

ORDINARY MEETING OF BATHURST REGIONAL COUNCIL

4 December 2019

His Worship the Mayor & Councillors

Notice of Ordinary Meeting of Bathurst Regional Council – Wednesday 11 December 2019

I have to advise that an Ordinary Meeting of Bathurst Regional Council will be held in the Council Chambers on Wednesday 11 December 2019 commencing at 6:00 pm or immediately following the conclusion of the Public Forum session.

Public Forum will be held from 6.00 pm where there will be an opportunity for members of the public to raise matters with Council.



D J Sherley
GENERAL MANAGER

BUSINESS AGENDA
ORDINARY MEETING OF BATHURST REGIONAL COUNCIL
TO BE HELD ON Wednesday 11 December 2019

Table of Contents

1. PUBLIC FORUM	5
2. MEETING COMMENCES	5
3. PRAYER AND ACKNOWLEDGEMENT OF COUNTRY.....	5
4. APOLOGIES	5
5. MINUTES	5
5.1. MINUTES - ORDINARY MEETING OF BATHURST REGIONAL COUNCIL - 20 NOVEMBER 2019	5
6. DECLARATION OF INTEREST.....	7
7. MAYORAL MINUTE.....	7
8. RECEIVE AND DEAL WITH GENERAL MANAGER'S AND DIRECTORS' REPORTS	7
8.1. GENERAL MANAGER'S REPORT.....	8
8.1.1. ABORIGINAL CULTURAL HERITAGE	9
8.2. DIRECTOR ENVIRONMENTAL PLANNING AND BUILDING SERVICES REPORT	16
8.2.1. SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.....	17
8.2.2. GENERAL REPORT.....	20
8.2.3. DEVELOPMENT APPLICATION NO. DA 2019/295 - PROPOSED MIXED- USE DEVELOPMENT AND 5 LOT SUBDIVISION AT 48 & 50 BENTINCK STREET AND 178 HOWICK STREET BATHURST NSW 2795. APPLICANT: JOSS CONSTRUCTION OWNER: REGIONAL NOMINEES PTY LTD	22
8.2.4. DEVELOPMENT APPLICATION 2019/135 - DEMOLITION OF EXISTING GARAGE AND LATER REAR ADDITIONS TO DWELLING, NEW ADDITIONS AND ALTERATIONS TO DWELLING AND NEW GARAGE AT 251 PIPER STREET, BATHURST. APPLICANT: MR O BREUST. OWNER: MR O & MRS M BREUST	100
8.2.5. DEVELOPMENT APPLICATION 2019/148 – ADDITIONS AND	

ALTERATIONS TO EXISTING DWELLING AND DEMOLITION OF EXISTING SHED AT 228 DURHAM STREET, BATHURST. APPLICANT AND OWNER: L SINGH	105
8.2.6. DRAFT BATHURST 2040 OPEN SPACE STRATEGY.....	110
8.2.7. PLANNING PROPOSAL – SCHEDULE 5 ENVIRONMENTAL HERITAGE	113
8.2.8. BATHURST REGION HERITAGE REFERENCE GROUP	115
8.2.9. WESTERN RESEARCH INSTITUTE - BIG IDEAS FOR REGIONAL NSW	117
8.2.10. 5G IN THE BATHURST REGION.....	119
8.2.11. SMART COMMUNITY STRATEGY 2020 - 2025	121
8.3. DIRECTOR CORPORATE SERVICES AND FINANCE'S REPORT	124
8.3.1. STATEMENT OF INVESTMENTS	125
8.3.2. MONTHLY REVIEW - 2019/2023 DELIVERY PLAN AND OPERATIONAL PLAN 2019-2020	128
8.3.3. SUNDRY SECTION 356 DONATIONS, BATHURST MEMORIAL ENTERTAINMENT CENTRE COMMUNITY USE SUBSIDY AND MOUNT PANORAMA FEE SUBSIDY	130
8.3.4. POWER OF ATTORNEY.....	131
8.4. DIRECTOR ENGINEERING SERVICE'S REPORT	132
8.4.1. ENHANCEMENT OF CENTENNIAL PARK	133
8.4.2. COUNCIL SPORTING ASSOCIATION GRANTS PROGRAM YEAR ENDING 30 JUNE 2020	136
8.4.3. PROPOSED ROAD WIDENING OF MCDIARMID STREET AND EASEMENT AFFECTING LOTS 1000, 1012 AND 1013 IN DP1256577 - BRADWARDINE ROAD AND CORPORATION AVENUE, ROBIN HILL	138
8.4.4. PROPOSED COMPULSORY ACQUISITION - LOT 33 DP1259483 THE BRIDLE TRACK, BRUINBUN, FOR THE PURPOSE OF ROAD WIDENING	140
8.5. DIRECTOR CULTURAL AND COMMUNITY SERVICE'S REPORT.....	142
8.5.1. BATHURST REGIONAL YOUTH COUNCIL - FOOD & FLIX, 15 NOVEMBER 2019.....	143
8.5.2. BATHURST REGION DESTINATION MANAGEMENT PLAN 2019-2024..	144
8.5.3. BATHURST LIBRARY - NSW PUBLIC LIBRARY FUNDING.....	148
8.5.4. HILL END ARTISTS IN RESIDENCE PROGRAM CELEBRATES 20 YEARS	150
8.5.5. DESTINATION BRAND IMPLEMENTATION QUARTERLY REPORT - DECEMBER 2019	153

