and Night refers to the following:

- Daytime is the period from 7am to 6pm (Monday to Saturday) and 8am to 6pm (Sundays and public holidays);
- Evening is the period from 6pm to 10pm
- Night is the period from 10pm to 7am (Monday to Saturday) and 10pm to 8am (Sundays and public holidays).

The proposed development is located within the RU5 Village zone and therefore is considered within the Suburban residential receiver category (see table above) in which the assigned Rating Background Noise Levels (RBL) are:

- Daytime RBL - <45dB(A)

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- Evening RBL - <40dB(A)
- Night RBL - <35dB(A)

The intrusive noise level for the proposed development is determined by the addition of 5dB to the RBL above, so noise levels for the proposed development will become intrusive at the following levels:

- Daytime RBL - 50dB(A)
- Evening RBL - 45dB(A)
- Night RBL - 40dB(A)

In the absence of a noise assessment for the proposed development the EPA "Noise Guide for Local Government" (May 2013) recommends using the following checklist to assess whether the predicted noise from the proposed development may be considered offensive:

1. *Is the noise load in an absolute sense? Is it loud relative to other noise in the area?*

The types emanating from the outdoor dining area will generally include conversations between patrons, children, the sounds of eating and serving meals and cleaning. These types of sounds are generally low in frequency and tone. It is considered that the noise load will not be loud relative to other noise in the area.

2. *Does the noise include characteristics that make it particularly irritating?*

From time to time noise levels may increase to irritating levels eg children crying/playing, breakages and use of noisy cleaning equipment. However, these noises are short in duration and are not generally constant in nature.

3. *Does the noise occur at times when people expect to enjoy peace and quiet?*

The operating times proposed by the proponent are 5am to 10pm. However, the proponent has stated that in reality the normal operating hours may be 7am to 6pm Monday to Friday with even shorter hours on the weekend. The proponent has advised Council of the maximum daily hours to cover the occasions when extend opening hours may be used to provide to take advantage of harvest, planting, social occasions and daylight savings. Whether the proposed development is to operate for the maximum hours (5am to 10pm) or normal hours (7am to 6pm) then it is assumed that noise would reasonably occur at times when people at surrounding residents would expect to enjoy peace and quiet. Such as after work, during the evening and early morning, on the weekend and public holidays.

4. *Is the noise atypical of the area?*

The proposed development is located between a residence and a mixed business/residential use property. Both of the adjoining residences are occupied and a present the neighbouring business premise is unoccupied. The part of the proposed development that is not representative of the surrounding area is the proposed BYO outdoor dining area. Although this

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part of the proposed development is atypical of the area it is expected that restricting its hours of operation and the erection of a solid fence will mitigate any noise disturbance to acceptable levels.

5. *Does the noise occur often?*

At present the proponent would like approval to operate the neighbourhood store/café/take-away food and drink premise from 5am to 10pm seven days per week. Based on this the noise has the potential to occur on continuous basis throughout the year.

6. *Are a number of people affected by the noise (Only one person needs to be affected by the noise for it be deemed offensive)?*

If the noise from the BYO outdoor dining area is to affect anyone it will be the detached residence located behind the closed business premise at 51 Railway Parade and the residence at 47 Railway Parade, Gravesend.

The residence at 47 Railway Parade will be shielded from any direct noise emanating from the BYO Outdoor Dining area by an existing 1800mm corrugated fence and the existing building at 49 Railway Parade (the proposed neighbourhood shop/café/take-away food & drink premise). The detached residences at 51 Railway Parade is located approximately 9-10 metres from the proposed BYO Outdoor Dining area and will be most impacted by noise from this area. As seen in the figure below.



The proponent proposes to erect a 1800mm corrugated iron fence along the boundary between 49 and 51 Railway Parade and is prepared to go to a height of 2100mm if approval for this height is granted. The fence will provide a level of noise dampening and privacy for the residence at 51 Railway Parade.

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Restricting the maximum operating hours of the premises to 7am to 9pm from Monday to Saturday and 8am to 8pm on Sundays and Public Holidays will also provide the surrounding residences with some relief from noise impacts in those sensitive hours early in the morning and late in the evening.

Should the fence and restricted operating hours prove to be insufficient to mitigate the noise than solid privacy screens along the eastern and south sides of the BYO Dining area and/or the planting of a vegetation screen along the eastern boundary line could be used to further control noise emissions.

Privacy

The proponent's intention to erect a 31.82m² deck to the eastern side of the existing building to facilitate outdoor dining will likely impact the privacy of the residents occupying the existing detached dwelling at 51 Railway Parade, Gravesend. The distance between the two will be approximately 9-10 metres. As shown above in Figure 1 the detached dwelling at 51 Railway Parade is located behind the existing unoccupied shop building. As the proposed deck will be raised to the floor level of the existing building at 49 Railway Parade an element of overlooking may be experienced by the residents of the dwelling.

To mitigate this impact the proponent is proposing to erect a 1800mm solid corrugated fence along the adjoining boundary. A fence of this nature and height may be erected from behind the building line without approval under Subdivision 17 "Fencing (certain residential zones and Zone RU5)" under the SEPP (Exempt and Complying Development Codes) 2008. Should the height of the fence proved to be insufficient to minimise the overlooking impacts, the proponent is willing to erect a 2100mm solid corrugated fence instead. However, this will need approval due to its height, if this is necessary, the proponent is seeking consent from Council as a part of this assessment.

It is not expected that the residential building on the western side of the proposed development site (47 Railway Parade) will experience significant privacy impacts as the proposed BYO outdoor dining area is located, in its entirety, on the other side of the building at 51 Railway Parade nor will any windows overlook the dwelling at 47 Railway Parade as there are no windows along the western side from building at 51 Railway Parade.

A site inspection was carried out on the 4 March 2021 to assess the likely privacy impacts and whether or not the fence will need to be 1800mm or 2100mm high. It is concluded that a 1800mm fence will be sufficient to address any overlooking impacts.

4.6 Flora and Fauna

Proponents Submission

No Comment

Staff Comment

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The Statement of Environmental Effects contains a satisfactory assessment of the flora, fauna and ecological communities within and surrounding the site and the proposed development potential impacts. No further impacts are expected.

Additionally, that the Draft Schedule of Conditions include restriction on the further removal of vegetation.

4.7 Water Supply

Proponents Submission

No Comment

Staff Comment

The proposed development has an existing connection to the Gravesend mains water supply. Any onsite plumbing works undertaken by the proponent in relation to the water, sewerage and stormwater drainage will need prior approval under s68 of the Local Government Act 1993. Conditions controlling alterations to onsite plumbing and the movement of stormwater across the property will be included in the draft consent conditions if necessary.

4.8 Waste Disposal

Proponents Submission

What types of waste will be generated?

General food waste, food packaging and boxes.

How will waste be disposed of and the frequency of disposal?

Via Council rubbish collection and local refuse tip.

How will waste be stored onsite?

In Council supplied wheelie bins

Staff Comment

Waste produced from the use of the proposed development can be stored onsite using the Council owned wheelie bins supplied to the property which are collected weekly as a part of Council's waste contract. Alternatively, the proponent may deliver waste directly to the Gravesend Waste Recovery Centre.

In addition, sorted building waste can also be delivered to the Gravesend Waste Recovery Centre.

Draft conditions have been included to manage and monitor the storage and application of waste materials onsite.

4.9 Land Contamination

Proponents Submission

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No Comment

Staff Comment

Historically the proposed development site has been vacant village land and the site of a bank building (1957), which was then converted to a dwelling (1980). The previous uses of the development site are not generally associated with the types of use or industries that typically generate or are likely to have contaminated the land.

A search of Council records and the Contaminated Land Register have not listed the property as a site that has been identified as being contaminated or of possible contamination or a site that has been previously remediated.

It is concluded that the site is not considered a contaminated land site.

4.10 Visual Amenity

Proponents Submission

Located on main thoroughfare through village.
Existing building and consistent with neighbouring buildings.

Staff Comment

The proposed development shall not substantially change the style of the front façade of the existing building. However, the proponent is proposing to erect a balustrade around the proposed deck (proposed BYO Dining area), which includes a gated accessibility ramp from the footpath onto the deck and will be highly visible from the street.

In addition, the proponent also proposed to place an ice unit accessible from the footpath but located within the property, surrounded by a 1800mm fence. This will be visible from the street and footpath.

There may also be the intention to erect a fence (with a gate located adjacent to the existing kerb layback and between the proposed deck and proposed ice unit enclosure) along the remainder of the boundary, however accept from what is shown on the Proposed Floor Plan there is little detail of what this will look like. It is possible that this part of the fence will be similar to the deck balustrading. It is assumed that this part of the fence will comply with the requirements of Subdivision 17 "Fencing (certain residential zones and Zone RU5)" under the SEPP (Exempt and Complying Development Codes) 2008.

