

28 February 2018

His Worship the Mayor & Councillors

**Notice of Policy Committee Meeting of Bathurst Regional Council -
Wednesday, 7 March 2018**

I have to advise that a **Policy Committee Meeting** will be held in the Council Chambers on Wednesday, 7 March 2018 commencing at 6.00 pm.



D J Sherley
GENERAL MANAGER

BUSINESS AGENDA

POLICY COMMITTEE

TO BE HELD ON WEDNESDAY, 7 MARCH 2018

1. 6:00 PM - MEETING COMMENCES

2. APOLOGIES

3. REPORT OF PREVIOUS MEETING

* MINUTES - POLICY COMMITTEE MEETING - 6 DECEMBER 2017

4. DECLARATION OF INTEREST

To assist the Councillors and committee members in their correct consideration of business before them at the meeting, please give consideration to Section 451 of the Local Government Act, in relation to Declaration of Interest at meetings.

5. RECEIVE AND DEAL WITH GENERAL MANAGER'S AND DIRECTORS' REPORTS

* DIRECTOR CORPORATE SERVICES & FINANCE'S REPORT

6. GENERAL BUSINESS

7. DISCUSSION FORUM - DEVELOPMENT APPLICATION SUBMISSIONS

* DEVELOPMENT APPLICATION NO. 2017/403 – PARTIAL CHANGE OF USE TO OFFICE PREMISES AND SIGNAGE & DEVELOPMENT APPLICATION 2018/5 – PARTIAL CHANGE OF USE TO TAKEAWAY FOOD PREMISES – 125 RUSSELL STREET. APPLICANT: BENJAMIN NEWMAN. OWNER: BMN PTY LTD

8. DISCUSSION FORUM OTHER

9. MEETING CLOSE

MINUTE

1 MEETING COMMENCES

Present: Councillors Hanger (Chair), Aubin, Bourke, Christian, Fry, Jennings, North.

MINUTE

2 APOLOGIES

MOVED: Cr I North SECONDED: Cr B Bourke

RESOLVED: That the apologies from Crs Morse & Rudge and the late arrival of Cr Aubin be accepted and leave of absence granted.

REPORT OF PREVIOUS MEETING AND MINUTES

POLICY COMMITTEE

1 MINUTES - POLICY COMMITTEE MEETING - 6 DECEMBER 2017 (07.00064)

Recommendation: That the Minutes of the Policy Committee Meeting held on 6 December 2017 be adopted.

Report: The Minutes of the Policy Committee Meeting held 6 December 2017, are **attached**.

Financial Implications: N/A

Bathurst 2036 Community Strategic Plan - Objectives and Strategies

- Objective 32: To ensure Council is supported by an adequate workforce and appropriate governance procedures. Strategy 32.2

Community Engagement

- Inform To provide the public with balanced and objective information to help them understand the problem, alternatives opportunities and/or solutions.

MINUTE

3 Item 1 MINUTES - POLICY COMMITTEE MEETING - 6 DECEMBER 2017
(07.00064)

MOVED: Cr B Bourke SECONDED: Cr J Fry

RESOLVED: That the Minutes of the Policy Committee Meeting held on 6 December 2017 be adopted.

MINUTES OF THE POLICY COMMITTEE
HELD ON 6 DECEMBER 2017

MEETING COMMENCES

1 MEETING COMMENCES 6:00 PM

Present: Councillors Hanger (Chair), Aubin, Bourke, Christian, Fry, Morse.

APOLOGIES

2 APOLOGIES
MOVED Cr M Morse and **SECONDED** Cr A Christian

RESOLVED: That the apology from Crs Jennings, Rudge and North and the apology for late arrival from Cr Aubin be accepted and leave of absence granted.

REPORT OF PREVIOUS MEETING

3 Item 1 MINUTES - POLICY COMMITTEE MEETING - 1 NOVEMBER 2017 (07.00064)
MOVED Cr M Morse and **SECONDED** Cr J Fry

RESOLVED: That the Minutes of the Policy Committee Meeting held on 1 November 2017 be adopted.

DECLARATION OF INTEREST

4 DECLARATION OF INTEREST 11.00002
MOVED Cr A Christian and **SECONDED** Cr J Fry

RESOLVED: That the Declaration of Interest be noted.

Cr Aubin arrived at 6.04 pm.

RECEIVE AND DEAL WITH GENERAL MANAGER'S AND DIRECTORS' REPORTS

Director Corporate Services & Finance's Report

5 Item 1 REPORT OF AUDIT AND RISK MANAGEMENT COMMITTEE - 22 NOVEMBER 2017 (07.00096)
MOVED Cr M Morse and **SECONDED** Cr J Fry

RESOLVED: That the recommendations of the Audit & Risk Management Committee Meeting held on 22 November 2017 be adopted.

GENERAL BUSINESS

6 Item 1 LOCAL GOVERNMENT NSW CONFERENCE (18.00074)

Cr Bourke - noted this was an interesting conference, new office bearers were elected.

7 Item 2 SIGNAGE - GREAT WESTERN HIGHWAY (28.00007)

Cr Bourke - noted when travelling on Great Western Highway near the bridge, a number of the signs have been removed. Need signage to indicate where Hockey fields, Berry Park and other assets are located. Could approaches be made to RMS?

8 Item 3 OP SHOP (21.00143)

Cr Bourke - advised the Op Shop should be up and running again around Christmas. Thanked Council for its support.

9 Item 4 NORWOOD PARK (09.00009)

Cr Aubin - Congratulated Norwood Park for the landscaping at the cemetery. It is looking very nice.

10 Item 5 STAFF (21.00002)

Cr Morse - welcomed the new Director and also gave congratulations to the Art Gallery Director on the recent exhibition which received wide acclaim.

11 Item 6 ALEC LAMBERTON FIELD (04.00018)

Cr Morse - requests a report on Alec Lamberton Field be provided to Council.

12 Item 7 LOWER WILLIAM STREET (25.00002)

Cr Morse - noted the need for a bollard in this area. When will this be installed? This is a dangerous situation particularly with motorbikes.

The Acting Director Engineering Services advised the bollard is due to be

installed on 7 December 2017.

13 **Item 8 LOCAL GOVERNMENT NSW CONFERENCE (18.00074)**

Cr Fry - advised it was a great conference which gave the opportunity to forge contacts. Got to see the big picture, noted some of the new technologies around.

14 **Item 9 DRINKING FOUNTAINS (04.00034)**

Cr Fry - asked are there enough drinking fountains in town. Perhaps Council should do an audit and look at installing more in the city.

15 **Item 10 STREET TREES (13.00019)**

Cr Fry - asked if trees have to come down, can Councillors be given notice in advance. Will approach Director Engineering Services about this.

16 **Item 11 CROWN LAND OWNERSHIP (22.00270)**

Cr Fry - asked with the changes occurring, will Council be looking at what is happening. Might be worth acquiring some of the properties.

The Director Corporate Services & Finance advised Council has registered for the program, will be involved in year 2.

17 **Item 12 CHRISTMAS DECORATIONS (23.00026)**

Cr Christian - noted appreciation for decorations that have been placed in CBD.

18 **Item 13 WEEDS IN STREET MEDIANS - STEWART STREET THROUGH TO BUNNINGS (25.00018)**

Cr Christian - asked could action be taken to clear this area as it is looking untidy, particularly after recent rains.

19 **Item 14 TREES NEAR BATHURST MCDONALDS (13.00019)**

Cr Christian - noted these need to be pruned back as they are catching on the flags.

DISCUSSION FORUM - DEVELOPMENT APPLICATION SUBMISSIONS

20 **Item 1 DEVELOPMENT APPLICATION NO. 2017/394 – ANIMAL BREEDING FACILITY AT 1557 ROCKLEY ROAD, FOSTERS VALLEY. APPLICANT: ROCKLEY VALLEY PARK PTY LTD. OWNER: GREENFIELD PROPERTY NOMINEES PTY LTD (DA/2017/394)**

Discussion included:

J Grima – Proponent for the DA

Spoke to proposal that is contained in the DA. Referred to pet store run at Kellyville and pet care actions taken. Currently sits on an industry board. Noted re-homing of pets that is currently undertaken and the linkage with the RSPCA and Animal Welfare League.

The proposal will be best practice, with education systems in place. It is not a "puppy farm". Facilities will include under floor heating, opportunities for socialisation to occur etc.

EXTENSION OF TIME

MOVED Cr W Aubin and **SECONDED** Cr B Bourke

RESOLVED: That an extension of time be granted.

Looking forward to creating a centre of excellence, requests Council approve the development.

W Gosling – Town Planner for Applicant

Spoke to suitability of the site and constraints in place. The proposal is outside fire zone, Calare Civil have done a "geotech" study to facilitate appropriate effluent management for the development. Ground water has been considered with appropriate management processes in place. Acoustic issues have been addressed by appropriately qualified professionals and noise logging has occurred and the noise is within EPA industrial noise limits. Management systems will be put in place and enacted to deal with problems that may be experienced, does not believe there will be any impacts on neighbours.

T Lane – Adjoining Landholder

Has an issue with proposal as it is right on his boundary. Proposal is unregulated industry, if gets approval could open the floodgates. The proposal is for a 2 ha facility, this is quite large. There has been no mention of bio-security issues. The acoustics report is rubbish, the sensors were never there. No effective measures were taken. Water is a problem, feels will use more than the 400 litres per day proposed, including potential for polluted water to flow onto his property and other locations. The evaporation system is inadequate to handle the volumes of water that will result for the development. Also objects to relocating of any koalas for the site. The dog farm will be near where koalas have been sighted, the development is in a koala habitat. Asks Council to read his detailed submission and urges Councillors and staff to come and view the site with him. Referred to Western

Advocate poll which shows the majority are against the proposal. Tabled a late report for Council.

J Miller – from Sydney

Knows where J Grima's store is in Kellyville. Spoke to RSPCA details on euthanasing and breeding, this facility will transfer problems to Sydney. Expressed concerns at proposed training "longevity" and the housing "McMansion" in Sydney. There are enough dogs, we do not need anymore. Noted breeding of small dogs proposed. Asks Council consider the welfare of dogs.

J Lane – daughter of T Lane

Noted current bore approval and the DA has no consideration of bore flows being expanded to cater for commercial use, please review. The proposal to re-home dogs at 5+ years of age, queried how successful this would be. If can't be re-homed, whose responsibility is this, and will they go through the Council pound?

MEETING CLOSE

21 MEETING CLOSE

The Meeting closed at 6.44 pm.

CHAIRMAN: _____

MINUTE

4 **DECLARATION OF INTEREST 11.00002**
MOVED: Cr A Christian SECONDED: Cr B Bourke

RESOLVED: That the Declaration of Interest be noted.

Cr Aubin arrived at 6.04 pm.

**DIRECTOR CORPORATE SERVICES & FINANCE'S REPORT AND
MINUTES**

POLICY COMMITTEE

7 MARCH 2018

1 DELEGATIONS REGISTER (41.00088)

Recommendation: That Council adopt the amended Delegations Register as tabled.

Report: Council under Section 377 of the Local Government Act 1993 may delegate certain authority to the General Manager or any other person or body (not including another employee of the Council). Council has in place a detailed list of delegations to the General Manager the Mayor and some other bodies. Section 380 of the Local Government Act 1993 requires Council to review the delegations in the 12 months following a general local government election. The Delegations Register was adopted by Council on 27 September 2017 following the election.

Council has also established a process of reviewing the delegations register on a regular basis. Due to changes in procedures in the finance section it has become necessary to alter the wording of some of the current delegations.

Council currently pays most of its creditors by electronic funds transfer with the remainder being paid by cheque. Currently delegation number 205 states

205 Sign cheques on behalf of Council.

Electronic transfers require two people to logon to Council's bank account and authorise transactions. It is proposed to change delegation 205 to the following

205 Authorise financial transactions (excluding investments) on behalf of Council.

This will allow for the payment of electronic transfers and also cheques.

When cheques are produced a voucher (remittance advice) is also produced which list the payment amount made and is attached to the front of the invoices paid. Currently delegation number 206 states

206 Sign vouchers on behalf of Council.

It is proposed to remove this delegation as it is now covered within the updated delegation 205 listed above.

Delegation number 216 states

216 To certify that prices and computations on vouchers have been checked and are correct, and as far as able to be ascertained, are fair and reasonable and are in accordance with any quotation/contract under which the goods/services were supplied.

It is proposed to remove the word voucher and replace it with *invoices/payments*.

The proposed updated delegation number 216 will read

216 To certify that prices and computations on invoices/payments have been checked and are correct, and as far as able to be ascertained, are fair and reasonable and are in accordance with any quotation/contract under which the goods/services were supplied.

It is recommended that Council adopt the following changes to the Delegations Register .

(a) Change number 205 to read

205 Authorise financial transactions (excluding investments) on behalf of Council.

(b) Delete number 206 and

(c) amend number 216 to read:

216 To certify that prices and computations on invoices/payments have been checked and are correct, and as far as able to be ascertained, are fair and reasonable and are in accordance with any quotation/contract under which the goods/services were supplied.

The amended Delegations Register is provided at **attachment 1**.

Financial Implications: The Delegations Register provides the authority to authorise expenditures on behalf of the Council.

Bathurst 2036 Community Strategic Plan - Objectives and Strategies

- Objective 32: To ensure Council is supported by an adequate workforce and appropriate governance procedures. Strategy 32.2
- Objective 22: To improve community safety. Strategy 22.11

Community Engagement

- Inform To provide the public with balanced and objective information to help them understand the problem, alternatives opportunities and/or solutions.

MINUTE

- 5 **Item 1 DELEGATIONS REGISTER (41.00088)**
MOVED: Cr I North SECONDED: Cr J Fry

RESOLVED: That Council adopt the amended Delegations Register as tabled.

Yours faithfully

A handwritten signature in black ink, appearing to read 'A Jones', written over a large, hand-drawn oval shape.

A Jones
DIRECTOR
CORPORATE SERVICES & FINANCE

GENERAL BUSINESS

POLICY COMMITTEE

MINUTE

6 Item 1 FLOODING, GILMOUR STREET (25.00031)

Cr Bourke - raised concerns about the channel being called a creek. Requests Council write to fisheries to get the "creek" changed back to a drainage channel. Requested more works occur in this location.

The Director Engineering Services advised any works requires a permit from fisheries due to the channel classification.

MINUTE

7 **Item 2 TOUCH FOOTBALL FIELD UPGRADE (04.00033)**

Cr Jennings - asked where this is up to?

The Director Engineering Services noted that fields are on a floodplain. Any works would need to be referred to future management plans.

The Manager Recreation advised currently collecting information from Touch Football to look at developing a master plan.

MINUTE

8 Item 3 ANGLED CAR PARKING (28.00006)

Cr Jennings - queried where the pilot project is up to.

The Director Engineering Services advised any further rollout would be subject to Traffic Committee approval, trial appears to be working. Any expansion of program would go through the Traffic Committee.