9. REPORTS OF OTHER COMMITTEES.....	156
10. NOTICES OF MOTION	156
11. RESCISSION MOTIONS.....	156
12. COUNCILLORS / DELEGATES REPORTS.....	156
12.1. COUNCILLORS MEETING WITH COMMUNITY	
GROUPS/REPRESENTATIVES - 13 NOVEMBER 2019.....	156
13. RESOLVE INTO CONFIDENTIAL COMMITTEE OF THE WHOLE TO	
 DEAL WITH CONFIDENTIAL REPORTS	158
13.1. DIRECTOR ENVIRONMENTAL PLANNING AND BUILDING SERVICE'S	
REPORT	158
13.1.1. TENDER - BATHURST TOWN CENTRE MASTER PLAN	158
13.2. DIRECTOR CORPORATE SERVICES AND FINANCE'S REPORT.....	158
13.2.1. AGREEMENT - ELTON JOHN CONCERT	158
13.2.2. PROPOSED NEW COMMERCIAL LEASE - LOT 14 DP1089964 KNOWN	
AS 13 PJ MOODIE DRIVE, BATHURST AERODROME	159
13.2.3. RENEWAL OF LICENCE AGREEMENT - PART LOT 1 SEC 6 DP 758065 -	
MACHATTIE PARK COTTAGE - MITCHELL CONSERVATORIUM INC ...	159
13.2.4. REQUEST TO PURCHASE 169 COLLEGE ROAD, SOUTH BATHURST.	159
13.3. DIRECTOR ENGINEERING SERVICE'S REPORT	160
13.3.1. WATER SECURITY PROJECT PROCUREMENT.....	160
13.3.2. TENDER FOR CONSTRUCTION OF BATHURST CENTRAL BUSINESS	
DISTRICT CCTV STAGE 2 - CONDUIT NETWORK	160
13.3.3. CONSTRUCTION OF MULTI USE SPORTS COURTS - WATTLE FLAT	
AND PERTHVILLE VILLAGE SQUARE	160
14. RESOLVE INTO OPEN COUNCIL	160
15. ADOPT REPORT OF THE COMMITTEE OF THE WHOLE.....	160
16. MEETING CLOSE.....	161

1. PUBLIC FORUM

2. MEETING COMMENCES

3. PRAYER AND ACKNOWLEDGEMENT OF COUNTRY

Could all those who are able, please stand for the prayer and the acknowledgement.

3.01 Almighty God, give wisdom to those in authority and guide all peoples in the way of righteousness and peace, so that we may share with justice the resources of the earth, work together in trust and seek the common good. Amen

3.02 I would like to acknowledge that this meeting is being held on the traditional lands of the Wiradjuri people and recognise the strength, resilience and capacity of Aboriginal people in this land.

4. APOLOGIES

5. MINUTES

5.1. MINUTES - ORDINARY MEETING OF BATHURST REGIONAL COUNCIL - 20 NOVEMBER 2019

File No: 11.00005

RECOMMENDATION:

That the Minutes of the Ordinary Meeting of Bathurst Regional Council held on 20 November 2019 be adopted.

REPORT:

The Minutes of the Ordinary Meeting of Bathurst Regional Council held on 20 November 2019 are attached.

FINANCIAL IMPLICATIONS:

N/A

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

1. Minutes - Ordinary Meeting of Bathurst Regional Council - 20 November 2019 [5.1.1 - 14 pages]

6. DECLARATION OF INTEREST

Declaration of Interest

To assist the Councillors and committee members in their correct consideration of business before the meeting, please give consideration to Part 4 and Part 5 of the Council Code of Conduct, in relation to Declaration of Interest at meetings.