Business signage shall adorn the front fascia of the building along with promotional flags secured to the front of the building.

It is not expected the proposed alterations and additions to the existing building will not negatively impact the existing streetscape or be out of character for the village of Gravesend, nor create any negative visual amenity impacts.

4.11 Natural and Technological Hazards

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Proponents Submission

No Comment

Staff Comment

A search of Council records did not identify the proposed development site as being located within a flood prone or bushfire prone areas. Nor did the search identify any geological issues, salinity or acid sulphate soils. The proposed development site is not impacted by any known aboriginal and/or non-aboriginal heritage, nor has any endangered flora, fauna or ecological communities be found to be located at the site. It is determined that the proposed development site is not impact by any known natural and/or technological hazards.

4.12 Social and Economic Impact in the Locality

Proponents Submission

What are the likely social effects of the proposal?

- Increase employment opportunities (2 full time, with 1 part time if needed)
- Cater to all demographics in the community.
- Facility available for community engagement and meetings.
- Provide grocery lines, fresh bread, eggs, fruit & veg, light meals, prepared beverages, gifts & wares, take away food and take away alcohol.
- Our application for a licensed / BYO premises came about as a result of continued community requests and comments. We've been made aware that the current licensed establishment does not have a regular and consistent supply of takeaway alcohol and doesn't cater to the needs of the majority of the Gravesend community.

Staff Comment

The proposed development will satisfy a confirmed need within the Gravesend community to provide a neighbourhood shop and café. The proposed development will be gratifying the communities need and the traveling publics need for local goods and services that are available 7 days a week.

In considering the social and economic impacts of the proposed development on the locality, the assessment concludes that the ability of the proposed development to have positive impacts is immense. The proposed development will provide an alternative to the local community who at present travelling to Bingara (47.7km), Warialda (29.4km) or Moree (54.5km) to shop for day-to-day items and take-away food. The proposed development will also provide a meeting-place for locals and a stop-over for travellers, helping to sustain and grow the economy of Gravesend.

On the other side of the spectrum the negative social and economic impacts, such as the possibility of increased noise pollution of the surrounding dwelling and loss of privacy, can be mitigated so that the impacts are minimised or kept to an acceptable level.

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No further social or economic benefits or deficiencies are considered apparent for the proposed development

4.13 Cumulative Impacts

Proponents Submission

No Comment

Staff Comment

Gravesend has been in the past serviced by a similar type of development, located next door at 51 Railway Parade, however this business closed a few years ago. Some of the goods and services that were provided by the general store at 51 Railway Parade have been provided, with varying success, by the Gravesend Hotel.

Indications are that the local community is welcoming of the proposed developments intention to provide general store/café/take-way food and drink service. However, consideration needs to be given to the cross over services (take-away alcohol) intended to be provided by the proponent that are or are intended to be provided by other existing Gravesend businesses.

5. S4.15 (1) (c) The suitability of the site for the development

Proponents Submission

No Comment

Staff Comment

The perceived impacts of the conversion of the existing building into a neighbourhood store/café/take away food and drink premise are limited to the neighbouring dwellings. These impacts, mainly noise and privacy impacts, can be adequately mitigated by the erection of appropriately sized fence along the eastern boundary and restricting the operating hours to preserve the neighbourhoods right to peace and quiet in the most sensitive hours of the day (eg prior to 7am and after 9pm).

The proposed development site has existing access to the main road, being Railway Parade/Gwydir Highway) and has access to existing street parking, thus it is not expected that traffic using the proposed development shall overpower the existing road infrastructure. No other significant impacts are expected and as such the site is therefore consider suitable for the development.

Any condition/s will be included in the draft schedule of conditions, as necessary.

6. S4.15 (1) (d) Any submission made in accordance with this Act or the Regulations.

As the development is not considered designated nor integrated development the proposed feedlot was notified in accordance with Council's Community Participation Plan. The proposed development was exhibited on the Gwydir Shire Council's website for a period of 14 days. In addition, two (2) adjoining property owners

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received written notification of the proposed development, also with a submission period of 14 days. There were two submission received.

The proposed development was not internally or externally referred to any Council Departments or Government agencies for comment.

The following is a summary of the issues and concerns raised in the public submissions.

1. Privacy/overlooking impacts on the neighbouring dwellings are a major concern, given the proposed opening hours and type of operation (BYO Alcohol and outdoor dining);
2. Noise impacts on the neighbouring dwellings are a major concern, given the proposed opening hours and type of operation (BYO Alcohol and outdoor dining);
3. Availability of take-away alcohol from 5.00am in the morning to 10.00pm at night – 7 days per week;
4. Overall hours of operation being 5.00am to 10.00pm, 7 days per week;
5. The need for a licensed take-away bottle shop in a small community that already has a Hotel which is in close proximity to the proposed development; and
6. No indication of any appropriate privacy screening or boundary fencing/screening in the proposed development application that would help with expected privacy and noise issues that could be experienced by the two neighbouring dwellings.

Proponents Submission

1. *Privacy/overlooking impacts on the neighbouring dwellings are a major concern, given the proposed opening hours and type of operation (BYO Alcohol and outdoor dining);*

Construction of an 1800mm high corrugated iron fence on the eastern boundary will take place. This was not included in the initial DA as a DA is not required for this. Removal of existing fence can be done in consultation with neighbouring landowner.

Further to above recommendation, we could instead construct a 2100mm high corrugated fence to further negate any privacy & noise concerns, if Council would allow this to take place.
2. *Noise impacts on the neighbouring dwellings are a major concern, given the proposed opening hours and type of operation (BYO Alcohol and outdoor dining);*

The BYO facility would not be operational until 10am daily, even though permission is sought to have our Trading Hours from 5am – 10pm.

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The proposed hours are allowing us to trade during seasonal periods throughout the year ie Harvest, Planting & Daylight Savings.

Our hours of trade will fall between the difference regulated noise control times. Our understanding is that the noise control limits do not apply to persons sitting in an outdoor dining space.

3. *Availability of take-away alcohol from 5.00am in the morning to 10.00pm at night – 7 days per week;*

Refer to point 2.

Take away alcohol will not be available prior to 10am daily as per licensing regulations. The sale of liquor will conclude as per the daily hours of operation. Eg. Mon – Thursday 10am -6pm or Friday 10am – 8am.

4. *Overall hours of operation being 5.00am to 10.00pm, 7 days per week;*

Our regular trading hours are not confirmed as yet and will be determined by our customer base, however, it is anticipated that they may be 7am to 6pm Monday to Friday with shortened hours on the weekend.

There will be occasions that our hours will extend past this times due to seasonal demands and private social gatherings. Ie. Harvest, Planting, Daylight Savings or Birthday Party.

We were advised by staff at Gwydir Shire Council to submit our maximum hours to cover seasonal variations ie Harvest, Planting, Occasional Social Gatherings. We have followed this advice as per hours noted on our DA.

5. *The need for a licenced take-away bottle shop in a small community that already has a Hotel which is in close proximity to the proposed development; and*

Our application for a licensed / BYO premises came about as a result of continued community requests and comments. We've been made aware that the current licensed establishment does not have a regular and consistent supply of take away alcohol and doesn't cater to the needs of the majority of the Gravesend community.

6. *No indication of any appropriate privacy screening or boundary fencing/screening in the proposed development application that would help with expected privacy and noise issues that could be experienced by the two neighbouring dwellings.*

Please refer to point 1 above.

There's already a 1800mm high corrugated iron fence on the western boundary. There will be NO windows on the western side of the building.

Staff Comment

The concerns raised in the public submission were centred around four main areas.

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- Hours of operation
- Privacy impacts
- Noise impacts
- The sale of take-away alcohol

The first three points can be restricted or mitigated to satisfactorily minimise the impacts to the surrounding area by the inclusion of conditions in any approval issued. Should a fence with a height of 2100mm be needed along the eastern boundary than this needs to be considered as a part for this development's determination.

The last point shall be controlled/restricted/monitored by Liquor & Gaming NSW should a Packaged Liquor Licence be granted for the premises.

Any condition/s will be included in the draft schedule of conditions, as necessary.

7. S4.15 (1) (e) The public interest

Federal, State and Local Government Interests and Community Interests.

Proponent Submission

No Comment

Staff Comment

As the development is not considered designated and/or integrated development. The proposed development, being a neighbourhood store/café/take-away food & drink premise, was notified in accordance with Council's Community Participation Plan 2019.

There were two public submissions received by Council which raised concerns mainly regarding privacy and noise issues, which can be satisfactorily mitigated by the erection of a suitable fence and the setting of reasonable and sustainable operating hours for the development.

Where appropriate, conditions have been included in the Draft Schedule of Conditions that require and regulate the proposed development.