MINUTE

9 Item 4 CLEAR CREEK (25.00468)

Cr Jennings - spoke to condition of road and what works will occur to this Council Road.

The Director Engineering Services believes this is a private road and not a Council road.

MINUTE

10 Item 5 ROCKET STREET GIVE WAY AT BRIDGE (25.00024)

Cr Jennings - advised the signs are not visible enough, could larger signs be installed, or further warnings be put in place?

MINUTE

11 Item 6 BMEC FACILITY REPLACEMENT (21.00061)

Cr Jennings - requests Council look at constructing a new facility. Notes another \$4 billion will be going to infrastructure in New South Wales, further NSW Arts Funds and the NSW Infrastructure Plan is being developed. This creates the opportunity to attract funds. Noted issues about the available space in the Administration building.

Meeting was suspended at 6.19 pm for the commencement of the Discussion Forum.

General Business resumed at 6.45 pm following the conclusion of the Discussion Forum.

MINUTE

12 Item 7 RAISING CHIFLEY DAM WALL (32.00006)

Cr Aubin - asked has this matter progressed?

The Director Engineering Services advised a report on water security is being prepared.

MINUTE

13 Item 8 HEREFORD/GILMOUR STREET ROUNDABOUT (25.00031)

Cr Aubin - advised there are major problems there of an afternoon. Could a plan be developed for this.

The Director Engineering Services advised that the Kelso Traffic Study recommends traffic lights. Funding for design will be recommended in 2018/2019 budget.

MINUTE

14 Item 9 GEORGE/DURHAM STREET LIGHTS (25.00089)

Cr Aubin - advised there are major problems with the light timing. Have raised a number of complaints with RMS on the phasing. Apparently Telstra need to do works to facilitate this. Requested a letter be sent to Telstra.

MINUTE

15 Item 10 STATE GOVERNMENT FUNDING (16.00119)

Cr Aubin - requested a Working Party be held to discuss projects.

MINUTE

16 **Item 11** **SOCCKER FIELDS - DUGOUTS (04.00044)**

Cr Aubin - advised that the Dugouts need replacing at this location.

MINUTE

17 Item 12 ROADSIDE SIGNAGE ON TRAILERS (23.00045)

Cr Aubin - noted new legislation introduced recently. There is a run of signs going up, it is very messy. Do people come and ask for signs to go up?

The Director Environmental, Planning & Building Services advised there is a Council Policy in place, which is fairly robust.

MINUTE

18 Item 13 TREE REMOVAL (13.00019)

Cr Fry - spoke to issues of medium density buildings and removal of trees. Bathurst needs all the trees it can get. Could the S:94 funds include a levy on people who remove trees?

MINUTE

19 Item 14 RECYCLING (14.00008)

Cr Fry - spoke to concerns about recycling and the future of this. Can staff look at ways of using recycling materials? For example, sourcing new industries in this area.

MINUTE

20 Item 15 CSP 2040 PLAN (03.00180)

Cr Fry - spoke to timelines to put submissions in.

MINUTE

21 Item 16 CHANNEL OFF GILMOUR STREET (25.00031)

Cr Fry - spoke to concerns raised by Cr Bourke. Could be addressed through water sensitive urban design being built into new developments.

MINUTE

22 Item 17 BRIDLE TRACK CONDITION (25.00283, 25.00529)

Cr Fry - asked have the engineers looked at the condition of Root Hog Road?

The Director Engineering Services advised that regular observational maintenance is undertaken of both the Bridle Track and Root Hog Road.

Cr Fry - requested that the Root Hog Road river crossing be reviewed.

MINUTE

23 Item 18 COUNCIL INVESTMENTS (16.00001)

Cr Fry - asked have we reviewed our investment portfolio.

The Director Corporate Services & Finance advised report is being prepared.

MINUTE

24 Item 19 CCTV FUNDING (16.00145)

Cr Christian - asked where are we at?

The Director Cultural & Community Services advised Council has two applications in for funds, one to the Government and one within the Council budget, each at \$270,000.

MINUTE

25 Item 20 AQUA PARK (32.00005)

Cr Christian - asked where this proposal is up to?

The Director Environmental, Planning & Building Services advised staff have been working with the proponent on what data would be needed. Two government departments have requested to be involved. Awaiting further detail from the proponent.

MINUTE

26 Item 21 HOWICK/GEORGE STREET INTERSECTION (25.00006)

Cr Christian - asked where is Council at with respect to funding? Has this project been pushed back?

The Director Engineering Services advised the design is due this month, will then go to Traffic Committee. Funds will be proposed in the 2018/2019 budget. Project has been deferred due to other priorities and available resources.

MINUTE

27 Item 22 SUTOR/MITRE/LAMBERT STREET INTERSECTION (37.00593, 25.00095)

Cr Christian - asked when funds are made available are we ready to go?

The Director Engineering Services advised design is being finalised, awaiting advice on Black Spot funding. When funding is made available works will be scheduled.

MINUTE

28 Item 23 GREAT WESTERN HIGHWAY/GILMOUR STREET (25.00018)

Cr Christian - advised that just up from the traffic lights at Sydney Road/Gilmour Street a section of the medium strip is overgrown. Can this be looked at.

The Director Engineering Services advised will follow up with RMS.

MINUTE

29 Item 24 HOUSE NUMBERS ON GUTTERING (20.00006)

Cr Christian - Emergency services are having difficulty identifying house numbers, can we do something.

The Director Engineering Services advised residents can paint numbers on if they require. No funds provided for City wide roll out.

MINUTE

30 Item 25 ROADSIDE SIGNAGE (23.00045)

Cr North - noted matter raised by Cr Aubin, does show there are some issues.
Could Council look at a policy?

MINUTE

31 Item 26 TREES IN BATHURST (13.00019)

Cr North - noted that experience of Council is that many more trees are going in than are being removed.

MINUTE

32 Item 27 BLACK SPOT FUNDING (16.00023)

Cr North - queried whether if work commences before grant is approved is it then forfeited.

The General Manager advised if works commence before grant approved, then Council cannot access monies.

MINUTE

33 Item 28 GEORGE/DURHAM LIGHTS (25.00089)

Cr North - agrees that light phasing is a problem at this intersection.

MINUTE

34 Item 29 BMEC LOCATION (21.00061)

Cr North - could BMEC be relocated to the RSL carpark location?

MINUTE

35 Item 30 AERODROME (21.00044)

Cr North - spoke to importance of the Aerodrome and current facilities out there. Need to look at what upgrades are needed, particularly enlarging terminal and putting in security. Would also fit in with needs of car race clients. Please review master plan and also review fees and charges. Requests a report to come back.

MINUTE

36 **Item 31** **BMX TRACK (04.00083)**

Cr North - could a report come back on works that could be undertaken to address issues that are being experienced?

MINUTE

37 Item 32 LIVE STREAMING OF MEETINGS (11.00005)

Cr North - Council should look at implementing this.

MINUTE

38 Item 33 TRAFFIC LIGHTS (25.00006)

Cr North - Russell/William and Howick/William are working really well. Feels this should be looked at for George/Howick intersection. Raised concerns at intra-blocks crossings in the CBD where there are no traffic lights.

MINUTE

39 Item 34 O'REGANS ROAD BRIDGE AND HOLLIS LANE (25.00453, 25.00114)

Cr North - queried works for 2018/2019.

The Director Engineering Services advised culvert on O'Regans Road in in budget for next year. No funds for Hollis lane at this time.

MINUTE

40 Item 35 AUSTRALIA DAY EVENTS (23.00033)

Cr North - noted the City has a lot of heritage and history. Requests a report on upgrading this Event for next year.

MINUTE

41 Item 36 BRIDLE TRACK (25.00283)

Cr North - suggested if cannot reinstate, can we look at making it a walking track?
Spoke to alternate route around the bluff.

The Director Engineering Services advised that the same safety issues exist. Have looked at alternative route, but not progressed at this time.

MINUTE

42 Item 37 PROCTOR PARK (04.00044)

Cr North - advised Police Paddock recently has been excellent, a lot of effort has gone in by Council and the clubs (soccer/cricket). New grounds going in, need to find funds for replacing technical shelters and seating. Please carry out works.

MINUTE

43 Item 38 QANTAS PILOT SCHOOL (21.00038)

Cr North - queried are we looking at this, requests a report come back to Council.

MINUTE

44 Item 39 JOSS DEVELOPMENT SITE - DAIRY FARMERS (2012/0518)

Cr North - asked are we doing anything to attract industry to this site.

The Director Environmental Planning & Building Services advised actions are occurring.

MINUTE

45 Item 40 CBD WI FI PROJECT (20.00315)

Cr North - asked will this go out to tender?

The Director Corporate Services & Finance advised works will go to tender.

MINUTE

46 Item 41 CARDIOLOGY DEPARTMENT, DURHAM STREET; PEEL/PIPER STREET DEVELOPMENTS (2017/46)

Cr North - requests information be provided to him due to access concerns raised.

MINUTE

47 Item 42 ROAD SYSTEM PLANNING (28.00017)

Cr North - Council needs to look at plan for future road needs of the City. Requests a report to come back to Council.

The meeting closed at 7.38 pm.

**DISCUSSION FORUM - DEVELOPMENT APPLICATION SUBMISSIONS
AND MINUTES**

POLICY COMMITTEE

1 DEVELOPMENT APPLICATION NO. 2017/403 – PARTIAL CHANGE OF USE TO OFFICE PREMISES AND SIGNAGE & DEVELOPMENT APPLICATION 2018/5 – PARTIAL CHANGE OF USE TO TAKEAWAY FOOD PREMISES – 125 RUSSELL STREET. APPLICANT: BENJAMIN NEWMAN. OWNER: BMN PTY LTD (DA/2017/405 and 2018/5)

Recommendation: That the information be noted.

Report: The Site

Council has received two Development Applications (DA) at 125 Russell Street, Bathurst, described as Lot 91 DP 996254. DA 2017/403 is for the partial change of use to office premises and DA 2018/5 is for the partial change of use to takeaway food premises. A location plan and aerial image are provided at **attachment 1**.

The site contains a single storey dwelling which has recently had alterations and additions undertaken with consent. Access to the site is located on the southern side of the dwelling. A right-of-carriageway is provided over 125 Russell Street in favour of 127 Russell Street along this southern side.

History of the Site

The site is understood to have a long history of residential use. The building is Late Victorian (1875-1901) and has a streetscape rating of Contributory.

Development Consent 2016/445 approved internal and external alterations and additions to the dwelling house. The works included demolition of the unsympathetic additions that did not include the original fabric of the building. The works retained the original core of the dwelling.

It is understood, once the works were completed, a commercial operation began utilising the front part of the dwelling. This included a 'hot desk' arrangement whereby people can pay a fee and receive a desk, Wi-Fi and telephone access. The intention is to enable small businesses or sole operators to temporarily use office space. This type of operation is considered an office premises, requires consent from Council and was not part of DA 2016/445

Council wrote to the landholder on 21 September 2017 confirming that a Development Application is required to be lodged. The DA for partial change of use to office premises was lodged on 10 October 2017. The office continues to operate pending determination of this Development Application (2017/403).

The proposal

DA 2017/403 seeks retrospective consent for the use of the front part of the building as an office premises and associated signage. One car park can be provided on site. An illuminated sign is proposed on the façade (1050mm x 820mm). The rear part of the building will continue to be used as a dwelling. Plans of the proposed development are at **attachment 2**.

DA 2018/5 seeks consent for use of part of the commercial part of the building as take away food and drink premises, principally coffee and package foods, and has no seating. Plans of the proposed development are at **attachment 3**.

Public Notification

Development Application 2017/403 was advertised and notified to adjoining property owners from 30 October 2017 to 13 November 2017. Following the advertising and notification period a total of two (2) submissions were received (see submissions at **attachment 4**).

Those persons who lodged submissions to Development Application 2017/403 have also been provided with copies of the plans submitted for Development Application 2018/5.

A Discussion Forum was initially arranged for 30 November 2017 but was cancelled due to lack of attendance by both the objectors and the applicant. Further attempts to arrange an agreed time for a Discussion Forum have not been successful. It was decided the matter be put before a Council Policy Meeting Discussion Forum in order to progress the applications. Issues raised in the submissions are summarised as follows:

- Operating without consent;
- Parking;
- Access to right-of-carriageway;
- Lights and glare into neighbouring properties;
- Fence is higher than standard fencing; and
- Parking impact on street.

Conclusion

The Development Applications will be reported to a future Ordinary Meeting of Council for determination.

Financial Implications: Nil.

Bathurst 2036 Community Strategic Plan - Objectives and Strategies

- Objective 28: To plan for the growth of the region and the protection of the region's environmental, economic, social and cultural assets. Strategy 28.8

Community Engagement

- Consult To obtain public feedback on alternatives and/or decisions



N Southorn
DIRECTOR
ENVIRONMENTAL, PLANNING & BUILDING SERVICES

MINUTE

48 Item 1 DEVELOPMENT APPLICATION NO. 2017/403 – PARTIAL CHANGE OF USE TO OFFICE PREMISES AND SIGNAGE & DEVELOPMENT APPLICATION 2018/5 – PARTIAL CHANGE OF USE TO TAKEAWAY FOOD PREMISES – 125 RUSSELL STREET. APPLICANT: BENJAMIN NEWMAN. OWNER: BMN PTY LTD (DA/2017/405 and 2018/5)

Discussion included:

Andrew Stewart – on behalf of the applicant

Spoke on behalf of the development and is a user of the space. Is a Sydney based lawyer and it gives the opportunity to meet with clients. The proposed hole in the wall coffee shop will add to the amenity of the area. Spoke to issues raised by objectors; operating without consent; car parking is ample; access to right of way is not restricted and there are no locks on the gates; glare from glass tiles is minimal and not an issue; the fence is 2.1m high and complies with Council requirements; character of building is maintained.

Rev T Stuart – 127 Russell Street

Has made submissions to Council about the development. It would be reprehensible to approve the DA due to the behaviours of the owner. Was not made aware of the development and had no opportunity to see implications and have input. Various comments were made about the relationship with the proponent. The work has had significant impact on Mr Stuart's property and has blocked right of way access and has been done without any notice. Also noted Dividing Fence movement costs and removal of fences by the proponent. The proponent refuses to meet and resolve problems, tried to get community hearings and the proponent would not acknowledge or attend. Referred to building (structural) problems that exist with the proponent's development.

EXTENSION OF TIME

MOVED Cr I North and **SECONDED** Cr B Bourke

RESOLVED that an extension of time be granted.

David Morris – adjoining property owner

Endorses everything that Rev Stuart has said, everything Andrew Stewart said is wrong, eg; has photos to show locks on the gates. Expressed concern that development has commenced prior to approval. Raised concerns was not notified about the development, does not understand why Council did not notify neighbours. The Private Certifier, does he give the occupation certificate? How can this occur as much of the development does not meet the Building Code. Requests Council deny the DA due to parking problems, belligerent disregard of the law.