7. MAYORAL MINUTE

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

GENERAL MANAGER'S REPORT

The following reports are presented for Council's consideration.

Yours faithfully



D J Sherley
GENERAL MANAGER

8.1.1. ABORIGINAL CULTURAL HERITAGE

File No: 20.00010, 23.00010, 09.00031

RECOMMENDATION:

That the information be noted.

REPORT:

Council, at its meetings held 15 May and 18 September 2019, considered reports addressing the broad range of issues Council is facing with respect to Aboriginal Cultural Heritage. Council and the community's priority, under the Bathurst 2040 Community Strategic Plan, Strategy 1.1, is to "respect, protect and promote the region's Aboriginal heritage assets".

This report provides a further update since September 2019 relating to Council's key activities, programs and issues it is facing and addressing with respect to:

1. protection,
2. recognition, and
3. reconciliation.

1. PROTECTION

Aboriginal Cultural Heritage Assessment (ACHA) – Second Circuit Lands

The ACHA report for the second circuit lands is well underway and currently comprises:

- desktop assessment,
- archaeological field survey,
- sensitivity mapping,
- archaeological test excavation,
- archaeological field survey of additional lands included in the study area.

The draft ACHA report has been submitted to Council for staff review. The draft ACHA report will then be referred to the Registered Aboriginal Parties (RAPs) for comment (28 day review period). The final ACHA report is expected to be able to be presented to Council in the new year.

Preparation of the final ACHA report and its review by Council has been delayed due to the need to respond to the section 10 application (discussed below).

Complaint to Minister for Local Government – Second Circuit ACHA process

Extent Heritage sent out the methodology for the conduct of the archaeological field survey of the additional lands proposed to be included in the study area for the second circuit ACHA to all RAPs. The letter of response to that proposed methodology from the Wiradyuri Traditional Owners Central West Aboriginal Corporation, indicated that they had

made formal complaints to the Minister for Local Government concerning Bathurst Regional Council's activities in the way in which they have conducted these processes and indicated that a response from the Minister was pending.

Council sought advice from the Office of Local Government (OLG) as to the complaint referred to in the letter from the Wiradyuri Traditional Owners Central West Aboriginal Corporation.

Whilst the OLG indicated to Council that it was not standard practice to provide details of complaints made to it, Council was advised on 30 October 2019 that no further action was being taken on the complaint.

Complaint to the Environmental Defenders Office – Second Circuit ACHA process

In addition to the complaint above, the response to the proposed methodology for the additional lands to be included in the second circuit ACHA from the Wiradyuri Traditional Owners Central West Aboriginal Corporation, indicated that they had also made a formal complaint with the Environmental Defenders Office concerning the way in which Extent Heritage is trying to conduct this additional survey.

Council remains confident that the ACHA is being prepared in accordance with the guidelines outlined by the Department of Planning, Industry and Environment (previously the NSW Office of Environment and Heritage), to inform the proposed second circuit project of any requirements and constraints relating to the cultural heritage values identified within the study area.

Purple Copper Butterfly at Second Circuit development site

A post on the Bathurst Wiradyuri and Aboriginal Elders Facebook page on 28 August 2019 claimed "among other species under threat at Wahluu/Mt Panorama due to Bathurst Regional Council's proposed activities and developments is, the purple copper butterfly, which lives in a very specific habitat being the NSW central tablelands including the Bathurst area. This butterfly is directly linked to the Womens story and sacred site at Wahluu. This butterfly is endangered, feeding only on a local native shrub, *Bursaria spinosa* ssp (native blackthorn) which is also found at Wahluu/Mt Panorama".

As a result of this claim Council instigated two investigations into the potential for the Purple Copper Butterfly to be found at the Second Circuit development site at Mount Panorama.

The Purple Copper Butterfly is only known in association with the native blackthorn plant, *Bursaria spinosa lasiophylla*, is cryptic and it has a limited flying season. Therefore both investigations focused on searches for the host blackthorn plant.

SMEC, the organisation conducting the environmental impact assessment for the proposed second circuit, conducted a targetted parallel transect survey over 11.5km and 4.8 hours during September 2019. No host plants were recorded during the survey.

Two Council environment staff, experienced in identifying the host plant and butterfly, conducted transect surveys on 18 & 26 September 2019 over approximately 14 hours and approximately 14km of land within the development footprint. These surveys were to record incidental sightings of flora and fauna and other environmental values. No butterfly host plants were recorded during the survey.