The overall opinion of the assessor is that the proposed development is consistent with the existing land use, will satisfy a confirmed community need and will not substantially impact the locality (once mitigation measure have been complied with).

Thus, the proposed development (including the change of use of the existing building from a dwelling to a neighbourhood shop/café/take-away food & drink premises/BYO outdoor dining and all the necessary alterations and additions to facilitate the change in use) is considered to have a positive long term impact on the Gravesend community and will only cause manageable localised negative impact to the particularly the eastern adjoining residents.

Therefore, it is considered that the proposed development will be in the public interest.

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SCHEDULE OF CONDITIONS

PART A - GENERAL

- 1 This consent relates to drawings/details submitted to Council with Development Application Number 3/2021.

| Submitted Item | Council's Stamp No/Date | Drawing/Job No | Drawn by | Dated |
|--|-------------------------|---------------------------|-------------------------|------------|
| Site Plan, Existing Floor and Proposed Floor Plans, Elevations | 3/2021 - | CKWARBY/20 20 – Sht's 4/4 | Bdaa Building Designers | Dec 2020 |
| Licensed and BYO Area Plan | 3/2021 - | CKWARBY/20 20 – Sht's 1/1 | Bdaa Building Designers | Dec 2020 |
| Statement of Environmental Effects | 3/2021 - | Sht's 10/10 | C & K Warby | 15/12/2020 |

Note: Any amendment to the development or to these conditions will require the consent of the Council.

- 2 In order that the development of the land is undertaken in an orderly and coordinated manner, the development consent shall lapse five years after the determination date unless the development has been physically commenced as set out in s95 (4) and (5) of the Environmental Planning and Assessment Act, 1979.
- 3 The development must be carried out in accordance with the Development Application and accompanying plans, drawings and other documents as amended by conditions of this consent.

Note: Any amendment to the development or to these conditions will require the consent of the Council.

4 Advisory Note 1

The applicant is advised that prior to construction of the approved development it is necessary to obtain a **Construction Certificate**. A Construction certificate may be issued either by a Council or an approved accredited certifier. A separate application, complete with detailed plans and specifications, must be made for a Construction certificate.

- 5 The attached deck attached is not to be further enclosed without prior Council approval.

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6 Vegetation Management/Clearing - not requiring a development consent

Under the Biodiversity Conservation Act 2016, prior to undertaking any vegetation management/removal on rural lands which fall outside of the allowable activities or the Land Management Code of Practice as prescribed by the Local Land Services Act - a Biodiversity Assessment Report (prepared by an accredited assessor) may be required to be submitted to the Native Vegetation Panel for assessment.

For further information see attached LLS guideline "Allowable Activities for Landholders" and/or visit www.lls.nsw.gov.au and /or contact LLS – North West Region on 02 6790 7600 (Narrabri) or 02 6750 9000 (Moree).

Reason: To secure sustainable vegetation management whilst preserving the native ecological systems, habitat, flora and fauna for the region.

7 The applicants/property owner should note that the Commonwealth Disability Discrimination Act 1992 provides opportunity for public complaint potentially leading to legal action if access to premises by people with disabilities or their carers is precluded. This may require action to provide or improve access in addition to the minimum requirements of the Building Code of Australia, particularly if such work would not cause "unjustifiable hardship" for the proprietors or owners, an issue which Council may be unable to assess in detail. The Human Rights and Equal Opportunity Commission has released Advisory Notes on access to Premises which are available for Council on request. The Commission can also provide further information on this issue (Telephone No. 02 9284 9761).

In addition to Human Rights considerations, as a substantial proportion of the community suffer from mobility handicaps, provision of good access to premises is also good business practice.

- 8**
- a) All work must be carried out in accordance with AS4674-2004 *Design, Construction and fit-out of food premises*.
 - b) The food business must provide Council with a copy of their notification or licensing by the NSW Food Authority as required by the *Food Regulation 2004* before an occupation certificate (whether interim or final) is issued.
 - c) The food business must comply with the requirements of the *Food Act 2003* and the *Food Regulations 2004*.
 - d) The food business must comply with the requirements of the Food Safety Standards Code.

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9 Change of Building Use

Any change of use/classification in relation to the use of the building or site shall not be made until approval in writing by this Council is first obtained.

10 *Disposal of excavated material*

Any excavated material not used on the site as fill is to be disposed of in accordance with the requirements of the Protection of the Environment Act 1997 and its regulations

11 Compliance

- a. The Applicant must put in place a management system, and take reasonable steps, to ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.
- b. The Applicant must be responsible for the works the subject of this consent and the environmental impacts that may result from those works, and must put in place an environmental management system governing the conduct of all persons on the site, including contractors, subcontractors and visitors.

12 Heritage and Archaeology

Impact of Works – Aboriginal Relics

If any Aboriginal archaeological relics are found or uncovered during the course of the work, then all works shall cease immediately in that area and the applicant shall contact the Department of Environment Climate Change and Water and Council. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *National Parks & Wildlife Act 1974* may be required before further works can be considered in that area. The applicant shall comply with any request made by the Department of Environment Climate Change and Water and/or Council to cease work for the purposes of archaeological recording.

13 Advisory Note 2

A Packaged Liquor License shall be obtained from Liquor & Gaming NSW, prior to the sale or supply of any take-away liquor from the premises.

PART A - PLANNING

- 1 All proposed building, site works or property improvement indicated on the

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submitted plans or otherwise required under the terms of this consent being completed prior to occupation of the premises.

Reason: *To ensure compliance with the provisions of the Environmental Planning and Assessment Act, 1979.*

2 Access from Old Church Lane

A piped culvert shall be installed to provide all weather access from Old Church Lane into the rear of 49 Railway Parade, Gravesend. The access shall be designed and constructed in accordance with Council's guidelines and standards.

- 3** All internal driveways, parking areas, loading bays and vehicular turning areas being constructed with a base course of adequate depth to suit design traffic, being sealed with either bitumen seal, asphalted concrete, concrete, interlocking pavers or other suitably compacted and durable material and being properly maintained; full details to be indicated on plans submitted with the Construction Certificate.

Reason: *To facilitate the use of vehicular access and parking facilities and to minimise any associated noise and dust nuisance.*

- 4** a. The vehicular entrance and exit driveways and the direction of traffic movement within the site being clearly indicated by means of suitable signs and pavement markings.

Reason: *To ensure the orderly and efficient use of on-site parking and driveway access in the interest of traffic safety and convenience.*

- b. All vehicular movement to and from the site being in a forward direction.

Reason: *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.*

- 5** a. Any vehicles or plant owned or operated by the occupants of the premises in connection with the conduct of their business are to be parked within the confines of the site in spaces designated on the submitted plans or as otherwise provided in accordance with the conditions of this consent.

Reason: *To ensure that the proposed development does not give rise to the parking of commercial vehicles within the adjacent public road, with consequent reduction in road efficiency and increased accident potential.*

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- c. Proposed parking areas, service bays, truck docks, driveways, vehicular ramps and turning areas are to be maintained clear of obstruction and used exclusively for purposes of car parking, loading and unloading, and vehicle access respectively. Under no circumstances are such areas to be used for the storage of goods or waste materials.

Reason: *To ensure that the proposed/required parking, loading/unloading facilities and associated driveways function efficiently for their intended purpose.*

- 6 On-site car parking accommodation is to be provided for minimum of two staff vehicles.

Reason: *To ensure the provision of adequate on-site parking facilities for the business operators and employees and to ensure that adequate street parking remains available for patrons and other road users.*

- 7 All adjustments to existing utility services made necessary by the development are to be undertaken by the developer at no cost to Council.

Reason: *To protect the community against costs/expenses resulting from a development.*

- 8 The implementation of this development shall not adversely affect the amenity of the neighbourhood by reason of the emission or discharge of noise, vibration, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products during both construction and the subsequent operation of the development.

Reason: *To protect the amenity of the area.*

- 9 **Erection of a Boundary Fence between 49 and 51 Railway Parade**

- a. The proponent shall erect a solid fence (eg. Colourbound) to a minimum height of 2100mm from ground level (existing) along the shared boundary line between 49 and 51 Railway Parade. Where the fence is located on a slope the fence must not be more than 2400mm above ground level (existing) at each step. All footing and structural details regarding the fence shall be supplied to Council and assessed as part of the Construction Certificate.
- b. The 2100mm high fence shall run from the northern boundary line (boundary with Railway Parade) for at least 25 metres along the eastern boundary line and finish at a point level with the rear of the detached dwelling located on 51 Railway Parade.
- c. The proponent may, if they wish, to continue the solid fence for the

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remainder of the boundary line but only to a height of 1800mm above ground level (existing), but must not be more than 2200mm above ground level (existing) at each step.