Bob Trimming – BRAC Chairman

Spoke to access issues. The proponent has provided 100% support to access issues raised. Only issue is being aware of what is the main access, it is not on Russell Street, just needs a sign to direct people to where the main access, which is accessible, is located. The Access Committee is satisfied with the development.

MINUTE

49 MEETING CLOSE

The Meeting closed at 7.38 pm.

CHAIRMAN: _____

**DIRECTOR CORPORATE SERVICES & FINANCE'S REPORT -
ATTACHMENTS**

POLICY COMMITTEE

7 MARCH 2018



DELEGATIONS REGISTER

MAYOR

Pursuant to the Local Government Act and Regulations, and any expressed policy or direction of Council, that Council in accordance with the provisions of Section 377 of the Local Government Act 1993 and every other enabling statutory power, delegates to the person who occupies the position of Mayor, to perform on behalf of Council the following powers, authorities, duties or functions.

1. Council Seal

Authorise the Mayor to be the necessary witness to documents requiring Council's seal.

2. Media Relations

To make media statements or releases on behalf of Council.

3. Policy Making

To exercise in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council.

4. Correspondence

To sign correspondence on behalf of the Council.

5. Urgent Works

To authorise any work which is deemed urgent at a cost not exceeding \$5,000 provided that such expenditure is reported to the council at its next Ordinary Meeting.

6. Complaints Against the General Manager

The Mayor shall have the power to investigate substantive written complaints against the General Manager and shall, if warranted, report to the next Ordinary Meeting of Council.

7. Attendance at Conference, Seminars and functions by Councillors

The Mayor may authorise a Councillor to attend a conference, seminar or function within and outside the Council area. (Conference means conferences, seminars, congresses, forums, workshops, courses, meetings, deputations, information and training sessions events, etc, held within Australia, related to the industry of local government - See Policy Manual : Governance - Payment of Expenses and

Provision of Facilities for Councillors.

8. Day-to-Day Oversight and Liaison with the General Manager

The Mayor shall be responsible for the day-to-day oversight and liaison with the General Manager including, but not limited to:

- . approving leave.
- . approving expenses incurred.
- . managing complaints about the General Manager.

DEPUTY MAYOR

1. Council Seal

Authorise the Deputy Mayor to be the necessary witness to documents requiring Council's seal.

2. In the absence of the Mayor

In the absence of the Mayor and subject to compliance with the requirements of the Local Government Act 1993, and any expressed policy or direction of the Council, the Council pursuant to the provisions of Section 377 of the Act, and every other enabling statutory power, delegates to the person who occupies the position of Deputy Mayor to exercise and perform on behalf of the Council the powers, authorities, duties and functions of the Mayor including the powers, authorities, duties and functions which the council has delegated by this Instrument to the Mayor.

LOCAL TRAFFIC COMMITTEE

Pursuant to the delegation of powers from the Roads and Maritime Services, the authority for regulation of traffic and traffic control signs on public roads. This authority is limited to the powers, authorities, duties and functions that are specified in the Roads and Maritime Services Instrument of Delegation to Council, from the Roads and Maritime Services.

AUDIT AND RISK MANAGEMENT COMMITTEE

The Audit & Risk Management Committee is granted delegated authority by Council to carry out its duties and responsibilities as defined in this charter. The Audit & Risk Management Committee has delegated authority to approve investigations into any matters within its scope of responsibility.

- Resolve any disagreements between management and the auditor regarding financial reporting (subject to confidentiality considerations).
- Pre-approve all auditing and non-audit services
- After due consultation with the General Manager, retain independent counsel, accountants, or others to advise the committee or assist in the conduct of an investigation.

- Meet with Council management, external auditors, or outside counsel, as necessary.
- Bathurst Regional Council acknowledges that professional independence and objectivity are key attributes of an efficient and effective Audit & Risk Management Committee. The Bathurst Regional Council and the General Manager are therefore committed to uphold and guarantee the professional independence and objectivity of the Audit & Risk Management Committee.

CENTROC

To authorise CENTROC to call tenders for the supply of goods and services to Bathurst Regional Council. (Council still has the final decision on whether the tender is accepted.)

NSW RURAL FIRE SERVICE

That Council delegate to the Manager, Chifley Zone, NSW Rural Fire Service the authority to approve payments and expenditure up to \$1,000.

GENERAL MANAGER

The General Manager's powers to act on behalf of Council are given through power of attorney, his/her employment contract and delegations made by Council pursuant to Section 377 of the Local Government Act (1993).

Power of Attorney

Council has appointed its General Manager as its Attorney to act for the Council to execute instruments resulting from resolutions of meetings from time to time by Council.

The General Manager of the Council for the time being and from time to time holding such office to be the Attorney of the Council for and in the name of and on behalf of the Council to sign any document which the Council would be required to sign for the purpose listed in the schedule.

The Schedule

- Agreement for the sale or purchase of any land or other form of property
- The transfer of any land
- The acceptance of the transfer of any land
- The mortgage or other form of security of or over any property
- Loan Agreement documents
- The acceptance of any mortgage or other form of security
- The release of any mortgage or other form of security whether registered or unregistered (including any withdrawal of caveat or vacation of causes, writs and orders)
- Any plan of subdivision of land in which the Council has an interest including plan accepting a dedication of land for any purpose
- Any instrument creating easements over land or releasing varying or modifying any such easement
- The consent to the subdivision of land which is subject to a mortgage or other form of security in favour of the Council
- Consent to the grant of any easement and/or covenant affecting land which is the subject of a mortgage or other form of security in favour of the Council

- The lease of any land or other property
- Consent to the assignment of the lease of any property
- Surrender of the lease of any property
- Guarantees and indemnities by the Council
- Agreements for the provision of services by the Council
- Joint Venture agreements
- Licences for the use of any property or to permit any activity
- Deposit of money with any financial institution
- Granting and accepting options in respect of the acquisition or sale of any property whether real or personal or corporeal or incorporeal
- To create or release vary or modify any restriction or covenant affecting land

Contracts

The General Manager, Director Corporate Services & Finance, Director Engineering Services, Director Cultural & Community Services, Director Environmental Planning & Building Services, are employed under contracts that are performance based.

The legislative requirements for Council to have a contract with the General Manager results in delegations being included under schedule B of the contract of employment as well as by resolution under the Local Government Act 1993.

Australian Fossil & Mineral Museum (Home of the Somerville Collection)

Pursuant to an agreement between the Somerville Collection Board of Directors and the Council, the authority to:

- (a) oversee and carry out its day to day management and administration of the Australian Fossil & Mineral Museum
- (b) appoint a Company Secretary on a needs basis for the Somerville Collection, subject to the appointment being ratified at a subsequent meeting of the Somerville Collection Board.

Delegation

Pursuant to the provisions of the Local Government Act 1993, and any expressed policy or direction of Council, that Council in accordance with the provisions of Section 377 of the Local Government Act, 1993 and every other enabling statutory power, delegates to its General Manager authority to exercise and to perform on behalf of the Council, all necessary powers, authorities, duties and functions, including but not limited to:

Corporate and Executive Powers

1. To carry on the regular services and operations of the Council within the sums voted by the Council for expenditure thereon and in accordance with any resolution of Council. To control and direct the staff of the Council.
2. To carry on the regular services, functions and operations of the Council in accordance with Local Government Act 1993, and other Legislation, Regulations and or policies of the Council.
3. To authorise any action necessary to comply with any policy or code of Council, any statutory requirements of the Local Government Act or Ordinance or any

- other law, rule or regulation affecting Council.
4. To obtain legal advice from Council's Solicitors or Counsel where necessary.
 5. To institute, conduct and defend legal proceedings with respect to Council's activities in all Courts, and instruct and engage Council's Solicitors and Counsel where necessary.
 6. Be authorised to respond to notices in respect of such applications to the Licensing Court of NSW for Liquor licences for functions.
 7. Authorise action to be taken in connection with any complaints or requests received.
 8. Provide interpretation, counsel and advice on applicable Statutes, and Council's existing and proposed policies; and on statutory limitations during the deliberative and decision making process and provide to the Mayor, individual Councillors and senior staff, a common source of statutory and policy interpretation.
 9. To affix the seal of Council to a document.
 10. To prepare and lodge applications for grants provided such action is consistent with Council's Delivery and Operational Plan or Council Policy.
 11. To authorise any works which is deemed urgent, provided that such expenditure is reported to the Council at its next Ordinary meeting, where funds have not been voted by Council.
 12. Control communications internally and externally.
 13. Rearrange and reorganise staff in all departments.
 14. Sign legal contracts where Council has approved the making of that Contract.
 15. Internal and external projection and promotion of Council's mantle of dignity, together with its image of efficiency and effectiveness.
 16. To approve/refuse public access to Council books or documents which are required to be produced for any legal proceedings.
 17. Be authorised to perform all necessary activities, to serve any notices or orders, undertake inspections, issue or refuse license and permits, to exercise the power of entry, to appoint appropriate staff as an authorised officer, authorised person, authorised Council employee, or impounding officer as the case may be, to exercise the functions of those positions under the relevant acts and associated regulations and to implement the provisions as relating to the operation of Council of the relevant Acts and associated regulations, including but not limited to:
 - Biosecurity Act 2015
 - Boarding Houses Act 2012
 - Building Professionals Act 2005
 - Community Land Development Act 1989

- Companion Animals Act 1998
- Conveyancing Act 1919
- Crown Lands Act 1989
- Dividing Fences Act 1991
- Environmental Planning and Assessment Act 1979 as amended
- Fire Brigades Act 1989
- Food Act 2003 and Regulations
- Government Information (Public Access) Act 2009
- Health Records & Information Privacy Act 2002
- Heritage Act 1977
- Impounding Act 1993 as amended
- Independent Commission Against Corruption Act 1988
- Interpretation Act 1987
- Land Acquisition (Just Terms Compensation) Act 1991
- Library Act 1939
- Local Government Act 1993 as amended plus regulations
- Local Land Services Act 2013
- Motor Vehicle Sports (Public Safety) Act 1985 as amended plus regulations
- Mount Panorama Motor Racing Act 1989 plus regulations
- Native Title Act 1994 as amended
- Ombudsman Act 1974
- Plumbing & Drainage Act 2011 plus Regulation
- Privacy & Personal Information Protection Act 1998
- Property, Stock and Business Agents Act 2002 plus regulations
- Protection of Environment Operations Act 1997 as amended
- Public Health Act 2010 and Regulations made thereunder
- Public Interest Disclosures Act (1994)
- Real Property Act 1900 plus regulations
- Recreation Vehicles Act 1983 as amended
- Road Transport Act 2013
- Roads Act 1993 as amended
- Rural Fires Act 1997 as amended
- State Emergency and Rescue Management Act 1989
- State Emergency Service Act 1989
- Strata Schemes Development Act 2015
- Swimming Pools Act 1992 as amended
- Transport Administration Act 1988
- Unclaimed Money Act 1995
- Waste Avoidance & Resource Recovery Act 2001
- Water Management Act 2000
- Work Health and Safety Act 2011

Corporate Services/Administration

- 101 To determine the matters which are to be included in the business papers, subject to the inclusion of the following items whenever they arise:
- (a) Reports on matters that cannot be determined under delegated authority;
 - (b) Reports required to be submitted under any Act or Ordinance;
 - (c) Reference to any deputations which the Council has agreed to receive;
 - (d) Matters requiring a determination of Policy;
 - (e) Reports directed by Council to be submitted;
 - (f) Matters essential for the Council's information;
 - (g) Matters requiring a vote;
 - (h) Matters or decisions of a potentially contentious nature, or involving a significant variation of Council's policy or standard practice relating to Development Applications.
- 102 Have charge of the records of Council, except as otherwise specifically provided, and be responsible for the recording, filing and safe keeping of such records.
- 103 Keep accurate, permanent records of all properties purchased, leased or sold by, or in the possession of Council.
- 104 Sign contracts for the sale and purchase price of land where Council has approved the sale or purchase price.
- 105 Authority to terminate any lease or rental agreement on any Council owned property where the terms of the lease have been breached, and accounts fall into arrears.
- 106 Sign all applications addressed to the Registrar General to record the Council as the registered owner of resumed land.
- 107 Authority to establish, maintain, alter or terminate leaseback agreements with employees.
- 108 To approve payment of expenses for elected members.
- 109 Authorise such employees time off for fighting fires within the boundaries of the Council area without loss of pay if properly called out by the Fire Brigade or the Rural Fire Service, where employees of the Council are members of the Voluntary Fire Brigade or Volunteer Rural Fire Service Brigades.
- 110 Review Council's exposure to risk on a continuing basis and effect any changes by way of insurance, retention or transfer to protect Council's interest.
- 111 To determine levels of public liability insurance required in accordance with Council's adopted policy.
- 112 The authority to exercise and perform on behalf of Council, all powers, authorities, duties, functions and matters in relation to Asset Management Initiatives applying to:
- (a) Public roads;
 - (b) Footpaths;

- (c) Carparks;
 - (d) Parks, reserves, recreational facilities, gardens and cemeteries;
 - (e) Solid Waste Disposal Depot;
 - (f) Council owned and managed public buildings and facilities;
 - (g) Floodplain Management.
- 113 Be authorised to offer a reward for information leading to the conviction of people found vandalising Council property, and further that Council, without exception, takes all legal steps available to it to prosecute people found vandalising Council property.
- 114 Authority to exercise and perform on behalf of Council all functions, powers, authorities, duties and matters contained in Council's asset management program.
- 115 Authority to appoint alcohol and drug testing officers.
- 116 To adopt on behalf of council the Publication Guide required under Section 20 of the Government Information (Public Access) Act 2009.
117. To appoint a representative of Council as the Chairperson to the Local Emergency Management Committee in accordance with Section 28 of the State Emergency & Rescue Management Act (1989) as amended.
- 118 To appoint a Disclosures Coordinator for the purpose of the Public Interest Disclosures Act (1994)

Finance

- 201 To authorise the payment of salaries and wages of the staff of the Council.
- 202 To authorise the purchase of goods, works and services and to obtain tenders for items over \$150,000.
- 203 To keep accounts of the Council and present to audit in accordance with the requirements made by or under the Local Government Act 1993 and regulations.
- 204 Determine the categorisation of each parcel of rateable land in accordance with Section 514 of the Local Government Act 1993.
- 205 Authorise financial transactions (excluding investments) on behalf of Council.
- 206 -
- 207 To authorise the investment of surplus Council funds and sign such application and redemption documents as may be required.
- 208 To determine applications for reductions of rental charges for Council facilities in accordance with Council's policy.
- 209 To determine applications for pensioner rate reduction in accordance with the provisions of Section 575 of the Local Government Act 1993.
- 210 To take action at any time for recovery of unpaid rates and any other amounts owing to Council.