Brickpits Wetland

As Councillors are aware, Council is pursuing an environmental restoration project (wetlands) of the former Brickpits land off Edgell lane. The former brickpits is located near to the Potato Paddock Massacre site.

The story of the Potato Paddock Massacre was recounted by the Hon W.H. Suttor Jnr (1834–1905), the son of W.H. Suttor Snr and grandson of early Bathurst pastoralist George Suttor:

“A foreigner named Antonio had cultivated a patch of land on the Macquarie River, opposite the town of Bathurst. Among other things he grew potatoes. One day, as a large number of the black tribe of the place came by, Antonio, moved by a spirit of good nature, gave some of his tubers to these people. Next day, they having appreciated the gift, appeared at the potato patch and commenced to help themselves. This was not to Antonio’s liking, who roused the people of the settlement on his behalf. They rushed down and attacked the blacks, some of whom were killed and others maimed.” (WH Suttor, Australian Stories Retold, and, Sketches of Country Life (Bathurst, NSW: Glyndwr Whalan, 1887, p65).

This incident, in 1824, was the spark that ignited the Bathurst War.

Council staff have commenced preliminary investigations to determine whether more detailed cultural heritage assessment of the project is required, including preliminary consultation with local Aboriginal groups. These investigations continue and at this time restoration works at the brickpits have been delayed pending the outcomes of these investigations.

2. RECOGNITION

Aboriginal Place Declaration, under the National Parks and Wildlife Act 1974 (State)

The Wiradyuri Traditional Owners Central West Aboriginal Corporation made a nomination to the NSW Department of Premier and Cabinet (DPC) to declare Mount Panorama (Wahluu) and a very large curtilage around it as an Aboriginal Place under the National Parks and Wildlife (NPW) Act 1974.

The NSW Department of Premier and Cabinet (DPC) advised Council on 31 October 2019 that the Aboriginal Cultural Heritage Advisory Committee (established under the National Parks & Wildlife Act 1974) considered the proposed heritage listing – Aboriginal Place or State Heritage Register listing at its meeting held on 22 August 2019.

In its discussion, the Committee acknowledged the likely Aboriginal cultural values of Mount Panorama (Wahluu) but resolved that this matter will not be progressed and the nomination will be closed until the Community Elders who can speak for Country present a unified voice on the tangible and/or intangible heritage significance of Wahluu. A copy of the advice from DPC to Council is provided at **attachment 1**.

The determination of the Aboriginal Cultural Heritage Advisory Committee clearly supports the results of the Anthropological Investigations (undertaken on behalf of Council) and the view that there remain questions around the antiquity and validity of some of the values associated with the Mountain.

The letter from DPC seeks to facilitate further discussion with all stakeholders to negotiate agreeable relationships to bring about positive arrangements for the future management

and use of Mt Panorama (Wahluu). Council will participate in these ongoing discussions. Council also continues to undertake ongoing consultation and engagement with all local Aboriginal groups in the Bathurst Region.

Heritage Protection Application under Aboriginal and Torres Strait Islander Heritage Protection (ATSIHP) Act 1984, Mount Panorama, Bathurst (Federal)

Section 9 – Emergency Declaration

Council received advice from the Federal Department of Environment and Energy on 9 January 2019 that it had received an application to protect the area known as Wahluu (south – west corner) under section 9 (emergency declaration) of the Aboriginal and Torres Strait Islander Heritage Protection (ATSIHP) Act 1984.

Section 9 of the Act (Emergency declarations in relation to areas) allows the Minister to make a declaration if he/she is satisfied that:

- The area is a significant Aboriginal area
- It is under serious and immediate threat of injury or desecration.

Such a declaration has effect for a period as specified in the declaration but not exceeding 30 days. The Minister may extend the declaration for a further period but not beyond the expiration of 60 days in total. No action has yet been taken on that application by the Department of Environment and Energy.

Section 10 – Other Declarations

On 8 August 2019, the Department of the Environment and Energy, on behalf of the Minister for the Environment advised that it had received one application under section 10 of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (ATSIHP Act).

A section 10 application is similar to a section 9 application however the Minister can make the declaration for any time period specified. Before doing so the Minister must consider a report from a person nominated by him/her and any representations attached to that report.

On 10 October 2019, formal notice was made in the Western Advocate of the application for the protection of a specified area at Mount Panorama (Wahluu) under section 10 with an invitation to make representations in relation to the application. A map showing the specified area proposed under the application is provided at **attachment 2**.