- d. Any vegetation overhanging the existing fence line shall be trimmed to allow the construction of the new fence.
- e. The demolition of the existing fence and the erection of the new fence shall be undertaken in accordance with the Dividing Fencing Act 1991.

Note: *To mitigate, as much as possible, any privacy and/or noise impacts to the neighbouring residential building emanating from the BYO Outdoor Dining area and/or overlooking from the kitchen within 49 Railway Parade, Gravesend.*

PART A - HEALTH

- 1 The food preparation and storage areas (including washrooms, bars, servery and garbage areas), fixtures, fittings and appliances shall be constructed, installed and maintained in accordance with the AS 4674-2004, Food Act 2003, Food Regulation 2015 and Food Safety Standards Code.
- 2 **Operating hours**
 - Monday to Thursday - 6.00 am to 9.00 pm
 - Friday and Saturday – 6 am to 10 pm
 - Public Holidays - 6.00 am to 9.00 pm

Reason: *To protect the amenity of the area as much as possible.*
- 3 All covered outdoor areas that permit smoking must comply with the *Smoke Free Environment Act, 2000* and the *Smoke Free Environment Amendment (Enclosed Places) Regulation, 2006*.

PART A - BUILDING

- 1 **Water saving and reuse measures**

The applicant shall, as far as practicable, implement water saving and reuse measures onsite to reduce water consumption and promote energy efficiency.
- 2 **Structural Adequacy**

The Applicant shall ensure that all new buildings, structures, and transportable buildings/structures are constructed in accordance with the

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relevant requirements of the BCA.

Notes:

- Under Part 4A of the EP&A Act, the Applicant/Owner is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the detailed requirements for the certification of development.

PART B - PRIOR TO COMMENCEMENT OF BUILDING WORK

1 Advisory Note 3

These matters must be addressed (included in the Plans and Specifications) before the issue of a Construction Certificate.

Compliance with Building Code of Australia:

All aspects of the building design shall comply with the applicable performance requirements of the *Building Code of Australia* so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by:-

- a. complying with the deemed to satisfy provisions, or
- b. formulating an alternative solution which:
 - i. complies with the performance requirements, or
 - ii. is shown to be at least equivalent to the deemed to satisfy provision, or
- c. A combination of (a) and (b)

2 Notification of Commencement of Work

At least two (2) days prior to work commencing on site, Council must be informed, by the submission of Form 7 of the *Environmental Planning & Assessment Regulation, 1998*, of the name and details of the Principal Certifying Authority and the date construction work is proposed to commence

3 Advisory Note 4

Toilet Facilities:

1. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20

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persons or part of 20 persons employed at the site.

2. Each toilet provided:-
 - a. must be a standard flushing toilet, and
 - b. must be connected:
 - i. to a public sewer, or
 - ii. if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - iii. if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
3. The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
4. In this clause:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the Local Government Act (Approvals) Regulation 1993 applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the Regulation.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

4 Advisory Note 5

1. Signs to be Erected on Building and Demolition Sites:
 - a. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:-
 - i. stating that unauthorised entry to the work site is prohibited, and

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ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

b. Any such sign is to be removed when the work has been completed.

c. This clause does not apply to:-

i. building work carried out inside an existing building, or

ii. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

2. Signs to be erected on development sites

The principal certifying authority and the principal contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate must ensure that they each provide a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site:

(i) is erected in a prominent position on the site before the commencement of the work, and

(ii) is maintained on the site at all times while this clause applies until the work has been carried out.

3. In this clause, the "identifying particulars" for a person means:

(i) the name, address and telephone number of the person, and

(ii) in the case of a principal contractor, a telephone number on which the principal contractor may be contacted at any time for business purposes.

4. Nothing in this clause requires the erection of more than one sign on a site or prevents the use of an appropriate sign that has already been erected on a site.

5 Site Management

Run-off and erosion controls must be implemented before construction to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:

a) divert uncontaminated run-off around cleared or disturbed areas,

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- b) erect a silt fence to prevent debris escaping into drainage systems or waterways,
- c) prevent tracking of sediment by vehicles onto roads,
- d) stockpile topsoil, excavated material, construction, landscaping supplies and debris within the site.

6 Advisory Note 6

Dial before you Dig

Underground assets may exist in the area that is subject to this application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW).

If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before you Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets.

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you Dig service in advance of any construction or planning activities.

7 Advisory Note 7

Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs.

If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

8 Advisory Note 8

Disturbance or Impact on Telecommunications Infrastructure

- 1. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the

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service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing.

2. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

PART C - DURING BUILDING WORK

1 Compliance with the Building Code of Australia

All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.

2 Advisory Note 9

- (a) Except as specified in (b) below, the critical stage inspections may be carried out by the Principal Certifying Authority (PCA) or, if the PCA agrees, by another Certifying Authority.
- (b) The last critical stage inspection required to be carried out must be carried out by the Principal Certifying Authority.

The applicant is advised that the critical stage inspections as listed are mandatory. Council, if chosen as the Principal Certifying Authority (PCA) will require the listed inspections.

A Compliance Certificate or other form of documentary evidence shall be issued/provided for the following applicable stages of the building construction in order that the work may immediately progress:

Mandatory Inspections

| Stage | Work |
|--------------------------------------|--|
| a. Prior to Construction Certificate | Prior to the issue of a Construction Certificate |
| b. Footing System | After excavation for, and prior to the placement of any footings. |
| c. Reinforced Concrete | Prior to pouring any in-situ reinforced concrete building element. |
| d. Frame work | Prior to covering of the framework for any floor, wall, roof or other building element |
| e. Stormwater Drainage | Prior to covering any stormwater drainage connections. |

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| | |
|--|--|
| f. Completion | After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building. |
| Note: Any Compliance Certificate issued for the above stages of construction shall certify that all relevant ancillary or dependent work has been undertaken in accordance with the Building Code of Australia and any other condition of this consent. | |

3 Noise Impact Control

- a. Any noise generated during the implementation/construction of the development shall not exceed the limits specified in the *Protection of the Environment Operations Act 1997*.
- b. The hours of work for any noise generating activities associated with the construction of the proposed development are limited to between 7.00 am and 6.00 pm, Mondays to Friday inclusive, and between 8:00 am and 1:00 pm on Saturdays. No works may be carried out on Sundays or on Public Holidays, or otherwise outside the stated hours except where:
 - a. noise from the construction activity is inaudible at the nearest affected residential receiver; or
 - b. it is necessary for the delivery of materials as requested by Police or other authorities for safety reasons; or
 - c. where it is necessary emergency work to avoid the loss of lives, property and/or to prevent environmental harm.
- c. The premises being used and operated without excessive noise (namely noise sufficient to provoke justifiable public complaint, having regard to the provisions of the *Protection of the Environment Operations Act, 1997* or other nuisance/pollution, to maintain the amenity of the locality. Noise levels must be restricted to a maximum of 5dBA above the background noise levels at any time, measured at the boundaries of the site.

4 Building Materials and Wastes

Building and construction materials, plant, equipment and the like are not be placed or stored at any time on Council's footpath or roadway.

5 Surface Drainage

All roof and surface waters shall be piped to the street table drain by means of approved piping.

NOTE: This still allows the use of a water storage tank with the system.

6 Hot Water Delivery Systems

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- a. Tempering valves shall be fitted on all hot water plumbing systems to restrict the delivery temperature of hot water to sanitary appliances to not more than 50° Celsius. The device shall be located to permit access for servicing and repairs.
- b. Cold water expansion devices with overflow discharges piped one metre clear of the hot water heating device shall be installed on the cold water inlet of all hot water heating devices.

7 Excavations and Backfilling

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

- 8** All existing asbestos cement roofing, cladding and lining material shall be removed prior to the building being demolished/relocated. All asbestos cement material shall be removed, handled and disposed of strictly in accordance with the National Occupational Health and Safety Commissions Code of Practice for the Safe Removal of Asbestos and WorkCover requirements.

Reason: To protect the amenity of the area and comply with the requirements of WorkCover.

9 Demolition

Any demolition works forming part of this approval or required to allow work to be carried out are to be in accordance with AS2601 1991- The demolition of structures. Disposal of Waste material shall be to a Council landfill facility and any disposal fees paid as required under Council's current Fees and Charges.

Reason: To protect the amenity of the area and limit the impact on the environment.

10 External Finish of Building

Design and colour of the building is to aesthetically blend into the surrounding environment and shall have a low reflectivity.

12 Visual Amenity

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The Applicant/Owner shall carry out the development in a way that prevents and/or minimises the visual impacts of the development.

13 Lighting Emissions

- 1 The Applicant/Owner shall take all practicable measures to prevent and/or minimise any off-site lighting impacts including light spill and prevent contribution to sky glow from the development.
- 2 All external lighting associated with the development shall comply with *Australian Standard AS4282(INR) 1995 – Control of Obtrusive Effects of Outdoor Lighting*.