- 211 To order restriction or disconnection of premises if excess water accounts are not paid.
- 212 To approve applications for extension of time to pay accounts.
- 213 To lay information, issue summonses, swear statements and affidavits for enforcing default judgements and institute any other legal and approved procedure necessary for the recovery of outstanding amounts and debts owing to the Council.
- 214 To determine assistance to ratepayers experiencing genuine and substantial hardship.
- 215 To allow unpaid rates to accumulate and be paid from the estate of such aged pensioners, where such a request has been made, or from the sale of the house provided that in such cases no Council rate rebate shall be granted.
- 216 To certify that prices and computations on invoices/payments have been checked and are correct, and as far as able to be ascertained, are fair and reasonable and are in accordance with any quotation/contract under which the goods/services were supplied.
- 217 To determine the amount of bond required to be lodged by developers as surety for completion of works under Council's control.
- 218 To write-off rates or debts which are determined not financially viable to recover to a limit in any one case not exceeding \$5,000.
- 219 To authorize goodwill payments for Public Liability/Public Indemnity claims up to \$2,000.
- 220 To sign Section 603 Certificates on behalf of Council.
- 221 To authorise the release of any bond or bank guarantee where the required works or services have been completed in accordance with approvals granted by Council.
- 222 To authorise the disposal of surplus materials and goods.
- 223 To sign as the responsible accounting officer the statement of financial position with respect to Budget Review Statements in accordance with the Regulation.
- 224 To authorise Council participation in tenders called by CENTROC on behalf of the participating councils.
- 225 To authorise the purchase of goods, works and services from Local Government Procurement in accordance with funds voted by Council and Council's Purchasing Manual.
- 226 To sign certificates under Section 54 of the Local Government Act 1993 in relation to the classification of public land.

Engineering

- 301 To organise and allocate the priority of all construction and maintenance works, subject to any direction of the Council.
- 302 To determine applications for the use of (approve subject to conditions, or refuse) public roads for :
- (a) walk-a-thons, motor car trials, charitable collections or other like events;
 - (b) recruiting or similar purposes or for public health or other purposes on behalf of the Army, Navy or Air Force or other organisations to utilise part of a road or land owned by or under the control of the Council.
- 303 Be authorised to issue permits for holding of street stalls, processions on roads; holding of meetings in public places; and use of roads during building operations and standing of vehicles in restricted parking areas for any specific purposes and any other Act regulating functions under the control of the Council.
- 304 To provide temporary grandstands at Carrington Park for crowds anticipated to be in excess of 5,000 people, funded from Carrington Park Vote, subject to the provision of substantiated material by the promoters.
- 305
- (i) To sign and issue approval of designs for subdivision plans and construction certificates.
 - (ii) To sign survey requests/amendments to the Land Titles Office.
 - (iii) To sign property identification reports.
 - (iv) To sign survey plans.
- 306 To order the removal of obstructions placed illegally on road reserves, footpaths and public places.
- 307 To close the Ben Chifley Dam to specified users.
- 308 To close roads, or parts thereof, temporarily for repairs or construction.
- 309 To issue/refuse compliance and construction certificates in relation to subdivisions and engineering works.
- 310 Determine the extent and design of works associated with subdivisions and other development applications in accordance with Council Policies and Codes and to determine whether such works have been completed to a satisfactory standard.
- 311 To write to affected landowners seeking an indication on whether they wish the construction of concrete footpaving to be done, upon receipt of such requests for such work and then arrange a report to Council.
- 312 Grant approval for helicopter touchdowns on Public Reserves in a manner and at a time under such conditions as may be appropriate.
- 313 Authorise the private planting of trees and /or shrubs on footpaths.

- 314 To sign permits authorising maintenance or removal of trees under Council's Tree Preservation Policy and Council's Tree Preservation Order.
- 315 To remove dangerous trees on public works' construction sites under the control of the Council, where such removal is necessary, to allow work to proceed immediately.
- 316 To carry out private works and authorise the hire of Council plant subject to satisfactory arrangements being made for the payment of such works.
- 317 (i) To purchase new light vehicles and dispose of existing vehicles where the standard of the vehicle remains the same;
- (ii) To have the discretion to dispose of vehicles at other than 50,000km;
- (iii) Obtain trade prices when replacing vehicles; and
- (iv) To have the discretion to dispose of vehicle by either auction or trade-in.
- 318 To authorise the release of Council plant and other resources to assist fire fighting, emergency work, and assist the Local Emergency Management Committee in emergency work.
- 319 (i) To hire Council plant and equipment or to make it available to community groups in accordance with Council's Section 356 policy.
- (ii) To approve annual, standard parking and camping requests that occur each year from the Bathurst AH&P Association Inc.
- 320 Authorise the carrying out of water supply extensions up to 225m per tenement.
- 321 Authorise the carrying out of sewer extensions up to 75 m per tenement.
- 322 To determine the conditions of use of parks, gardens, reserves and other public places under Council's control.
- 323 To enter into Pipeline Agreements with the Rail Infrastructure Corporation.
- 324 To implement water restrictions in accordance with Council policy.

Planning & Development

- 401 To determine Development Applications, Complying Development Certificates, and Construction Certificates.
- 402 To determine the fast tracking of Development Applications.
- 403 To issue or refuse to issue compliance, construction, subdivision and occupation certificates under Part 4A.
- 404 To defend appeals against failure or refusal to issue Part 4A certificates.
- 405 To give notice of intention to serve orders and issue orders, and modify or revoke orders pursuant to the Local Government Act, Environmental Planning and

- Assessment Act, Food Act, Companion Animals Act.
- 406 To review determinations of development applications made by other staff under delegated authority.
- 407 To issue or refuse to issue a complying development certificate.
- 408 To modify or refuse to modify a complying development certificate.
- 409 To vary or extend the lapsing period of a consent in accordance with Sections 95 and 95A.
- 410 To approve or refuse applications to modify development consents, being consents originally determined under delegated authority.
- 411 To defend appeals made pursuant to Division 8 of Part 2 of the Environmental, Planning & Assessment Act (EP&A).
- 412 To refer for comment Development Applications within the Conservation Areas to the National Trust, where deemed appropriate.
- 413 That Council delegate to the General Manager the powers, authorities, duties and functions delegated to Council by "Instrument of Delegation" dated 9 August 1995 by the Director General of the Department of Local Government, pursuant to Section 745 of the Local Government Act 1993, as amended in respect to Section 82(3) of that Act in relation to modification of the provisions of Clauses 51 or 52 of the Local Government (General) Regulation 2005.
- 414 To ensure that premises used for the preparation, storage and/or sale of food are maintained.
- 415 To commence legal proceedings pursuant to the Environmental Planning and Assessment Act 1979, the Local Government Act 1993 and the Protection of the Environment Operations Act 1997.
- 416 *This item is intentionally left blank.*
- 417 To approve of a flue terminating at a location not complying with the provisions of the policy if satisfied that compliance with the policy is not practicable, and that the proposed alternative is satisfactory.
- 418 Sign applications on behalf of Council as applicant and/or owner for works previously approved by Council to be undertaken by Council or on Council's behalf.
- 419 To sign Section 149 and Section 149A Certificates.
- 420 To sign and issue Section 121ZP and Section 735A Certificates on behalf of Council.
- 421 To exercise all of the powers of Council in respect of:
- (a) Applications for all those matters listed in Part A of the Table contained in Section 68 of the Local Government Act 1993.

- (b) The variation of building lines made under Council's Approvals Policy.
 - (c) The variation of Restrictive Covenants created pursuant to Section 88B of the Conveyancing Act 1919, as amended, provided that the subject of the variation complies with the relevant planning instrument.
 - (d) Applications for those matters contained in Items 5 and 6 of Part B of the table contained in Section 68 of the Local Government Act 1993.
 - (e) Applications for all those matters listed in Part C of the table contained in Section 68 of the Local Government Act 1993.
 - (f) Applications for those matters contained in Items 3, 4, 5 and 6 of Part D of the table contained in Section 68 of the Local Government Act 1993.
 - (g) Applications for all those matters listed in Part E of the table contained in Section 68 of the Local Government Act 1993.
 - (h) Applications for all those matters listed in Part F of the table contained in Section 68 of the Local Government Act 1993.
- 422 Determine applications for the creation of temporary construction zones on public roads restricting public parking in such zones.
- 423 To take any action considered necessary under the Mount Panorama Policy.
- 424 To administer the policy in relation to advertising on light standards.
- 425 To commence the preparation of a draft Local Environmental Plan under Section 54(1) of the Environmental Planning and Assessment Act 1979 as amended:
- (a) Preparation and exhibition of Environmental Studies and Local Environmental Plans in accordance with Sections 56-64 and 66-67 of the Act.
 - (b) To exercise any delegation conferred upon him/her from time-to-time by the Director General of the Department of Planning under Section 65 and/or 69 of the Act.
- 426 To prepare a draft Development Control Plan in accordance with Section 72 of the Environmental Planning & Assessment Act 1979 and in accordance with the appropriate Regulations, but not including Clause 24(1) of the Regulations, and exhibit, but not to adopt or amend, Town Planning Codes, Guidelines and Policies.
- 427 Development Applications
- (a) To make any decision or to take any actions required of or open to Council to take in accordance with Part IV "Environmental Planning Control" of the Environmental Planning and Assessment Act 1979 as amended, but not including the power:
 - (1) To determine any Development Application in respect of a designated development as defined in Section 4;

- (2) To determine any Development Application in relation to which a negative submission has been received and where the matters raised in that submission have not been resolved; or,
 - (3) To revoke or modify a Development Consent (not being at the applicant's request) in accordance with Section 103;
- (b) To call meetings of the Departmental Discussion Forum in relation to any Development Application or Compliance Certificate.
 - (c) To call meetings of the Council Discussion Forum in relation to any Development Application or Compliance Certificate.
- 428 To assume the concurrence of the Director General of the Department of Planning for variations of development standards in accordance with State Environmental Planning Policy 1 and Department of Environment and Planning Circular 117.
- 429 To authorise the release of subdivision certificates by signing the required documents, where the Council Seal or Power of Attorney is not required.
- 430 To refund unexpended Development Application fees on actual costs basis.
- 431 To commission an independent structural assessment of a building for which a Development Application has been made for demolition where, in assessing the development, the building is found to be of heritage significance.
- 432 To authorise the refund of fees in total or in part in respect of applications either refused by Council or withdrawn by the applicant under the provisions of Section 88 of the Local Government Act 1993.
- 433 To carry out rabbit eradication on roadsides in conjunction with the Local Land Services.
- 434 To impound stock pursuant to Section 2 of the Act.
- 435 To implement the delegations from the NSW Heritage Office in respect of issuing approvals under Section 60 of the Heritage Act 1977 and the making of orders.
- 436 Pursuant to Section 381(3) of the Local Government Act 1993 approve the NSW Food Authority's delegation to the General Manager to provide written approval for dispensations and alternative methods of compliance in regard to the Food Standards Code's Standard 3.2.2 (clauses 15 and 17) and Standard 3.2.3 (clauses 10 and 14).
- 437 Pursuant to Section 109E(3) of the Food Act 2003, and conditional upon approval from the NSW Food Authority approve the General Manager to sub-delegate the power to provide written approvals for dispensations and alternative methods of compliance in regard to the Food Standards Code's Standard 3.2.2 (clause 15 and 17) and standard 3.2.3 (clauses 10 and 14) to the Director Environmental, Planning and Building Services.
- 438 Authority to make recommendations in relation to applications for accreditation of Council building surveyors under the Building Professionals Act 2005.

- 439 To undertake the powers, authorities, duties and functions delegated to Council by "Instrument of Delegation" dated 8 November 2012 by the Acting Commissioner for Fair Trading pursuant to Section 21 of the Plumbing and Drainage Act 2011.
- (a) to monitor compliance with the Plumbing and Drainage Act (s19(a))
 - (b) to ensure that any plumbing and drainage work carried out does not threaten public health or safety (s19(b))
 - (c) to undertake any other functions conferred or imposed on the plumbing regulator by the Plumbing and Drainage Act (s19(c)) other than:
 - receiving notices of work and other documentation required to be submitted to the plumbing regulator concerning proposed alternative solutions (s9(3) of the Plumbing and Drainage Act and Clause 10 of the Plumbing and Drainage Regulation)
 - authorising fittings for use in plumbing and drainage work (s20)
 - initiating criminal proceedings as provided for in Part 5 of the Plumbing and Drainage Act.
- 440 To undertake the following plan-making functions delegated by the Minister
- (a) to make – and determine not to make – an LEP under section 59(2), and (3) of the EP&A Act
 - (b) to defer inclusion of certain matters in an LEP under section 59(3) and
 - (c) to identify which matters must be considered and which stages of the plan-making process must be carried out again prior to resubmission (section 59(4)) if the council defers the proposal or if a matter is deferred from the LEP
- 441 to enter into agreements with members of the public for certification works as defined under the Building Professionals Act 2005.
- 442 to transfer properties between categories of notification of land on a Section 149 Certificate as outlined in the Bathurst Regional Council Contaminated Land Policy in accordance with the outcomes of appropriate geotechnical investigations.

Introduction and Protocols – Delegations Instrument

Introduction

Pursuant to Section 377 of the Local Government Act Council, in performing its functions can either exercise these directly or by delegation to other groups. As part of the overall running of the Council, Council delegates a number of tasks to the General Manager to ensure the efficient day to day management of Council.

Additionally, in accordance with Section 378 of the Act the General Manager may delegate any of the functions of the General Manager, other than this power of delegation.

When are revisions required?

Section 380 of the Local Government Act states that the Register of Delegations is required to be reviewed during the first 12 months of each term of office. Additionally, it is Council policy that a review of delegations occurs every 12 months. However, there will be times when the delegations register will require revision. These are listed as follows:

- When the powers granted to the General Manager are changed for any reason; such as
 - By resolution of Council, or
 - Amendment to an Act of Parliament;
- When the General Manager determines that a new delegation needs to be made or an existing delegation amended;
- When a staff member with delegations resigns and someone new is appointed to the position. Note name change only;
- When a position or (department) undergoes a name change, or has its responsibilities revised.

Responsibility for making revisions

- The General Manager is the only person who can authorise a revision of a delegation;
- Any changed delegation must be in writing and under the General Manager's signature;
- The responsibility for amending delegations in the circumstances indicated are as follows:

Circumstance**Responsible person**

When the powers granted to the General Manager is changed for any reason.

Director Corporate Services & Finance

When the General Manager determines that a new delegation needs to be made or an existing delegation amended.

Director Corporate Services & Finance

When a staff member with delegations resigns and someone new is recruited. Note name only.

Director Corporate Services & Finance

When a position or department undergoes a name change or has its responsibilities revised.

Director (relevant department)

Process for Revising a Delegation

- A delegation can only be changed when the General Manager signs the Instrument of Delegation.

The Schedule of Delegation should be prepared in the following format:

Act/Reference	Function	Authority/Limitation
The Act which empowers the General Manager	Brief description of the power, duty or authority being delegated	Details of the authority and any limitations on this authority that need to be spelt out.