Representations were due on 1 November 2019. The section 10 application includes some 46 attachments and so has required considerable time and resources to review and prepare an appropriate response. Council was successful in obtaining an extension of time to prepare its submission to 29 November.

As at the time of writing this report Council staff continue to prepare Council's representations on this matter.

Preparation of Council's submission has proved very frustrating given that new attachments to the application were forwarded to Council on 11 November and then again as late as 19 November 2019. Given the lateness of receipt of the additional attachments to the application Council has sought an additional extension of time to submit its submission to 6 December 2019.

A full copy of Council’s submission will be forwarded to Councillors when it has been completed.

3. RECONCILIATION

Interpretation

Council staff met with the Wiradjuri Elders on 22 November 2019 to discuss implementation of the Bathurst Region Aboriginal Heritage Interpretation Strategy.

The meeting was extremely worthwhile and productive and offered a way forward in relation to:

- Plans for the 2024 bicentenary of martial law in Bathurst, including a discussion on raising community awareness of the history of this event, opportunities to repatriate artefacts, and opportunities to add to the mapping of Aboriginal occupation of the Bathurst region.
- An interpretation sign for the Wambool Ceremonial ground and other opportunities to improve the amenity of and access to this site.
- Aboriginal interpretation opportunities along the Mount Panorama (Wahluu) boardwalk, in relation to the Wahluu story and other stories.

A workshop meeting will be held between the Elders and Council staff in February to progress the Boardwalk project.

Regular meetings between staff and the Elders will be held in relation to the 2024 bicentenary with the next meeting to be held in March 2020.

Involvement and Engagement – Cultural and Community Events

The table below outlines recent involvement and engagement with local Aboriginal Groups since the report to Council in September 2019.

Section	Date/s	Event	Detail of Involvement / Engagement / Welcome to Country
BMEC	October 2019	Archie Roach in Conversation	Book launch for Archie’s memoir “Tell Me Why” presented by the Bathurst Writers’ & Readers’ Festival (BMEC Local Stages & Books Plus). Welcome given by Mallyan, Wirribee & Dinawan. Archie interviewed by Birrunga Henderson.
	October 2019	Mission Songs Music workshops with the local Aboriginal community for “The Mission Songs Project”	Engagement postponed to the first week of December
	October / November 2019	Inland Sea of Sound Pre-planning for the 2020 Wiradyuri Welcome Performance	Meetings to plan this activity. Application submitted to Festivals Australia
	November 2019	BMEC 2020 Annual season launched including “The Mission Songs Project”.	“The Mission Songs Project” included in the Annual Season brochure.

Section	Date/s	Event	Detail of Involvement / Engagement / Welcome to Country
Supercars/ Events	October 2019	B Rock Super Wednesday Transporter and Driver Parade	Traditional Welcome to Country with smoking ceremony. Welcome given by: Dinawan & Yanhadarrambal Included a number of Supercar drivers.
BRAG	November (ongoing)	Artmaking Workshops	Bathurst Lands Council 'Mums & Bubs' fortnightly artmaking workshops in BRAG/Library meeting room commenced with Jo Southorn
	November 21-24 2019	Cementa19	BRAG sponsorship of Bathurst based Wiradjuri artist Amala Groom to participate in Cementa 2019
	November (ongoing)	2020 Exhibition Program Development	Consultation with Elders and Wiradjuri artist Birrunga regarding development of exhibition for 2020 to coincide with Midawar/Harvest tour from NMA.
	November 2019 (ongoing)	Exhibition Development	Artist Aletheia Casey working with Bathurst Elders and community to create a series of portraits for 2020 exhibition 'The Bathurst Wars'.
	5-7 December 2019	VOID Education Symposium	Elders participation in development and delivery of an education symposium for gallery educators and community around the themes in the VOID exhibition.
	6 December 2019	VOID exhibition opening	Welcome to Country and Smoking Ceremony (Bathurst Wiradjuri and Aboriginal Community Elders Group).
	6 December – 2 February 2019	HOME: Gunhigal Nguambang Wiradjuri Mayiny exhibition.	Exhibition of the works of 220 primary school students who participated in Wiradjuri language workshops (Aunty Jill Bower) and artmaking activities (Nyree Reynolds) throughout 2019.
	6 December – 2 February 2019	BACKYARD BILA Interactive education /public program (Wiradjuri art, culture and language)	Designed by Joel Tonks (BRAG) in collaboration with the Bathurst Wiradjuri and Aboriginal Community Elders Group. Includes new soundscape commission by the Elders.