PART D - PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

1 Compliance with Conditions

The use or occupation of the approved development shall not commence until such time as all conditions of this development consent have been complied with. The use or occupation of the development prior to the compliance with all conditions of development consent may make the applicant/developer liable to legal proceedings.

2 Road Damage

The cost of repairing any damage caused to Council's assets in the vicinity of the subject site as a result of construction works associated with the approved development is to be met in full by the applicant/developer prior to the issue of an Occupation Certificate.

3 Removal of Temporary Facilities

- a. All temporary builder's signs or other site information signs are to be removed upon the completion of site works.
- b. Any hoarding or similar barrier erected to protect a public place is to be removed from the site prior to the use or occupation of the development.
- c. Any temporary toilet facilities provided during construction works are to be appropriately dismantled, disconnected and removed from the site.
- d. All temporary soil erosion controls employed during construction are to be removed and other permanent measures are to be implemented prior to the use or occupation of the development.

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4 Fencing - Units

Provision and maintenance thereafter of permanent and effective acoustic and screen fencing. Final locations materials and dimension need to be provided to Council prior to the issue of a Construction Certificate and must be completed prior to issue of an Occupation Certificate.

5 Fire Safety Certificate - Interim Certificate

An interim fire safety certificate or final fire safety certificate is to be furnished (by the owner of the building) to the satisfaction of the Principal Certifying Authority (PCA) prior to the issue of any Interim Occupation Certificate.

Advice

A person who carries out the assessment for either the Interim or Final Certificate must inspect and verify the performance of each specified fire safety measure and must test the operation of each new item of equipment installed in accordance with the Schedule.

6 Fire Safety Certificate - Final Certificate

The essential fire safety measures referred to in the Fire Safety Schedule issued with the Construction Certificate, excluding any existing measures, are to be installed within the building.

A Final Fire Safety Certificate is to be furnished by the owner of the building to the Principal Certifying Authority (PCA) prior to the issue of the Final Occupation Certificate, in respect of all essential fire safety measures specified in the Fire Safety Schedule issued with the Construction Certificate.

The Certificate should state that each specified essential fire safety measure has been assessed by a properly qualified person (chosen by the owner), and was found to be capable of performing to a standard not less than that specified in the Schedule.

Advice

A person who carries out the assessment for either the Interim or Final Certificate must inspect and verify the performance of each specified fire safety measure and must test the operation of each new item of equipment installed in accordance with the Schedule

PART E – POST OCCUPATION

1 Annual Fire Safety Certificate

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The owner of the building must certify to Council every year that the essential fire safety measures installed in the building have been inspected and are capable of operating to the required minimum standard.

The certificate shall be on, or to the effect of, Council's Fire Safety Statement.

PART F - OTHER APPROVALS

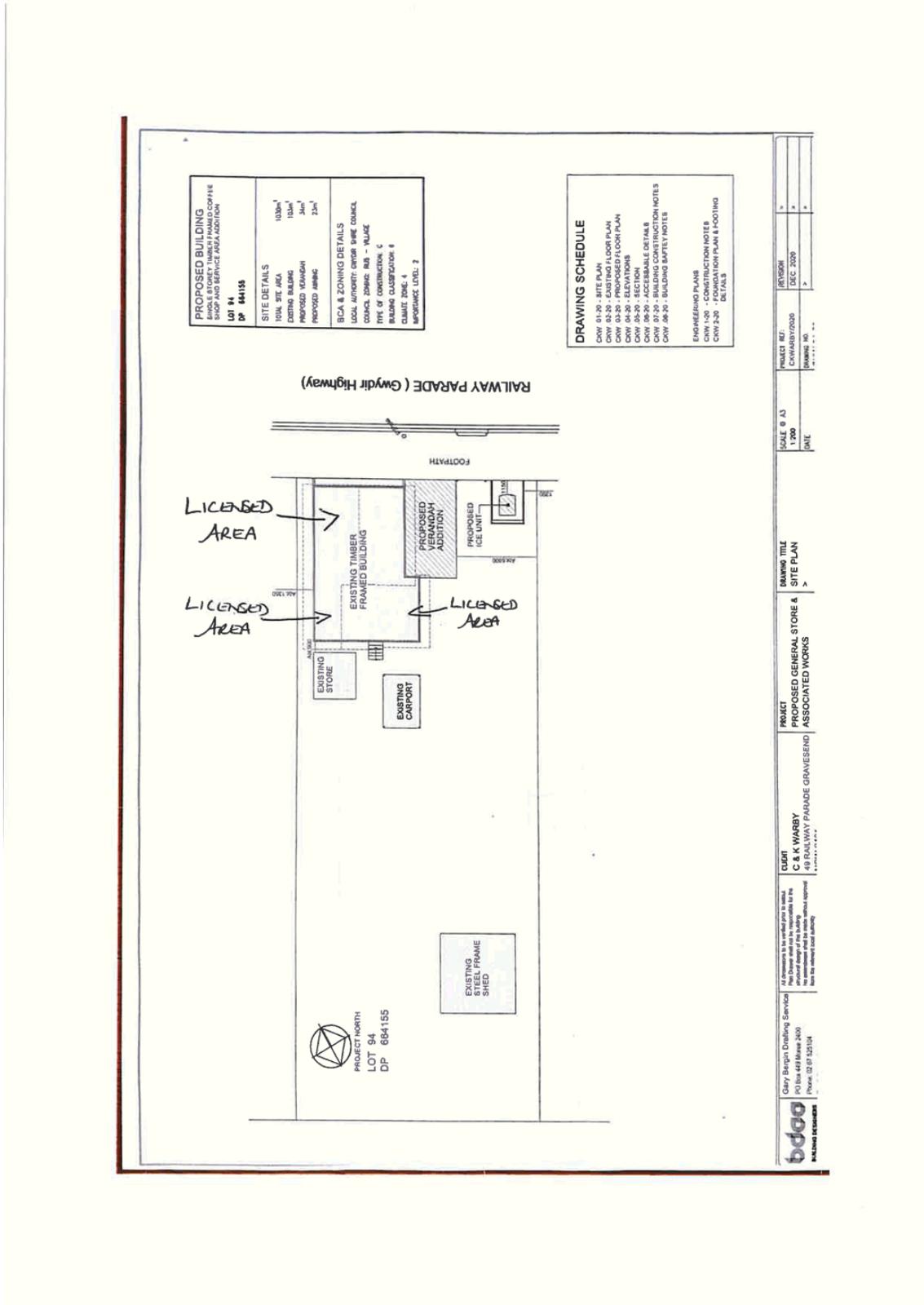
- 1 No other approvals were issued as a part of this consent.

REASONS FOR CONDITIONS:

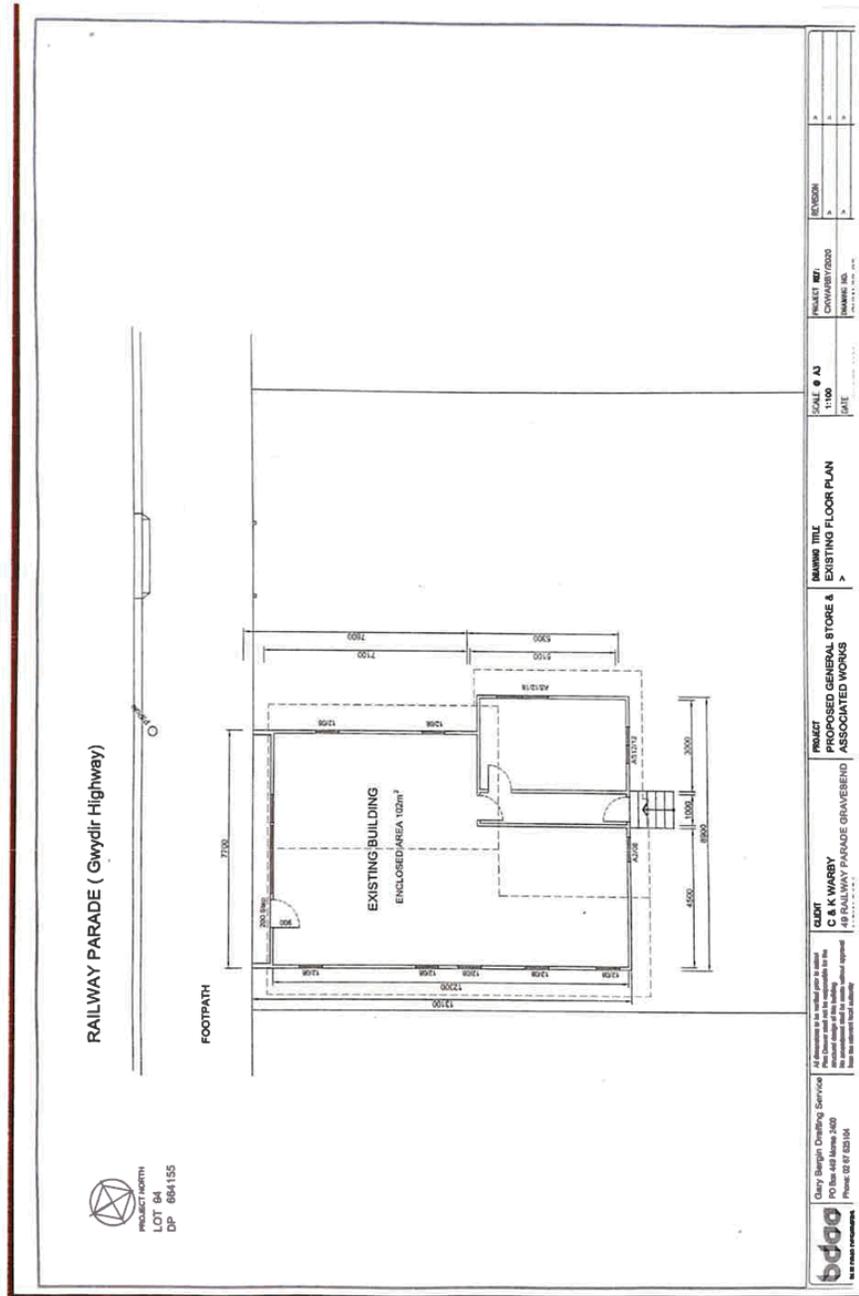
The above conditions have been imposed:-