Once authorised by the General Manager, the Manager Corporate Governance will then:

1. Log the instrument and the delegation into the physical Register of Delegations.
2. Issue the revised approved delegation in accordance with the distribution list.

Changing People or Positions

When a person or position name changes, but there are no changes in the delegated responsibilities, the General Manager or Director's signature on the letter of appointment is sufficient to trigger the change.

When the delegated responsibilities change with the person or position, it is the responsibility of the Director to ensure that the process of revising a delegation is adhered to and that the Manager Corporate Governance is advised to amend the control delegation register and issue an update.

Correspondence

- Any officer given authorised delegation to sign correspondence must forward a copy to the file.
- Standard letters must be in the manual of standard procedures.

DISCUSSION FORUM - DEVELOPMENT APPLICATION SUBMISSIONS - ATTACHMENTS

POLICY COMMITTEE



Bathurst Regional Council
 PMB 17
 158 Russell Street
 BATHURST NSW 2795
 Telephone: 02 6333 6111
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 Email: council@bathurst.nsw.gov.au

Important Notice!

This map is not a precise survey document. Accurate locations can only be determined by a survey on the ground. This information has been prepared for Council's internal purposes and for no other purpose. No statement is made about the accuracy or suitability of the information for use for any purpose (whether the purpose has been notified to Council or not). While every care is taken to ensure the accuracy of this data, neither the Bathurst Regional Council nor the LPI makes any representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.
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Drawn By: DenyerK
Date: 20/02/2018
Projection: GDA94 / MGA zone 55
Map Scale: 1:872 @ A4



Bathurst Regional Council
 PMB 17
 158 Russell Street
 BATHURST NSW 2795
 Telephone: 02 6333 6111
 Fax: 02 6331 7211
 Email: council@bathurst.nsw.gov.au

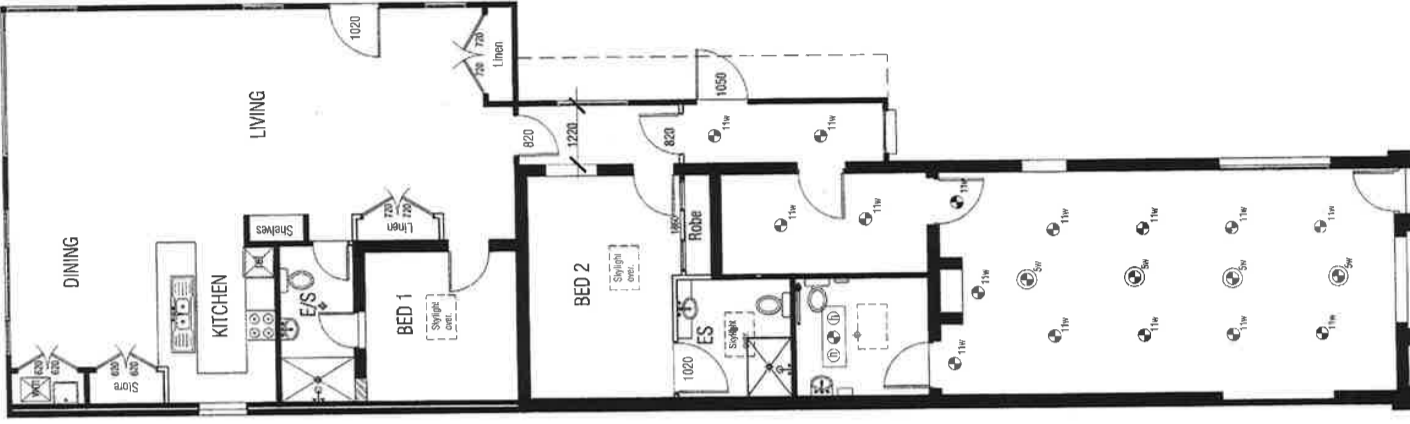
Important Notice!

This map is not a precise survey document. Accurate locations can only be determined by a survey on the ground. This information has been prepared for Council's internal purposes and for no other purpose. No statement is made about the accuracy or suitability of the information for use for any purpose (whether the purpose has been notified to Council or not). While every care is taken to ensure the accuracy of this data, neither the Bathurst Regional Council nor the LPI makes any representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.
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Drawn By: DenyerK
 Date: 20/02/2018
 Projection: GDA94 / MGA zone 55
 Map Scale: 1:872 @ A4

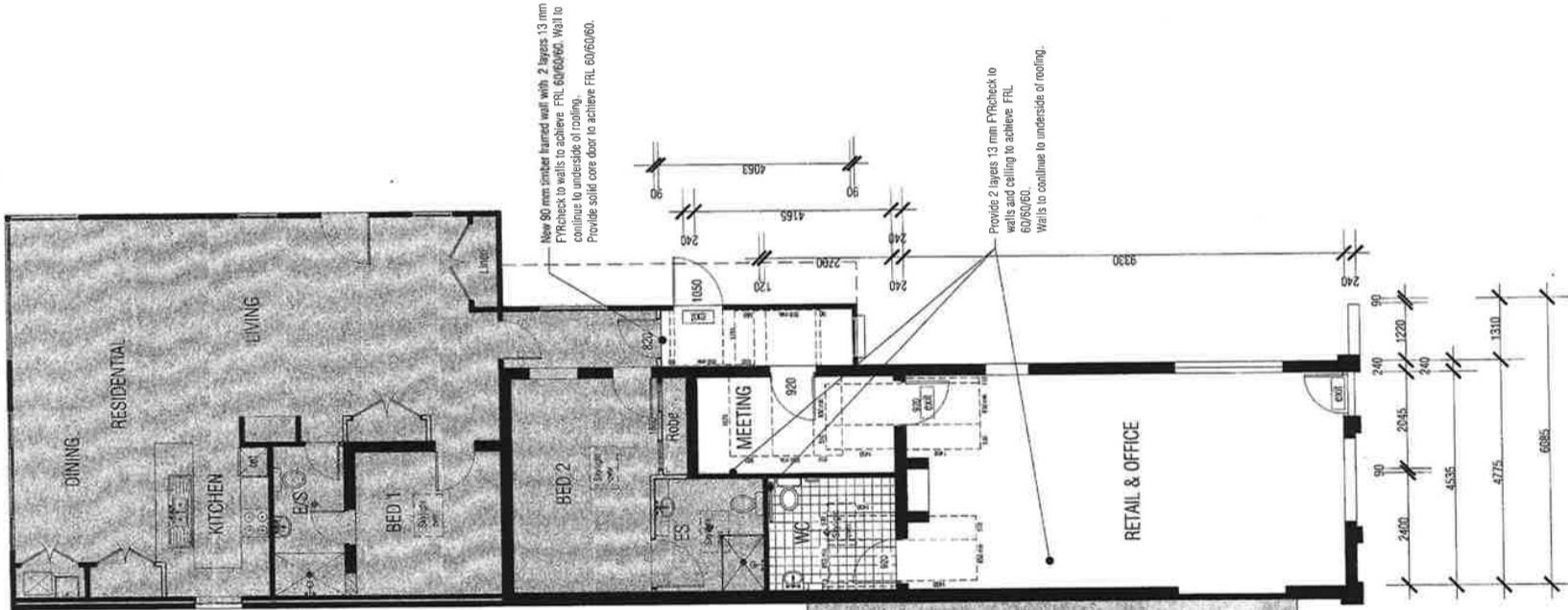
Notes	Amendment	Issue Date
	Project	PROPOSED CHANGE OF USE OF DWELLING TO OFFICE & RETAIL 125 RUSSELL STREET BATHURST
	Drawing Title	WORKING DRAWING PLAN & SECTION
	Project No.	17-16
	Scale	1:100 at A2
	Drawn	IV
	Date	11.10.17
	Drawing No.	BN 01



LIGHTING PLAN

LEGEND

- Combination heat 275 watt and 6 watt LED.
- Decorative pendant 5 watt LED.
- Recessed 11 watt LED.



FLOOR PLAN

Area for commercial use 68.7 sq. m.
 Area includes internal and external walls but not walls shared with attached residential.
 Note: Existing residential area Shaded.
 Scale 1 : 100

SPECIFICATION

General
 Drawings are prepared from information supplied by the proponent.
 All dimensions are in millimetres unless otherwise noted.
 It is the responsibility of the builder to verify all dimensions on site.
 Do not scale off drawings.

STATUTORY REQUIREMENTS

All work to be carried out in accordance with the NCC and conditions imposed by the local authority.
 All materials and structures shall comply with Section B of the NCC.

NCC Requirements

Class 6 (Retail), Class 5 (Office)
 Part C2 Type C
 The building is an existing, single storey residential dwelling structure.
 The area to the front of the building (pavement) which is proposed as the office and retail areas is a combination of masonry and framed and clad walls with terracotta tile and metal roof.
 The area is 68 square metres.
 Some features of the structure will comply with NCC requirements for a change of use to Class 5 & 6.
 The requirements, existing & those which are to be provided are addressed below.

Fire Compartments

Table C2.2
 Class 6 & 7 Max Floor area 3500 sq. m. Max Volume 21000 cubic m.
 The total floor of existing structure is 1457 square metres.
 Part C2.8
 Fire classifications (located alongside one another on the same storey) must be separated by a fire wall.
 Shaded masonry walls meet required FRL 60/60/60 and 2 layers of Fycheck are provided framed wall and ceilings as indicated.

Exit Travel Distances

Part D1.4
 No point on the floor must be 20 m from an exit or a point from which travel in two different directions is available, in which case the maximum distance to one of those exits must not exceed 40 m.
 The distance to a single exit at the level of access to an open space may be increased to 30 m.
 Travel distances comply with 20m to point of choice and 40 m to exit rule.

Construction of Exits

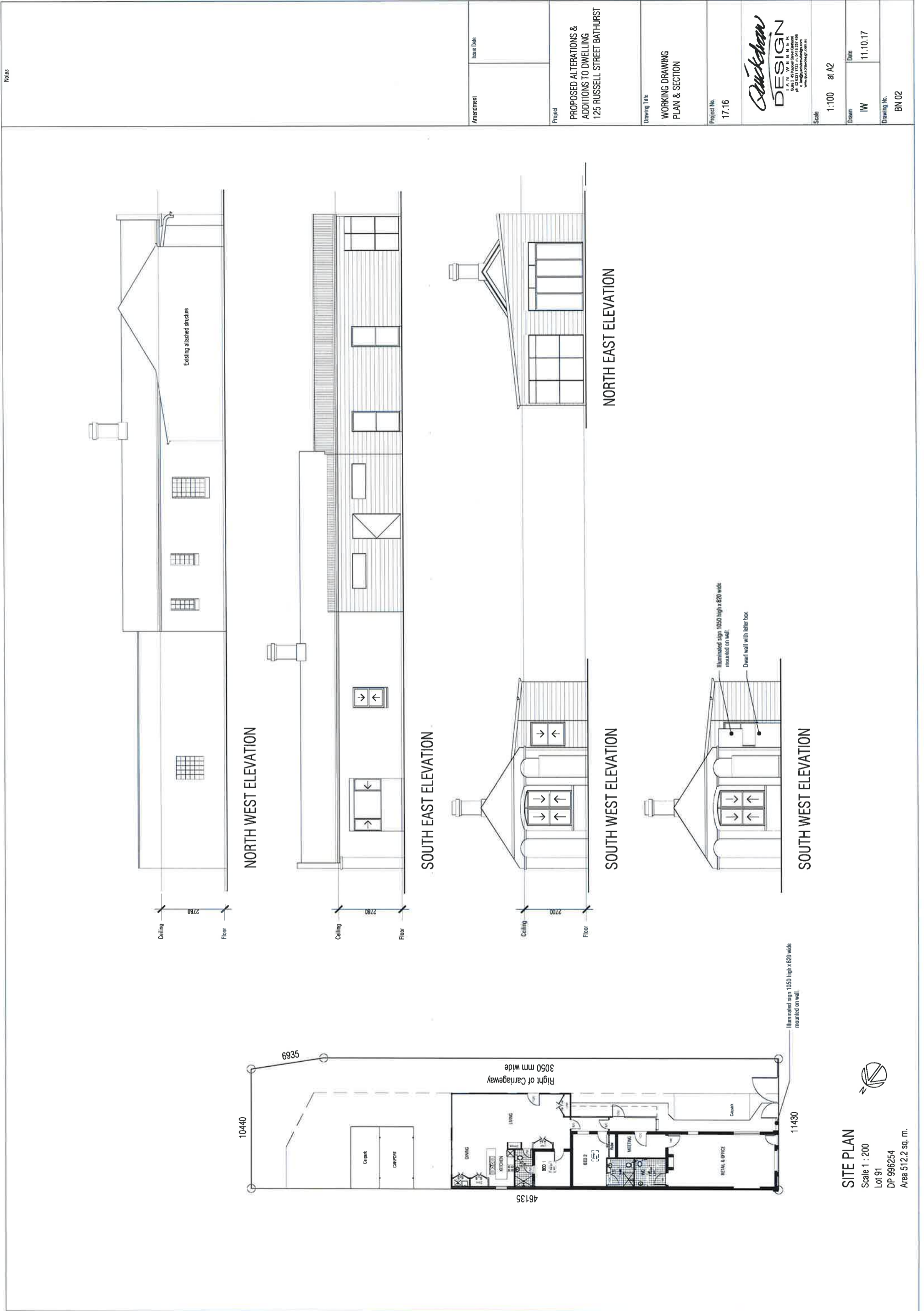
Part D2.1
 All doors forming part of a required exit or in the path of travel to a required exit must be readily operable without a key, by a single downward or pushing action on a single device which is located between 900 and 1100mm from the floor.
 Existing exit doors comply.
 Part EA.2
 Emergency lighting is not required in a room less than 300 sq. m.
 Part EA.5
 Signage is required for exits and path of travel. Design and installation of exit signs to comply with AS/NZS 2283.1

Access for People with Disabilities

Part D 3.2
 An access way must be provided to a building required to be accessible.
 Access for the disabled must comply with AS 1428.1

Signs and other Facilities

Part D 3.5
 A car parking space must be provided.
 Parking space for the disabled must comply with AS 1428.1
 Part D20.6
 One-way signs, accessible signage, quality of the signage, the materials and the graphics.
 Signage and other facilities are provided in addition to illuminated exit signs.