CONCLUSION:

Council and the community's priority, under the Bathurst 2040 Community Strategic Plan, Strategy 1.1 is to "respect, protect and promote the regions Aboriginal heritage assets". As outlined in this report Council is continuing to invest in activities that seek to recognise and protect the cultural heritage of the Bathurst Region generally and Mount Panorama specifically and to also undertake ongoing reconciliatory actions.

FINANCIAL IMPLICATIONS:

- The total cost to date on cultural interpretation studies and the anthropological investigations has been: \$182,138 (excluding RAP fees).
- The total cost spent to date on Aboriginal Cultural Heritage Assessments, including the estimated fees to complete the second circuit ACHA has been \$563,454 (excluding RAP fees).
- The Registered Aboriginal Party fees paid to date for the ACHA reports and the Anthropological Investigations has been \$148,400 (including the estimate for the second circuit ACHA report).
- The overall total costs to date have been \$893,992 (including the estimate for completion of the second circuit ACHA report).
- The costs associated with the reconciliatory actions under this report have been met within existing Council budgets.
- The costs associated with providing advice to Department of Premier and Cabinet and submitting new site cards at Mount Panorama are \$3,113.
- The costs to include additional lands within the second circuit ACHA report are \$12,442.
- The costs for expert advice in relation to the section 10 application are yet to be finalised but will be in excess of \$7,000.
- Cost for butterfly survey by SMEC was \$15,781.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 1: Our sense of place and identity.

- Strategy 1.1 Respect, protect and promote the region's Aboriginal heritage assets.
Strategy 1.3 Enhance the cultural vitality of the region.

Objective 4: Enabling sustainable growth.

- Strategy 4.6 Plan for, assess and regulate development activity.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

1. Advice from Department of Premier & Cabinet [8.1.1.1 - 2 pages]
2. Section 10 Map [8.1.1.2 - 1 page]

DIRECTOR ENVIRONMENTAL PLANNING AND BUILDING SERVICE'S REPORT

The following reports are presented for Council's consideration.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Neil Southorn', followed by a small dot.

Neil Southorn
**DIRECTOR
ENVIRONMENTAL, PLANNING AND BUILDING SERVICES**

8.2.1. SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

File No: 03.00053

RECOMMENDATION:

That the information be noted.

REPORT:

Section 4.15 of the Environmental Planning and Assessment Act 1979 is provided below to assist Council in the assessment of Development Applications.

4.15 Evaluation (cf previous s 79C)

(1) Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—

- (a) the provisions of—
 - (i) any environmental planning instrument, and
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
 - (iii) any development control plan, and
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),
 - (v) (Repealed)that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

(2) Compliance with non-discretionary development standards—development other than complying development

If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority—

- (a) is not entitled to take those standards into further consideration in determining the development application, and

- (b) must not refuse the application on the ground that the development does not comply with those standards, and
 - (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards, and the discretion of the consent authority under this section and section 4.16 is limited accordingly.
- (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards—
- (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and
 - (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Note. The application of non-discretionary development standards to complying development is dealt with in section 4.28(3) and (4).

(3A) **Development control plans**

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority—

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and
- (c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, **standards** include performance criteria.

(4) **Consent where an accreditation is in force**

A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the *Building Code of Australia* if the building product or system is accredited in respect of that requirement in accordance with the regulations.

- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).

(6) **Definitions** In this section—

- (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
- (b) **non-discretionary development standards** means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

FINANCIAL IMPLICATIONS:

Nil.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

Nil

8.2.2. GENERAL REPORT

File No: 03.00053

RECOMMENDATION:

That the information be noted.

REPORT:

The following reports are provided for Council's information.

- (a) Applications approved using authority delegated to the Director Environmental Planning & Building Services during November 2019 (**attachment 1**).
- (b) Applications refused during November 2019 (**attachment 2**).
- (c) Applications under assessment as at the date of compilation of this report (**attachment 3**).
- (d) Applications pending determination for greater than 40 days as at the date of compilation of this report (**attachment 4**).
- (e) Applications with variations to development standards under State Environmental Planning Policy No. 1 or Clause 4.6 of Bathurst Regional LEP 2014 approved in November 2019 (**attachment 5**).
- (f) No political disclosure statements have been received in relation to any "planning applications" being considered at this meeting.

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 4: Enabling sustainable growth.

Strategy 4.6 Plan for, assess and regulate development activity.