- (a) to ensure compliance with the terms of the Environmental Planning Instrument and/or Development Control Plan;
- (b) having regard to Council's duties of consideration under *Section 79C(1) of the Environmental Planning and Assessment Act, 1979 (as amended)* as well as Section 80A of the Act which authorises the imposing of consent conditions;
- (c) to protect the existing and likely future amenity of the locality;
- (d) prevent, minimise, and/or offset adverse environmental impacts;
- (e) set standards and performance measures for acceptable environmental performance;
- (f) provide for the on-going environmental management of the development;
- (g) to ensure compliance with the requirements of the Contaminated Land Management Act 1997 and any associated regulations, State Environmental Planning Policy, standards and guidelines;
- (h) having regard to the circumstances of the case and the public interest; and
- (i) to ensure compliance with the *Building Code of Australia* and referenced standards.

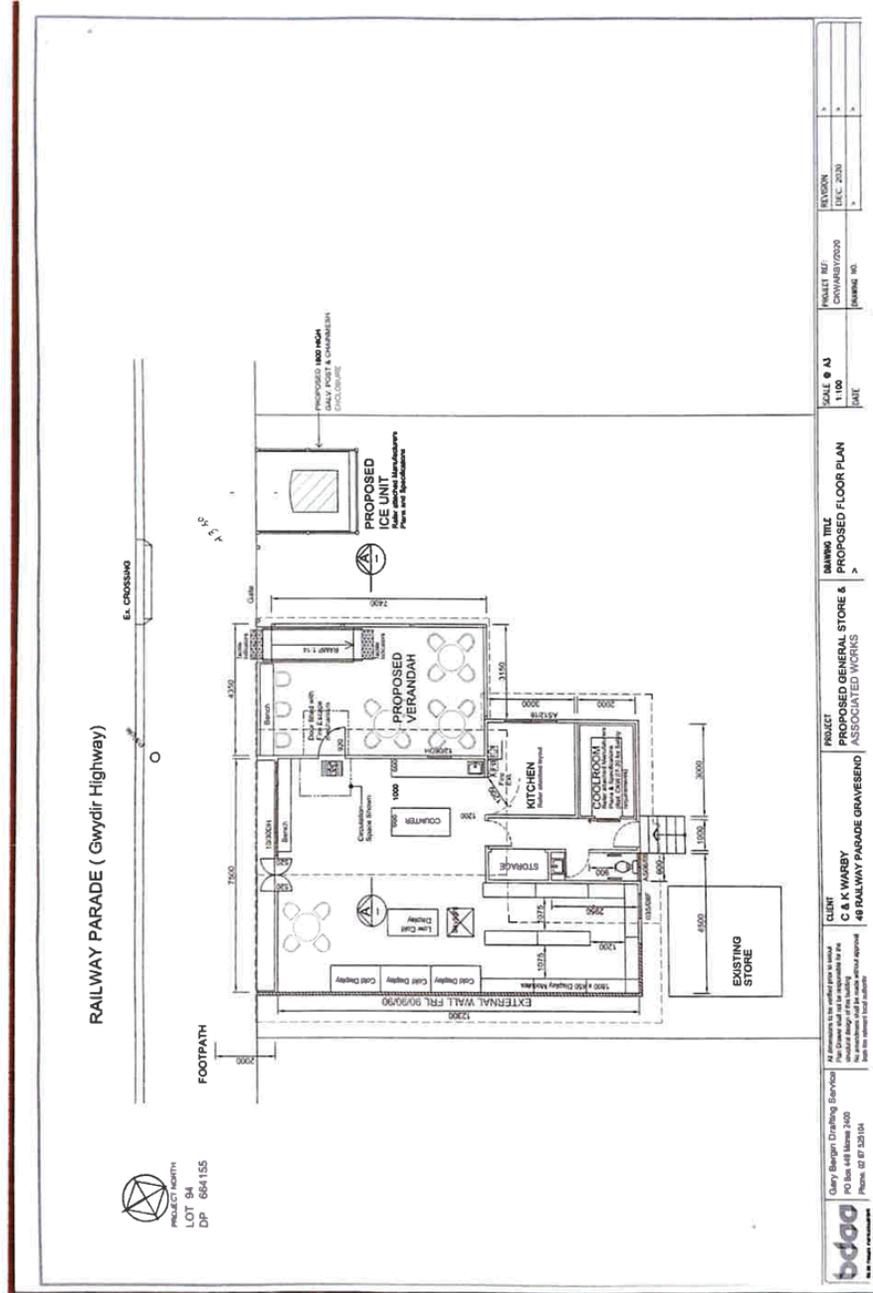
Change of Use of an Existing Building from a Dwelling to a Neighbourhood Shop/Café/Take Away Food and Drink Premises