Notes

Amendment

Issue Date

Project
PROPOSED CHANGE OF USE OF DWELLING TO COFFEE TAKEAWAY 125 RUSSELL STREET BATHURST

Drawing Title
WORKING DRAWING PLAN & SECTION


Project No
17.16

Scale
1:100 at A2

Drawn
IW

Date
21.12.17

Drawing No.
BN 01



LAN WEBBER
P.L.C. (001) 1733 00 0419 27 018
www.ruckmandesign.com.au

COFFEE SERVERY NOTES

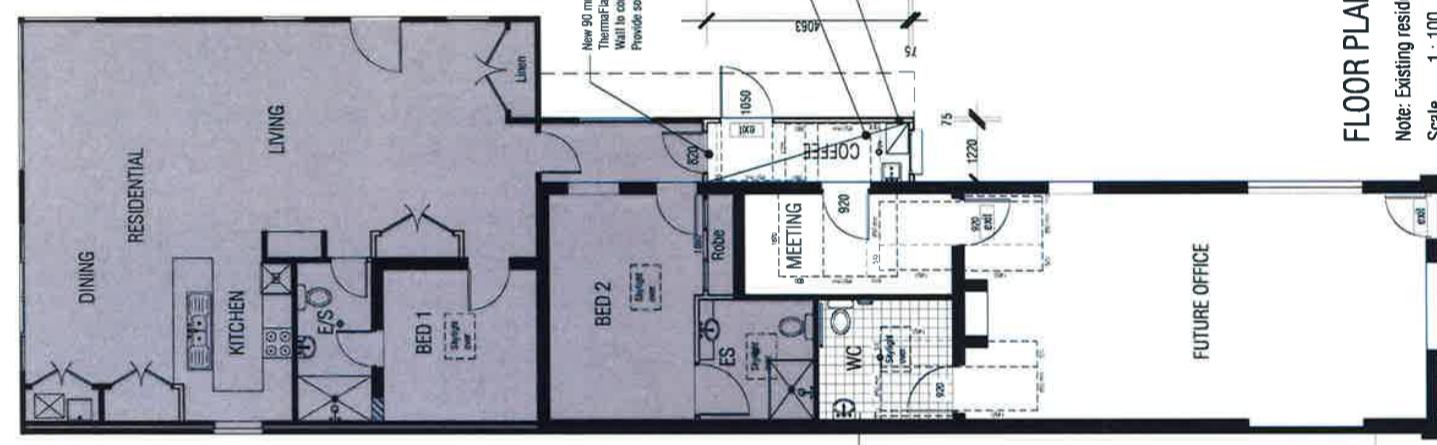
Fit out to comply with AS 4674-2004

FLOORS
Provide continuous polyvinyl sheeting to areas as indicated. Sheetling to be turned up wall 75 mm to form coping of min 25 mm dia. Preformed backing piece to be provided to corner. Provide floor waste as indicated.

WALLS
Provide new 75 mm Theraclad Panels to adjacent walls as indicated. Provide filling to 1800 mm masonry walls. Filling to comply with AS 3558.1. The top edge of the tiles to be splayed so as not to form an edge.

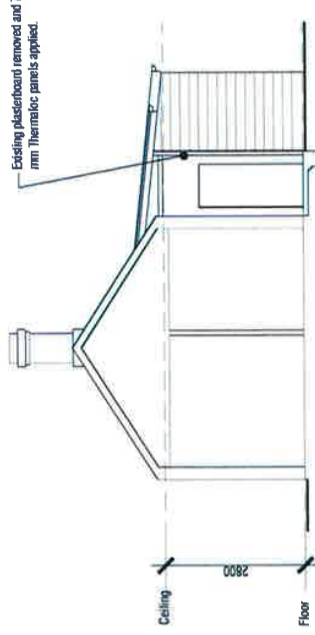
Ceilings
Ceiling finished with smooth faced vermiculite panel of a light colour. Light fittings are to be installed flush with the ceiling in servery area.

EQUIPMENT
Coffee machine on stainless steel bench set min 25 mm off walls with refrigerator under. Provide hand basin as indicated.

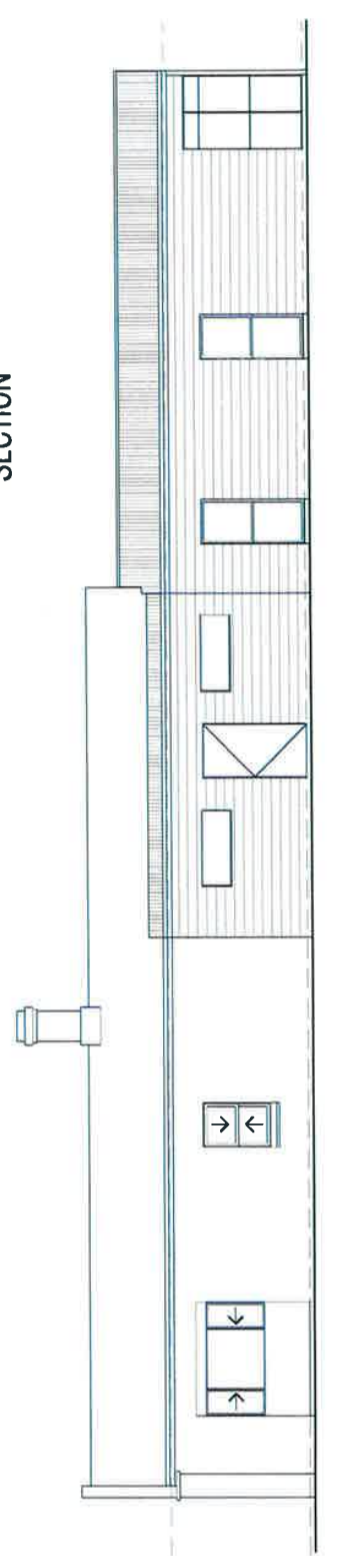


FLOOR PLAN
Note: Existing residential area shaded.
Scale 1 : 100

SECTION

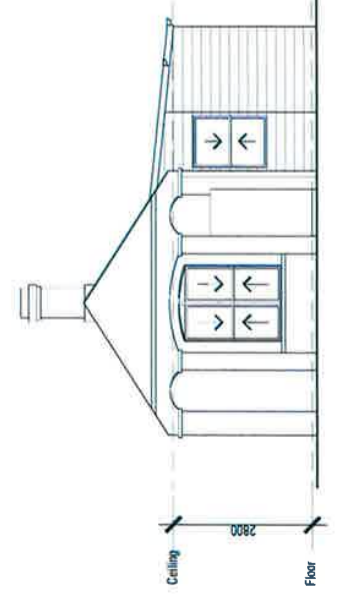


SECTION



SOUTH EAST ELEVATION

SOUTH WEST ELEVATION



SOUTH WEST ELEVATION

Attached cottage.

SPECIFICATION

General
Drawings are prepared from information supplied by the proponent. All dimensions are in millimetres unless otherwise noted. It is the responsibility of the builder to verify all dimensions on site. Do not scale off drawings.

STATUTORY REQUIREMENTS
All work to be carried out in accordance with the NCC and conditions imposed by the local authority. All materials and structures shall comply with Section B of the NCC.

NCC Requirements

Classification
Class 2 (Shop)

Type of Construction
Part C2 Type C

Building Description
The building is an existing single storey residential dwelling. The area to the front of the building (shaded) which is proposed as the office and coffee take away area is a combination of masonry and framed and clad walls with terra-cotta tile and metal roof. The area is 68 square metres. Some features of the structure will comply with NCC requirements for a change of use to Class 5 & 6. The requirements, costing & these which are to be provided are addressed below.

Fire Compartments
Table C2.2
Class 5 & 6 Max. Floor area 3500 sq m Max. Volume 21000 cubic m
The total floor of proposed shop is 5.4 square metres.

Part C2.8
Different classifications located alongside one another on the same storey must be separated by a fire wall. Shared masonry walls meet required FRL 0.6/0.6/0.6 and 2 layers of Pyccheck are provided framed wall and ceilings as indicated.

Part D 1.4
No point on the floor must be 20 m from an exit or a point from which travel in two different directions is available, in which case the maximum distance to one of those exits must not exceed 40 m. The distance to a single exit from the level of access to an open space may be increased to 50 m. Travel distances comply with 20m to point of choice and 40 m to exit rule.

Part D2.1
All doors forming a part of a required exit or in the path of travel to a required exit must be readily operable without a key, by a single document or passing action on a single device which is located between 900 and 1100mm from the floor. Existing exit doors comply.

Part E4.2
Emergency lighting is not required in a room less than 300 sq. m.

Part E4.5
Signage is required to exits and path of travel. Design and installation of exit signs to comply with AS/NZS 2293.1

Part D 3.4 Exemptions
(a) An area where access would be inappropriate because of the particular purpose for which the area is used.

Access for People with disabilities.

RECEIVED**6 NOV 2017****BATHURST REGIONAL COUNCIL**

David Morris B.E.
P.O. Box 1993
Bathurst N.S.W. 2795
AUSTRALIA

Mobile: 0414 517 325

1st November 2017

The General Manager
Bathurst Regional Council
Private Mail Bag 17
Bathurst NSW 2795

**Reference: Development Application No 2017/403****Proposed Development:** Partial change of use from residential to office premises**Premises:** Lot 91 DP: 996254 125 Russell Street Bathurst**Name of applicant:** BMN Pty Ltd

Dear Sir,

I am somewhat bemused that:-

1. Council is bothering to bring this development application to my attention, as 2 other applications and developments of significant and detrimental impact on my properties have been approved and constructed recently. The first that I have known of these developments has been when the asbestos removalists have commenced work.
2. Creative Cargo has been in business and operating at 125 Russell street since 21st September.

Creative Cargo has had a sign erected for at least 4 months. The business had a grand opening on 21st September 2017, with press coverage in the Western Advocate.

Your letter dated 26th October informs me that I have until 13th November to make any submissions regarding this DA. In making an informed submission I am first seeking more information.

DEPB

1. Is this a new procedure of BRC to allow a business to operate for a month before submitting a DA? I think it is a good idea as it has given me the opportunity to evaluate the impact of this business.
2. What criteria does BRC use to decide if they are going to inform neighbours of development applications which will effect them?
3. Does the change of use to commercial, automatically approve the sale and serving of hot beverages? Creative Cargo's facebook page says that they are teaming up with Lavazza Coffee.

My only objection at this stage is to the impact that this business will have to parking on the street near this location. The last tenant in my property 121 Russell St. frequently had the driveway blocked by customers of the businesses on the other side of Russell street parking cars, trailers and caravans across her driveway. Several times a month she was phoning council to have the parking patrol come past and deal with cars parked across her driveway. I note that there is no facility for off-street parking for Creative Cargo. As you can see from the site plan accompanying the DA much of the property is taken up with a right of carriage way to the rear of 127 Russell street. I assume that no part of the right-of-way could be used as parking. An on-site inspection will deceive the onlooker as to the amount of space that is available to this business as the new picket fence which Mr Newman has had erected encroaches into my property by approximately a meter where it meets the front of my house 121 Russell St. The parking issue during business hours is already a problem due to the number of businesses along Russell St. between Havannah and Manilla streets. Exacerbated by the fact that one of those businesses is Burges Caravans. Customers of Burges are frequently parking caravans, boats and trailers along the north east side (same side as 125 Russell) of Russell Street. Being long vehicles they often can not find parking in between other parked vehicles without blocking driveways. I'm sure that BRC's department of planning implement long term, comprehensive strategies for Bathurst's continued growth, rather than an ad-hoc random approach which would examine each development application in isolation. Thus I expect that the parking for both businesses and residents in this area has already been taken into account.

Regards



David Morris

NOTE DATE & ADDRESS



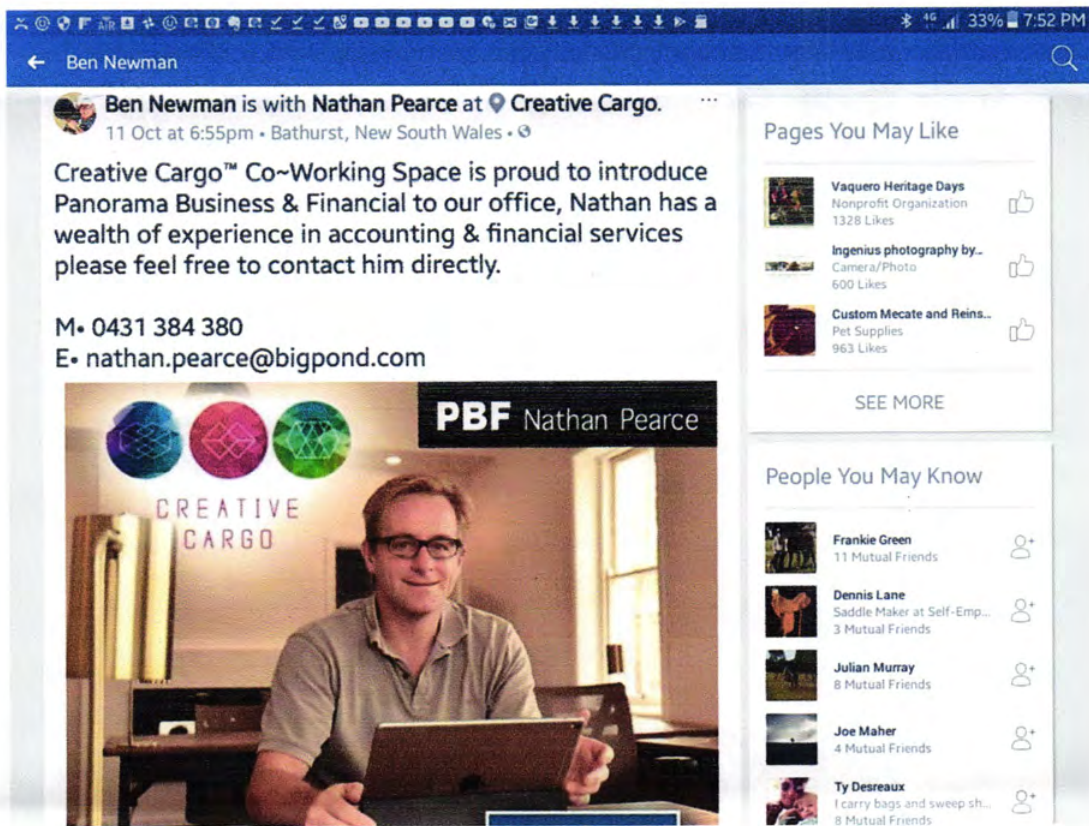


photo taken inside 125 Russell

19th August



Plan on
Serving coffee at 125 Russell St.?

NOTE THE DATE


Ben Newman

21 5 Comments • 217 Views

Like Comment Share

Ben Newman is with Jeff Fenech.
20 Sep at 7:24am • 🌐

This Friday is the grand opening of Creative Cargo co-working space be among the first to preview the space & meet 3 time World Champion Jeff Fenech.



Business space for hire in initiative
New co-working initiative has attracted the star power of former boxing great J...
westernadvocate.com.au

36 6 Comments • 6 Shares

Like Comment Share

Ben Newman is at Creative Cargo.
19 Sep at 2:07am • Bathurst, New South Wales • 🌐

Creative Cargo is bike friendly because it's healthy, environmentally friendly and the only way to travel in Bathurst.

13.

RECEIVED

13 NOV 2017

BATHURST REGIONAL COUNCIL**David Morris** B.E.