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

1. DAs approved [8.2.2.1 - 1 page]
2. DAs refused [8.2.2.2 - 1 page]
3. DAs pending [8.2.2.3 - 2 pages]
4. Applications Over 40 days [8.2.2.4 - 1 page]
5. DAs Approved under SEPP 1 [8.2.2.5 - 1 page]

8.2.3. DEVELOPMENT APPLICATION NO. DA 2019/295 - PROPOSED MIXED-USE DEVELOPMENT AND 5 LOT SUBDIVISION AT 48 & 50 BENTINCK STREET AND 178 HOWICK STREET BATHURST NSW 2795. APPLICANT: JOSS CONSTRUCTION OWNER: REGIONAL NOMINEES PTY LTD

File No: 2019/295

RECOMMENDATION:

That Council

- (a) support the variation to Clauses 4.3 “Height of buildings” and 4.4 “Floor space ratio” of *Bathurst Regional Local Environmental Plan 2014*.
- (b) support the variation to Clauses 5 “Business and Industrial Development” and 14 “Parking” of *Bathurst Regional Development Control Plan 2014*.
- (c) as the consent authority, grant consent pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* to Development Application No. 2019/295, subject to conditions able to be imposed pursuant to Section 4.17 of the *Environmental Planning and Assessment Act 1979*, as amended, including but not limited to:

Heritage Conservation

- 1. Prior to the issuing of a Construction Certificate for any works to the historic tower, the developer is to submit to Council,
 - a) two (2) separate electronic copies of a photographic record, one for Council’s records and one for the Bathurst & District Historical Society of the tower building. The photographic record is to be prepared in accordance with the attached guidelines for the photographic recording of sites for which approval has been granted for the works.
 - b) a detailed schedule of works to make safe and secure the historic tower building for approval by Council’s Heritage Advisor. This document is to be lodged prior to the issuing of the first Construction Certificate for the site.
 - c) A detailed schedule of original fabric and any movable heritage within the historic tower and outline what fabric is to be:
 - i. Retained on site; or
 - ii. Removed from site.

Note: No original materials or moveable heritage is to be removed from the historic tower without written approval from Council.

2. The Applicant is to arrange an inspection of the development in relation to the adaptive reuse of the tower with Council's Heritage Advisor through the Environment Planning and Building Services Department at the following times:
 - a) At lodgment of the schedule of original fabric and moveable heritage within the tower;
 - b) At lodgment of the make safe works to the tower;
 - c) At completion of the make safe works to the tower;
 - d) At commencement of works on the tower to adaptively reuse the tower;
 - e) Halfway through the construction works to adaptively reuse the tower;
 - f) Prior to the issuing of an occupation certificate for the tower.
3. The make safe works to the historic tower are to be completed prior to the issuing of the first Occupation Certificate for the site.
4. Prior to the issue of a Construction Certificate or prior to the commencement of any works on the site, the applicant is to lodge a Construction Heritage Management Plan which addresses the following:
 - a) The recommendations of the Archaeological Assessment Report and any requirements of the excavation permit;
 - b) Mitigation measures in relation to the likely archaeology onsite;
 - c) The proposed monitoring in place for any archaeological relics uncovered;
 - d) Training, resources and consultation for staff on the site during excavation;
 - e) Incident management protocol; and
 - f) Methods dealing with unexpected finds during works.
5. An excavation permit under Section 139 and Section 140 of the *Heritage Act 1977* must be obtained before any excavation work commences on site. The excavation permit is to be supported by a site-specific Archaeological Assessment Report prepared by a specialist heritage archaeologist. A copy of the Archaeological Assessment Report and the excavation permit are to be provided to Council prior to the issue of a Construction Certificate or prior to the commencement of any works on the site.
6. The developer is to prepare, lodge and implement an interpretation strategy/plan that outlines how the built and social history of the site is to be interpreted, in accordance with the Conservation Management Plan submitted for the site in 2007. The interpretation strategy/plan is to be submitted to Council for approval prior to the issue of the first Construction Certificate for the site.
7. Prior to the issue of the first Construction Certificate for the site, the applicant is to provide Council with appropriate information as to how the roof trusses (from building B2 reference 2007 CMP), as approved under DA 2012/0518, are to be reused on site, on one or more of the approved lots.
8. No works to the tower shall cause damage to, or adversely affect, the structural integrity of the building (clause 1.7.3.1 – AS2001-2001). The applicant is to ensure that when undertaking the proposed works every precaution is taken to protect the structural integrity of the remaining walls and roof. This may necessitate the removal of materials by hand, particularly

where materials are bonded in or 'toothed' in (such as brickwork) or have a shared foundation or shared timber plate.