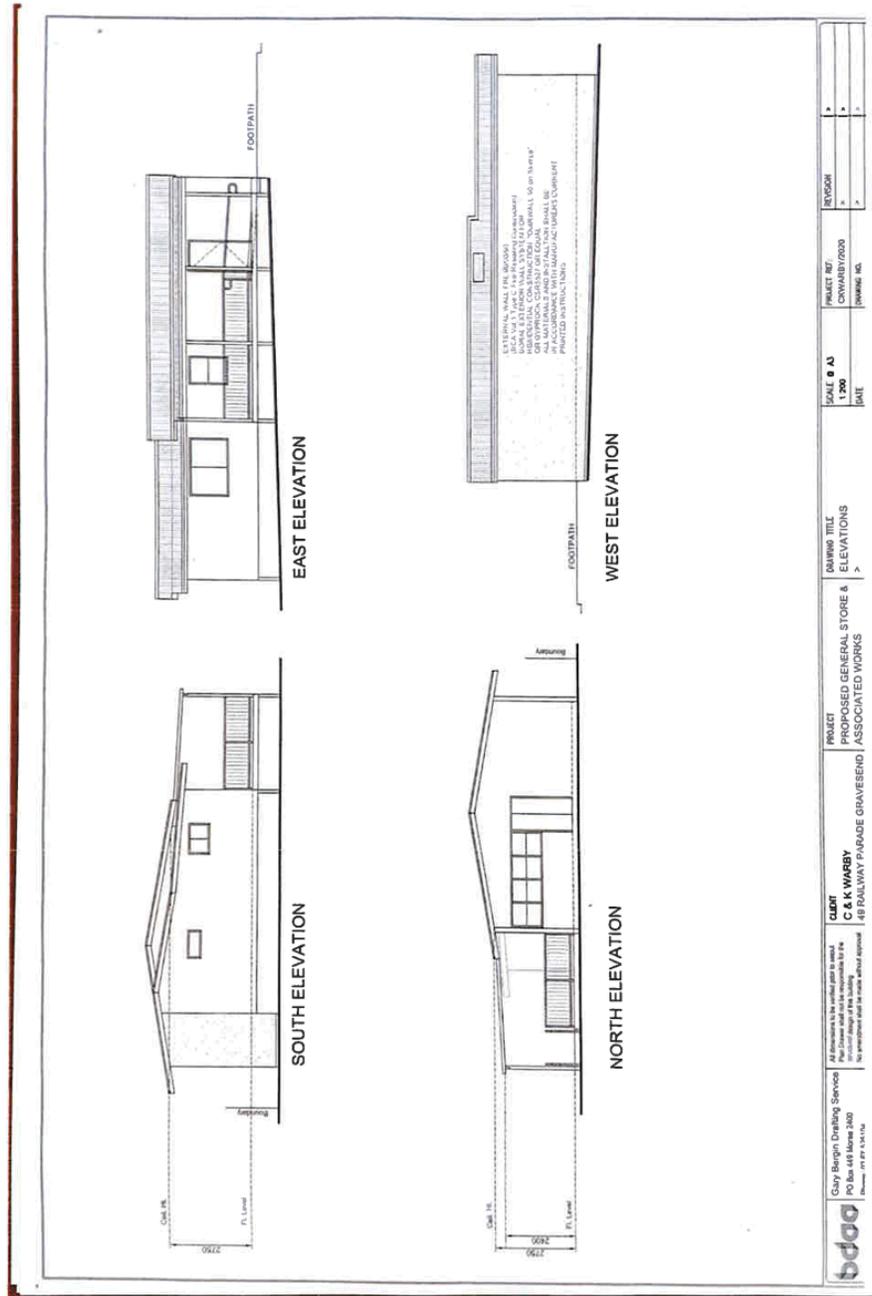
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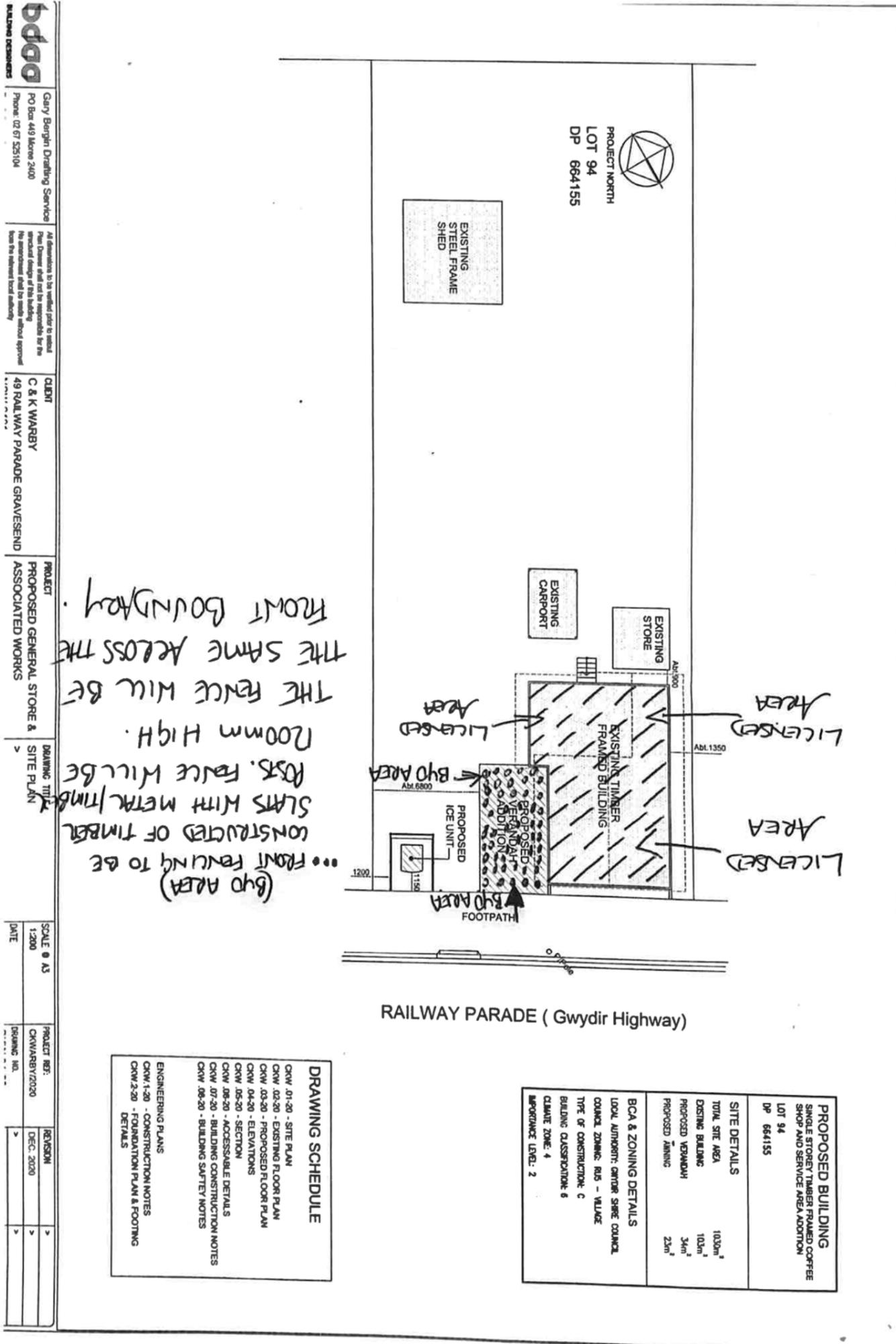


Change of Use of an Existing Building from a Dwelling to
 a Neighbourhood Shop/Café/Take Away Food and Drink
 Premises



Change of Use of an Existing Building from a Dwelling to
a Neighbourhood Shop/Café/Take Away Food and Drink
Premises





bdpa Building Design Professionals
 Gary Burghart Drafting Service
 PO Box 449 Murrumbidgee 2400
 Phone: (02) 67 525104

CLIENT
 C & K WARBY
 49 RAILWAY PARADE GRAVESEND

PROJECT
 PROPOSED GENERAL STORE & ASSOCIATED WORKS

DRAWING TITLE
 SITE PLAN

SCALE @ A3
 1:200

DATE

PROJECT REF:
 CNWABV2020

REVISION
 DEC. 2020

**Change of Use of an Existing Building from a Dwelling to
a Neighbourhood Shop/Café/Take Away Food and Drink
Premises**

STATEMENT OF ENVIRONMENTAL EFFECTS

LEGISLATION – In accordance with Schedule 1 of the Environmental Planning and Assessment Regulations 2000 a development application must be accompanied by a Statement of Environmental Effects (except for designated development which is accompanied by an Environmental Impact Statement).

QUALIFIER – This Statement of Environmental Effects Template has been produced to assist applicants identify the environmental impacts of a development and the steps to be taken to protect the environment or lessen the expected harm.

The template is suitable for minor impact development such as dwellings, alteration & additions, outbuildings, small scale commercial & industrial development and minor subdivisions. It may be necessary for Council to request additional information depending on the nature and impacts of a proposal and the completeness of the document. This may result in the delay of the process of your application by Council.

Larger scale developments should be accompanied by a detailed and specific Statement of Environmental Effects. For further information in this regard please seek specific advice from Council's Environment Services Department.

APPLICATION DETAILS

Applicants Name: CRAIG & KATE WARBY
Location of Development: Lot: 94 DP 664155
No. 49 Street: RAILWAY PDE
Locality: GRAVESEND

DESCRIPTION OF THE DEVELOPMENT

(Should include where applicable physical description of building, proposed building materials, nominated colour scheme, nature of use, details of any demolition etc).

INITIALLY BUILT AS A COMMERCIAL
PREMISE THEN TURNED INTO RESIDENTIAL
PREMISE.
RETURNING TO INITIAL CLASSIFICATION &
OPERATING AS A GENERAL STORE.
COLOUR SCHEME - GREY & WHITE.
REMOVAL OF NON-STRUCTURAL INTERNAL
WALLS. BUILDING MATERIALS: INSULATED ROOFING,
TIMBER FRAMING, PLASTERBOARD SHEETING,
GALVANISED STEEL, HARDWOOD DECKING.

Change of Use of an Existing Building from a Dwelling to
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Premises

DESCRIPTION OF THE SITE

(Describe the physical features such as shape, slope, vegetation, any waterways. Also describe the previous and current use/s on the site).

PREVIOUSLY NATIONAL AUST BANK THEN
A RESIDENTIAL PROPERTY.
RE-ESTABLISHING A GENERAL STORE
IN GRAVESEND COMMUNITY.
SELLING GROCERY LINES, TAKEAWAY FOOD,
TAKEAWAY ALCOHOL, GIFTS & NADES.
Describe the use of the land adjoining the site?
EASTERN SIDE - FORMALLY GRAVESEND
GENERAL STORE WITH RESIDENCE
AT REAR.
WESTERN SIDE - RESIDENTIAL PREMISE.

CONTEXT AND SETTING

Will the development:

• Be visually prominent in the surrounding area?

No Yes

Why/Why not?