P.O. Box 1993

Bathurst N.S.W. 2795

AUSTRALIA

Mobile: 0414 517 325

13th November 2017

The General Manager
 Bathurst Regional Council
 Private Mail Bag 17
 Bathurst NSW 2795

**Reference: Development Application No 2017/403****Proposed Development: Partial change of use from residential to office premises****Premises: Lot 91 DP: 996254 125 Russell Street Bathurst****Name of applicant: BMN Pty Ltd**

Dear Sir,

Further to my letter of the 6th November, I would like to raise some more issues.

1. Lighting and hours of operating external lights. My tenant in 121 Russell St. has recently brought to me attention that the external lights on the south east side of Creative Cargo are on all night and shining through the kitchen window and the laundry window into his house. If a high enough fence was to be erected **on** the boundary then this issue could be mitigated.
2. Cameras. I would like assurance that the security cameras which are in place around Creative Cargo are not infringing on the privacy of my tenants.
3. A post has been attached to the wall of my property 121 Russell without my permission. The post is being used as the "stop" for a large gate that has been installed in 125 Russell. If this gate slams against the stop it is going to damage the wall of my property. Was this gate included in the development application and building approval that Mr. Newman put through council for his renovations and extensions? If so, why was I not notified when that application was made to council, as it effects my property?
- 4.

In the previous development application No. 2016/445 if I had been notified then I could have informed council about the issue of the right of carriageway and the encroachment of my building and thus we would have one less level of complication regarding this issue. Also in these situations council should put a requirement in the DA's that a dilapidation report be done on neighbouring houses 1. to protect the builders and developers and 2. so that the extra expense of a dilapidation report is seen by developer as a council requirement and not an expense created by the neighbour and a cause of resentment. Regarding the issue of not notifying me as a neighbour when this development was applied for I consider council to be negligent!

Regards



David Morris



Fw: 2017/403 - 125 Russell Street
Lucie Barnett to: Group Records

29/01/2018 04:12 PM

From: "Tom Stuart" <tom@thestuarts.id.au>
 To: <Lucie.Clifton@bathurst.nsw.gov.au>
 Date: 21/01/2018 05:16 PM
 Subject: RE: 2017/403 - 125 Russell Street

Hi Lucie,

I don't know if I can provide follow up information in relation to the DA for 125 Russell St, however I was able to travel to Bathurst from Newcastle and see for myself the work completed thus far. There are some more aspects which I'm sure are relevant to Ben's DA Application. You will see a number of photos attached. All but one are taken from within the yard of my property. (The photos are not in order but are labelled).

1. **Incomplete Work** See IMG_0982.jpg – This image shows incomplete work. I'm not even sure that Ben is aware the builder hasn't completed this and it is likely that he has leaking into his building already.
2. **2 Windows open and exposed** – IMG_0979.jpg - It seems that Ben has sealed over windows with walls. However, the windows are open into my yard and also exposed to weather.
3. **Brick Wall Not Cleaned** – IMG_0975.jpg - The major new wall brick wall not washed. This wall takes up a large area of the side of my yard and is a mess with cement and look really bad. It should have been cleaned of extra cement after completion but wasn't. It is difficult to see in the photo because of the shadow but you can see it if you look closely and actually the whole wall is discoloured by excess cement.
4. **Guttering falling down into my yard** – IMG_0983.jpg – Despite the huge amount of money spent on this property Ben has done nothing with the guttering on my side of his building. This means that his water is flowing freely onto my property. Further there is nothing done since adding the new section of his building to run his roof water away from my property. My tenant has told me there is water running into my building since the new work was done. I will be getting a plumber to look at this on tomorrow (Monday).
5. **Fence already collapsing** – IMG_0997.jpg – the fence erected by Ben Newman, including the removal of the gate into my property, is already falling down. It was poorly build. There are segments in my property that are not secured at all. The photo was taken from another neighbour's yard (David Morris) and is Ben's rear fence. The fence is dangerous as sheets become wind born and all neighbours may end up liable for repairs of his initial bad work.
6. **Pond wreck** – I haven't a photo for this but in the process of building Ben's workmen destroyed a pond in my yard without permission. It is all continuing evidence of the recklessness of this individual and the workmen who were on site. I am amazed my tenant stuck it out and I fear what the future will be with Ben's violence and indifference his neighbours. My property is significantly devalued because of what Ben has done and his ongoing activities.
7. **Business Open** – my understanding is that he is still endeavouring to run his business even without authority which seems to be indicative of his lawlessness,

Regards

Tom Stuart
Owner of 127 Russell St

-----Original Message-----

From: Tom Stuart [mailto:tom@thestuarts.id.au]
Sent: Wednesday, 29 November 2017 12:57 PM
To: 'Lucie.Clifton@bathurst.nsw.gov.au' <Lucie.Clifton@bathurst.nsw.gov.au>
Subject: RE: 2017/403 - 125 Russell Street

Hi Lucie,
Thank you for that.
I now have to tell you of my own embarrassment! I found the original letter!! I had received it. I found it in with all my papers. I have no clue what I've done! Sorry.
Regards
Tom

-----Original Message-----

From: Lucie.Clifton@bathurst.nsw.gov.au [mailto:Lucie.Clifton@bathurst.nsw.gov.au]
Sent: Wednesday, 29 November 2017 11:50 AM
To: tom@thestuarts.id.au
Subject: 2017/403 - 125 Russell Street

Hi Tom

As discussed, please see attached invite to Discussion Forum.

A similar invite will be sent to you should this be sent to an Ordinary Council Meeting, likely February 2018.

Thanks and regards
(See attached file: Mail Merge Letter. Acknowledge submission to Discussion Forum on Thursday 30 November 2017 at 11.00am..PDF)

Lucie Clifton
Development Control Planner
Bathurst Regional Council
158 Russell Street Bathurst 2795
Phone: 02 63336215
Fax:
www.bathurst.nsw.gov.au

(Embedded image moved to file: pic09853.jpg)

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[Report this message as spam](#)



IMG_0982.jpg

IMG_0979.jpg

IMG_0997.jpg

IMG_0983.jpg

IMG_0975.jpg











**Submission Re Development Application (10 - 2017 - 403 - 1)****Tom Stuart** to: council

09/11/2017 11:43 PM

From: "Tom Stuart" <tom@thestuarts.id.au>

To: <council@bathurst.nsw.gov.au>

From: Mr TS Stuart
36 Milson St
CHARLESTOWN NSW 2290

Owner: 127 Russel St, Bathurst

Attn: J E Bingham or Ms Cl Clifton

Dear Mr Bingham,

Please find attached my submission for Development Application (10 - 2017 - 403 - 1).

Attachment: **DA Submission No 2017_403 (Stuart).pdf**














Other attachments in the email are referenced from the primary submission document.

I would be grateful for an acknowledgement of receipt of this email and also an indication that the form of my submission satisfies your requirements to be included as part of the councils consideration for this development application.

Thank you for the opportunity for making my submission.

Regards

Tom Stuart

 - oliv_Quote_JN1011.pdf  - GlassTlles.jpg  - Parking.jpg  - 2014Fence.pdf  -
CJC2017.pdf  - DA Submission No 2017_403 (Stuart).pdf  - 125RusSurv.png  -
127RusSurv.pdf  - FenceGate.JPG  - FenceGate2.JPG  - Gate2.jpg  - Gate3.jpg
 - 13072017120327-0001.pdf


Oliver George Shoemark Family Trust

 492 Rivulet Road
 Duramana NSW 2795

Tel: 0438289972

Fax:

olivershoemark@gmail.com

ABN: 74505690307

Quotation
Issue Date: 14/7/2017
To

Tom

 127 Russell Street
 Bathurst NSW 2795

Reference

Job No: 1011

Contact: Oliver Shoemark

Phone:

 Site: 127 Russell Street
 Bathurst

Description	Total
127 Russell Street, Bathurst	\$1,500.00
Removal of Elm Tree.	
All timber and debris to be removed from site.	
Stump to be cut low and poisoned.	
Site left neat and tidy	

All work to be carried out safely and without damage to existing vegetation or property, and in accordance with the Australian Industry Code of Conduct.

We use Certificate III qualified arborists and hold current public liability and work cover insurances.

Please don't hesitate to contact Oliver on 0438289978 if you wish to discuss this quotation further.

Terms

Quote is valid for 60 days from: 14/7/2017

Subtotal:	\$1,500.00
GST:	\$150.00
Total:	\$1,650.00





GK Property



GK Property
 20 Kessey Place
 Bathurst NSW 2795
 ABN : 15344933630

Quote

DATE	QUOTE NO.
29/09/2014	1277
EXP. DATE	

ADDRESS

127 Russell St
 Thomas & Kathleen Stuart c/o
 Elders Nicoll & Ireland
 PO Box 404
 Bathurst NSW 2795

ABN 72004045121

SERVICE	ACTIVITY	GST	AMOUNT
Removal and Dis	Removal and Disposal • Remove and dispose of old fence to the tip	GST	395.00
Supply & Install	Supply & Install • Supply and install new timber paling fence up to a length of 20m with two rails wooden posts along existing fence line (using hardwood timber not pine) Supply and install a colour bond fence would be \$3845 +gst	GST	4,498.00

BAS Summary		
RATE	GST	NET
GST @ 10%	489.30	4,893.00

SUBTOTAL	4,893.00
GST TOTAL	489.30
TOTAL	A\$5,382.30

ABN: 15344933630

All quotations are valid for 30 days and are subject to the conditions listed below:
 1. Payment is to be made within 21 days of work completion.
 2. Quotation purely relates to the goods & services listed; excludes any potentially necessary Council and/or legal approvals.
 3. Quote acceptance confirms agreement to the work, supply of materials and services as described.

ACCEPTED BY

ACCEPTED DATE



Justice

Community Justice Centres
www.cjc.justice.nsw.gov.au

Reply Paid 84744
Parramatta NSW 2150
PH: 1800 990 777

Web Site: www.cjc.nsw.gov.au
Internet Email cjc@justice.nsw.gov.au

Mr Thomas Stuart
36 Milson Street
CHARLESTOWN NSW 2290

File No: CJC - 201718/06/02657 - FO

Dear Mr Stuart,

We wrote to Mr Ben Newman on 09/10/2017 and 19/10/2017 advising that you would like to arrange mediation. To date, we have had no reply to these letters, therefore we are assuming that they do not wish to arrange mediation with you

As mediation requires the willing participation of both parties to a dispute we regret that we are unable to proceed further, and suggest you consider other options to resolve matters.

Please contact our office if you feel we can be of further assistance or would like information regarding alternate conflict resolution services

Yours sincerely

Director

30/10/2017

Rev. Tom Stuart
36 Milson St
Charlestown NSW 2290

02 4943 0222
0427625502

9 November 2017

J E Bingham
Acting Director
Environmental, Planning & Building Services
Bathurst Shire Council
158 Russell St
Bathurst NSW 2795

Dear Mr Bingham,

Development Application No 2017/403

Proposed Development: Partial change of use from residential to office premises

Premises: Lot: 91 DP: 996254 125 Russell Street BATHURST

Name of application: BMN Pty Lrd

I received a letter from you dated 26 October 2017, inviting a submission in regard to the above development application. My submission follows:

I, Rev. Tom Stuart, own property (127 Russell St) adjacent to the proposed development, and also have Right of Carriageway through the property 125 Russell (Torrens Title Book No. 2357 Page 333 Dealing No. Z17527).

I am writing to lodge my disagreement with this proposal.

The following are my submissions as to issues that need to be addressed before approval is given to the development application. They are in order of priority.

1. Restore Rear Gate allowing Right of Carriageway

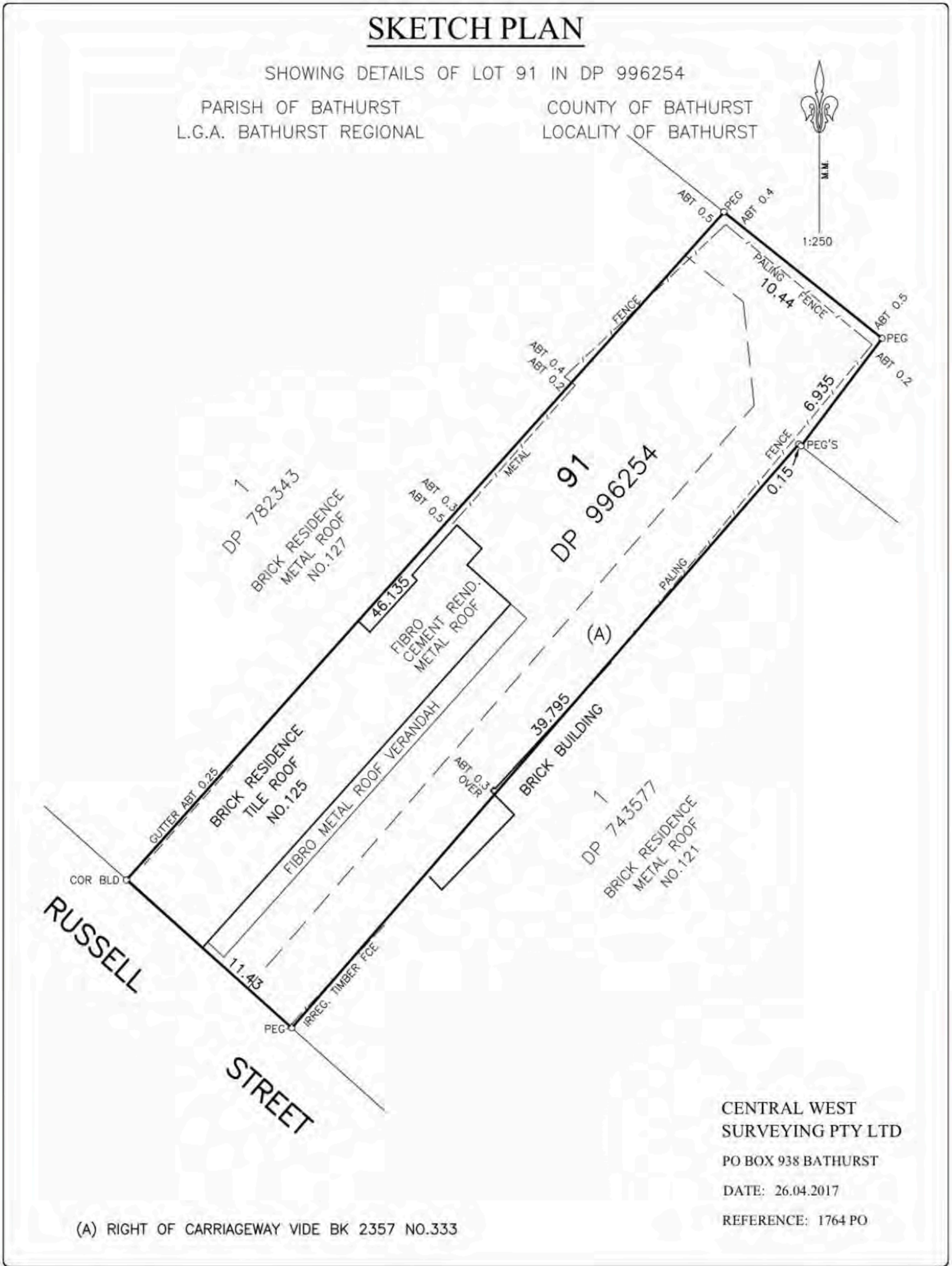
The property development to which this application refers has already taken place. The new work completed thus far is actually breaking the law. Mr Newman, the owner of the property has removed a 3-metre gate and placed a permanent fence at the rear of the two properties where I have legal Right of Carriageway through the property of 125 Russell St. This means the application is a request for the council to authorise a development contrary to the present legal requirements of Right of Carriageway. The council would be authorising an illegal structure. I have attached a copy of the survey of 125 Russell St, and 127 Russell St, and a photo of the fence that now is in place of the original gate (attachments are called **125RusSurv**, **127RusSurv**, and **FenceGate**.) Also attached is a photo from the 127 Russell St side of the original (almost new) fence and gate that Mr Newman replaced with just a fence (Attachment **FenceGate2**). Before approval is given, a **3-metre** gate must be erected on the adjoining property line at the rear of the two properties. Given my experience of Mr

SKETCH PLAN

SHOWING DETAILS OF LOT 91 IN DP 996254

PARISH OF BATHURST
L.G.A. BATHURST REGIONAL

COUNTY OF BATHURST
LOCALITY OF BATHURST



(A) RIGHT OF CARRIAGEWAY VIDE BK 2357 NO.333

CENTRAL WEST
SURVEYING PTY LTD
PO BOX 938 BATHURST
DATE: 26.04.2017
REFERENCE: 1764 PO



Newman, I would request that the development application is not approved until after I have agreed that the work is completed satisfactorily.

2. Review if New Side Gate Obstructs Right of Carriageway

I am concerned about a metal gate placed between the building further back inside the property. Mr Newman described, by way of a SMS message to me, that this gate is 2.6m in width. The Right of Carriageway is 3.05 metres. I understand there is an unauthorised easement of 300mm from the 123 Russell St property (see attachment **125RusSurv**). This already impinges on my Right of Carriageway but would only reduce to 2.75m. Mr Newman has built his extensions to the millimetre of his rights. Yet according to his own information has reduced the carriageway by another 150mm. Even though these are small amounts, they become critical when attempting to drive a vehicle through an already narrow passageway. Before the development application is approved, it needs to be determined that the gate, and the way that it is swung, is not further impinging on the Right of Carriageway (See photo **Gate2**).

3. Provide Keys (or access) to Gates

The present situation is that there are two gates on the eastern side of the 125 Russell St Property. These gates may have locks. If so these locks will obstruct the Right of Carriageway to 127 Russell St. A Development Application should not be granted until all provision is made to me the owner, and to my Real Estate agent for use by tenants, to gain passageway through all gates (See Photo **Gate3**).

4. Removal of Tree

Mr Newman requested the cutting of a major root that was in his property branching from a tree in my property. Expecting Mr Newman to comply by law and common decency, and not wanting to obstruct his development I agreed. It will cost me at least \$1,500 to have the tree removed (see attachment **oliv_Quote_JN1011.pdf** and **13072017120327-0001.pdf**) However, because Mr Newman has placed fences, gates, and a large dog in the back yard of his property, the tree removalist cannot access my property to remove the tree. It is likely the tree will become a danger to both properties. The development application should not be accepted until all work is done AND I have been able to have the tree removed. The reason these things should take place before approval is granted is that my experience thus far with Mr Newman is that he cares little for the law or for anyone else's rights.

5. Concern about Glare at Night through clear tiles

The new structure has a segment of translucent tiles on the wall of his building that faces into the backyard of my property. My tenant has complained to me that in the evening and night there is a strong glare into the backyard, particularly flickering light (perhaps TV glare). He was also concerned that when mowing damage might occur to the tiles. My tenant told me he put a shield in front of this area to prevent damage to the tiles, and reduce the glare, but received a letter of threat of legal action from Mr Newman's lawyer that I suggest is another form of bullying. I also have a question about privacy. It is not possible to determine how much can be seen from inside the 125 Russell St building directly into my yard. I believe that this is unsatisfactory and impinges too much on my property and approval should not be given until alterations remedy this situation (attachment **GlassTiles.jpg**).

6. **Restraint or removal of large dog**

My understanding is that there is now a large dog in the yard of the 125 Russell St premises. This dog is intimidating to anyone who will be using the Right of Carriageway, and may cause problems if attempting to escape while gates are opened and closed. This application should not be approved until the dog is no longer a threat by either being restrained or removed.

7. **No parking that would block Right of Carriageway**

Mr Newman has explained to me that the driveway will be used for parking while people purchase items at the shop. I am concerned that this parking will obstruct the Right of Carriageway.

8. **Removal of Surveillance Cameras**

The new development includes surveillance cameras at the front of the building. While such cameras may be appropriate in a primarily commercial area this is primarily a residential area and is at present an invasion of privacy. He has already proved to me he has no regard for privacy by sending me video footage of my neighbour and tenant, with the aspiration of undermining their credibility.

9. **Concern about Parking**

During the construction period of the new works workers and the owner parked their vehicles on the nature strip directly in front of my property (even though having taken out an Interim AVO out on my tenant!). This is particularly disturbing for the resident of my property as the house opens almost immediately onto the nature strip. Given the attitude continually demonstrated by Mr Newman I am concerned about future parking. There is high potential for negative impact to occur to my property with the new business in regard to parking (See attachment **Parking.jpg**)

10. **Higher than standard fence**

I have an objection to the present works in that Mr Newman has now placed a higher than standard fence around his yard. He did this without the approval of any of his neighbours including myself. In my case, I had a new fence erected in 2014. Therefore, it was almost a brand new fence. This new fence makes the neighbourhood, once having a friendly attribute, look fortified (See attached receipt for erection of new fence & gate in 2014. Attachment **2014Fence**).

11. **No Social License**

There is now no social license for this development. Initially I supported and did everything I could to facilitate the progress of this development, at considerable expense to myself. However, I like all the other neighbours have simply been bullied and violated, and have a sense of the potential of continually being violated by the actions of the owner of the development. During the construction of the new work my property was significantly damaged and is still a mess. The garden of my tenant was destroyed. My tenant's dog was allowed to escape the backyard. When my tenant angrily articulated his concerns Mr Newman, instead of addressing the concerns, applied for an interim AVO. Mr Newman also sent my tenant letters of legal demand on occasions when my tenant was attempting to stand up for his own rights. Other neighbours report, as I have experienced, the removal of existing and erecting new fences, without previous agreement and then sending letters of

demand for money. Mr Newman has endeavoured to turn me against my tenant, and the other neighbours, as he has also done with my tenant toward me. Mr Newman has sent me video footage which was intended to incriminate my tenant and neighbour though the videos were only incriminating if Mr Newman's story is accepted. He has also written abusive emails to my Real Estate agent when the staff have simply been endeavouring to do their job. In relation to the gate and fence I have tried to move to agreement but he has no desire for negotiating. He simply makes ultimatums and demands. I asked the Community Justice Tribunal to be a mediator in relation to the fence, and they attempted to contact Mr Newman but he has ignored their letters (See attachment **CJC2017**). At one stage, there was work needing to be completed on the roof of 125 Russell St that required access to my property. Given that Mr Newman had already replaced the gate with a fence, preventing my Right of Carriageway, I denied him access to my property and informed him that access would be considered trespassing. He still had LTK Carpentry, all knowingly breaking the law, enter my property and complete the work. My tenant did not report the incident to my Real Estate Agent as he is so intimidated with the Interim AVO against him. My tenant has received a number letters from CKM Law on behalf of Mr Newman with gambit claims of financial demand. All the other neighbours are friends with each other. There is also good relationships between property owners and good working relations with the Real Estate agent. This development by Mr Newman has changed the dynamic of the neighbourhood. I believe that this development application should not be granted until the Mr Newman demonstrates efforts to remediate relations with the neighbours and with the staff at Nicoll and Ireland Real Estate Agent.

It is incredibly disappointing that what seems like a great idea has been so undermined by the Mr Newman's approach. I had no idea that this development was taking place until I received a text from him asking if he could dismantle a pergola in my yard. He did not mention to me that he was going to destroy a pond in my yard at the same time. When finally I started mentioning my rights he shut down communication. He has and still is causing a lot of heartache for everyone involved.

Depending on the outcome of the Development Application, my only option will be to take Mr Newman to court to ensure he is compliant to the Right of Carriageway through his property. To do so will be another waste of resources - financial, legal, and personal.

If you require further documentary or other evidence, please contact me. A large part of the communication with Mr Newman took place by email cc'd to his solicitor and my Real Estate agent. This became necessary when he continually reinterpreted most of everything I said to suit himself.

Yours sincerely,



Rev. Tom Stuart

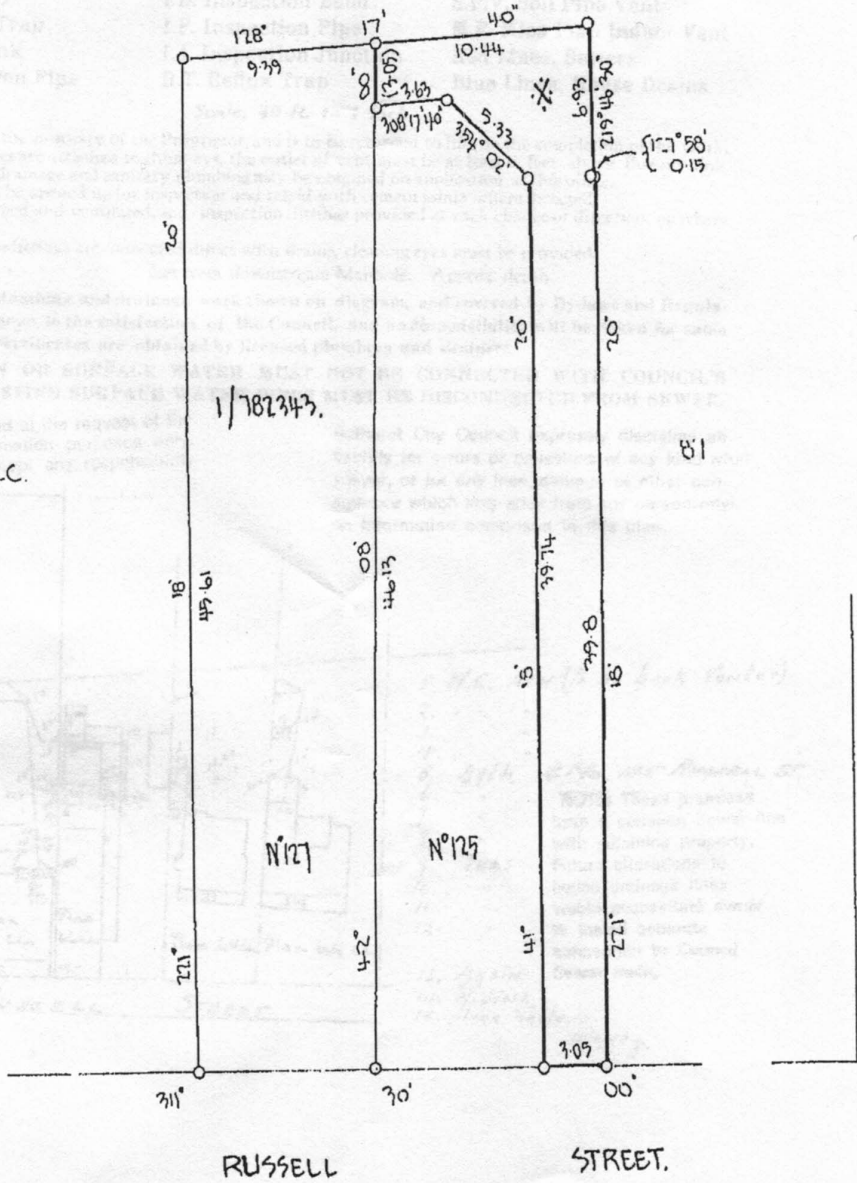
A'

717527

COMPILED PLAN SHOWING RIGHT OF CARRIAGEWAY
APPURTENANT TO LAND COMPRISED IN FOLIO IDENTIFIA 1/782343
& BURDENING LAND KNOWN AS N°125 RUSSELL STREET, BATHURST
& CREATED BY CONVEYANCE N° 333 BOOK 2357



* RIGHT OF CARRIAGEWAY VARIABLE WIDTH



REDUCTION RATIO 1:250

Wayne C. Doidge
WAYNE C. DOIDGE B.SURV.
REGISTERED SURVEYOR
24TH MAY 1990









BATHURST REGIONAL COUNCIL



PERMIT FOR TREE REMOVAL/WORKS

To THOMAS STUART

36 MILSON ST. CHARLESTOWN

No. 0182

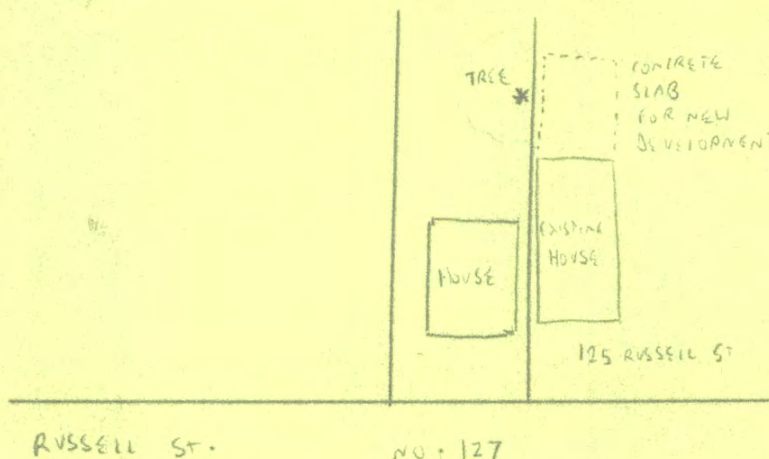
N.S.W. 2290

This permit is issued in respect of tree/s situated at 127 RUSSELL ST BATHURST

(Address of Premises)

and refers only to the trees listed below:-

LOCATION MAP



TREE	ACTION (removal, other)
ULMUS PROCEA (ENGLISH ELM)	REMOVAL

The permit is issued subject to the following conditions:-

PLEASE REPLACE WITH ONE TREE
OF SUITABLE SPECIES WITHIN THE PROPERTY

This permit must be produced on demand to any employee of the Bathurst Regional Council or to any person authorised by the Council to act on its behalf.

This permit is effective immediately upon issue and will expire five (5) years after the date of issue.

Director Engineering Services

[Signature]
(Signature of Issuing Officer)

23/06/2017
(Date)

(White - Owner/Applicant, Pink - Contractor's Copy, Yellow - Records Copy, Green - Office Copy)