LOCATED ON MAIN THOROUGHFARE
THROUGH VILLAGE

• Be inconsistent with the existing streetscape
or Council's setback policies?

No Yes

Why/Why not?

EXISTING BUILDING & CONSISTENT
WITH NEIGHBOURING BUILDINGS.

**Change of Use of an Existing Building from a Dwelling to
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Premises**

• Be out of character with the surrounding area? No Yes
Why/Why not?

• Impacts on the existing and likely future amenity of the area? No Yes
Why/Why not?

ACCESS/TRAFFIC & UTILITIES

(Note 1 dwelling = approx. 10 vehicle movements per day)

• Is legal and practical access available to the development? No Yes

Describe where access is available:

ACCESS AVAILABLE FROM FRONT
OF PROPERTY (DIRECTLY FROM
FOOTPATH).

• Will development increase local traffic movements/volumes? No Yes

If Yes, by how much?

Why/Why not?

LOCAL TRAFFIC MOVEMENTS WILL
INCREASE. MAIN INCREASE WILL
BE LOCALS,
AS ON MAIN HIGHWAY - ALREADY BUSY.

• Are additional access points to road network required? No Yes

Describe where additional access points are required from:

REQUESTING CULVERT TO ALLOW
FOR REAR LANE ACCESS.

Change of Use of an Existing Building from a Dwelling to
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- Has vehicle manoeuvring and onsite parking been addressed in the design (Commercial/Industrial/Multi Res/Public Buildings only)? No Yes

Describe route of vehicle movements & number/type/location of parking:

N/A NO ONSITE TRAFFIC

- Is power, water, electricity, sewer and telecommunications services readily available to the site? No Yes
- Why/Why not?

- What type of vehicle/equipment will be used onsite? List number, use & type of vehicle/equipment:

STAFF VEHICLES - UP TO 3

- Can/Is disabled access provided? No Yes
- Are disabled facilities to be installed/provided? No Yes

Number & location:

RAMP PROVIDED FOR THOSE REQUIRING
A MOBILITY AID OR HAVE AN
IMPAIRMENT.

- Method/timing/frequency/type of deliveries (loading and unloading)?

SEVERAL TIMES A WEEK.
DELIVERY OF GROCERY LINES
& STOCK

**Change of Use of an Existing Building from a Dwelling to
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Premises**

ENVIRONMENTAL IMPACTS

• Is the development likely to result in any form of air pollution
(smoke, dust, odour etc)? No Yes

Why/Why not?

• Does the development have the potential to result in any
form of water pollution (eg. Sediment run-off)? No Yes

Why/Why not?

• Will the development have any noise impacts above
background noise levels (eg. Swimming pool pumps)? No Yes

Why/Why not?

• Does the development involve any significant excavation or filling?
Describe Location & Quantity. No Yes

Why/Why not?

• Could the development cause erosion or sediment run-off
(including during the construction period)? No Yes

Why/Why not?

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. Is there any likelihood in the development resulting in soil contamination?
Why/Why not? No Yes

. Is the development considered to be environmentally Sustainable (including provision of BASIX certificate where required)?
Why/Why not? No Yes

. Is the development likely to disturb any aboriginal artefacts or relics?
Why/Why not? No Yes

. Are there any threatened species, populations &/or ecological communities &/or their habitats on the land or nearby?
If "Yes", How will the development impact? If "No", why not? No Yes

. Will there be external lighting?
Describe location/type/wattage: No Yes

SPOTLIGHT AT REAR WITH SENSOR
DOWNLIGHTS ON DECK ROOF (CEILING)
LOW WATTAGE LIGHTS ON FRONT OF
BUILDING

**Change of Use of an Existing Building from a Dwelling to
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FLORA AND FAUNA IMPACTS

(For further information on threatened species, see www.threatenedspecies.environment.nsw.gov.au)

- Will the development result in the removal of any native
Vegetation from the site? No Yes
Describe location/quantity/type of vegetation.
Why/Why not?

- Is the development likely to have any impact on threatened
Species or endangered ecological communities? No Yes
(If the answer is yes to either of the over questions it may be necessary to have a formal seven-part test completed to
assess the impact on threatened species – applicants are encouraged to consult Council).
Describe location/quantity/type:
Why/Why not?

NATURAL & TECHNOLOGICAL HAZARDS

- Is the development site subject to any of the following natural hazards: No Yes
 Bushfire Prone? Landslip? Flooding?

(Note if the site is identified as Bushfire Prone it will be necessary to address the Planning for Bushfire Protection
Guidelines and in the case of subdivision the development will be integrated. For further information please consult
the NSW Rural Fire Service web site www.rfs.nsw.gov.au).

Describe location/type/severity:

- Will the development result in any technological hazards? No Yes

Describe hazard/s.
Why/Why not?

**Change of Use of an Existing Building from a Dwelling to
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Identify any proposed hazardous materials &/or processes &/or any potential emissions from the proposal.

Describe: N/A

WASTE DISPOSAL

Sewer/Septic:

- How will effluent be disposed of? To Sewer Onsite

Indicate location/size/disposal method for onsite system:

SEPTIC TANK - EMPTIED ON ANNUAL
BASIS OR AS REQUIRED.

- Will liquid trade waste be discharged to Council's sewer? No Yes

Type and quantity?

- How will stormwater (from roof and hard standing) be disposed of:
 Street Drainage System Other (of other provide details)

Describe:

FROM DOWNPIPE TO RISER IN
YARD & SPREAD ONTO YARD.

Garbage & other Waste:

- Will the development produce waste? No Yes

If "Yes", please specify quantity:

- What type/s of waste will be generated?

Describe:

GENERAL FOOD WASTE, FOOD PACKAGING
+ BOXES

- How will waste be disposed of & the frequency of disposal?

Describe:

VIA COUNCIL RUBBISH COLLECTION
AND LOCAL REFUSE TIP

**Change of Use of an Existing Building from a Dwelling to
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Premises**

• How will waste be stored onsite?

Describe:

IN COUNCIL SUPPLIED WHEELIE BINS

SOCIAL AND ECONOMIC IMPACTS

• Will the proposal have any economic consequences in the area?
Why/Why not? No Yes

• Will the proposal affect the amenity of surrounding residences
by overshadowing/loss of privacy/increased noise or vibrations?
Why/Why not? No Yes

• Is the development situated in a heritage area or likely to have
an impact on any heritage item or item of cultural significance?
Why/Why not? No Yes

• What are the likely social effects of the proposal?
(Issues which may need to be considered include demography/community services/amenity/quality of
life/employment rates/health & safety)

- INCREASE EMPLOYMENT OPPORTUNITIES
- CATER TO ALL DEMOGRAPHICS IN THE COMMUNITY
- FACILITY AVAILABLE FOR COMMUNITY ENGAGEMENT & MEETINGS

Change of Use of an Existing Building from a Dwelling to
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Premises

OPERATIONAL AND MANAGEMENT DETAILS

Note: This section is only relevant to commercial/industrial/public buildings and other non-residential uses

- Description of operation GENERAL STORE
PROVIDING GROCERY LINES, LIGHT MEALS,
PREPARED BEVERAGES GIFTS & WARES.
TAKEAWAY FOOD & TAKEAWAY ALCOHOL.
- Numbers of staff 2 FULLTIME (1 P/TIME) WILL ASSESS AS
NEEDED
- Description of production process ALL DUE PROCESS & POLICIES WILL BE FOLLOWED
TO DELIVER THE CONSUMER QUALITY PRODUCTS.
- Hours and days of operation MONDAY TO SUNDAY (5AM-10PM)
WILL VARY AS PER COMMUNITY & SEASONAL
(WILL NOT TRADE OUTSIDE THESE HOURS) NEEDS.
- Maximum expected number of customers/day and at one time.
AT ONE TIME - 15
WILL VARY ON DAILY BASIS (50-100)
- Type and quantity of goods handled (including any hazardous substances)
GROCERY LINES FRESH BREAD ALCOHOL
FRUIT & VEGE HOT FOOD / COFFEE
LIGHT MEALS CLEANING PRODUCTS
- List and describe the type of quantity of raw materials and finished products
MEAT BREAD
FISH FRUIT & VEGE
EGGS
DAIRY
- Advertising/business signage onsite
AT FRONT OF BUILDING - ROOF OR CLOSE
TO FASCIA.
PROMOTIONAL FLAGS SECURED AT FRONT OF BUILDING

Applicant Signature  Date 15/12/2020

Applicant Signature  Date 15/12/2020

Privacy Policy - This information is required under the Environmental Planning and Assessment Act and Regulation to process your application. Your information would comprise part of a public register related to this purpose. This information will be kept by Council and disposed of in accordance with the Local Government Disposal Authority. You are entitled to review your personal information at any time by contacting Gwydir Shire Council.