The use of heavy machinery is strongly discouraged because of the damage it can cause to the subject building and surrounding buildings. Heavy machinery should not be used within three metres of those portions that are to be retained.

9. The new slab within the tower is to be constructed so the concrete does not impede the ventilation or detrimentally affect the historic tower. Air vents are to be placed below the ground floor level to ensure adequate underfloor ventilation.
10. The development is to be undertaken strictly in accordance with the types and colours of the external materials shown on the approved plans.
11. Prior to the Issue of Construction Certificate, a Survey Plan is to be submitted indicating the exact location of the well.
12. The developer is to prepare an archaeological assessment by a specialist heritage archaeologist for the well. The assessment is to include a schedule of urgent/immediate works needed to conserve the well and protect it from any development on the site. The schedule of urgent/immediate works are to be completed and certified by a specialist heritage archaeologist and in accordance with any requirements of the NSW Department of Premier & Cabinet (Heritage) prior to the release of the Subdivision Certificate.
13. An Occupation Certificate for each building on site will not be issued unless satisfactory evidence is provided to Council that the Interpretation Strategy Plan has been appropriately implemented for that stage of the overall development of the site.
14. The final plan of survey is to show the following Restrictions as to User/Covenant:
 - a) On the proposed Lot on which the well is located, restricting its demolition and identifying its location on the survey plan.
 - b) On all proposed Lots that require any side and rear boundary fencing to be timber paling or brick to a maximum height of 1.8m.

NSW Roads and Maritime Services

15. Compliance with any requirements of the NSW Roads and Maritime Services, as provided below:
 - a) That the maximum vehicle size servicing the food and drink/retail component of the subject site is restricted to an 8.8m medium rigid vehicle.
 - b) The development is carried out in accordance with the plans submitted to Roads and Maritime on the 8 October 2019 and the Traffic and Parking Assessment prepared by Traffic Solutions Pty Ltd dated September 2019.

Car Parking

16. The proposed “basement parking area and podium” associated with the food and drink/retail building (described as “Stage E” in the indicative staging contained in the Statement of Environmental Effects) is to be constructed as part of the construction of the serviced apartments (if not constructed beforehand).

15 of the 22 parking spaces within the food and drink/retail parking area are to be made available for the use of guests of the serviced apartments making a total of 61 spaces available on site for the use of the serviced apartments.

Upon the subdivision of the land an easement (or some other arrangement to the satisfaction of Council) over the 15 spaces is to be created benefitting the serviced apartments.

All spaces are to be available prior to any Occupation Certificates being issued for the serviced apartments.

A contribution equivalent to 6 parking spaces is to be paid in accordance with Council’s Section 94 (7.11) Development Contributions Plan Bathurst CBD Car Parking.

Advertising and Signage

17. Only the three “Quest” business identification signs to be located on the serviced apartment building have been approved as part of this application. A separate Development Application will need to be submitted to Council for any alternate or additional signage proposals.

Surrender of Previous Development Consents

18. Prior to the issue of any Construction Certificate, the applicant is to provide a written request to Council that any previous Development Consents relating to the subject land be surrendered.

Land Contamination

19. A Remediation Action Plan (RAP) is to be prepared that addresses the contamination (Benzo(a)pyrene) identified in the *Environmental Site Assessment and Geotechnical Investigation* report (prepared by Prensa Pty Ltd, dated September 2012) and sets out how the site can be made suitable for its intended use including methodology, clean-up criteria and validation procedures. The RAP must be prepared in accordance with Council’s *Contaminated Land Policy*, the *Managing Land Contamination Planning Guideline (1998)*, relevant EPA Guidelines and the Assessment of Site Contamination NEPM (1999 as amended 2013). Please note the requirements specified in Council’s policy for consultant’s reporting and for site audits.

Any remediation carried out prior to commencement is subject to the requirement to either obtain consent or notify Council in accordance with *State Environmental Planning Policy No 55 – Remediation of Land* and Council’s policy.

20. A validation report shall be provided to Council along with the summary report and notice of completion required under clause 17(2) of *State Environmental Planning Policy No 55 – Remediation of Land* to confirm that the remediation has been completed generally in accordance with the RAP and that the site is suitable for the development. The validation report must be prepared in accordance with Council's *Contaminated Land Policy*, the *Managing Land Contamination Planning Guideline (1998)*, relevant EPA Guidelines and the *National Environmental Protection (Assessment of Site Contamination) Measure (1999 as amended 2013)*.

Any recommendations identified in the validation report shall be binding on the development.

21. Prior to the issue of any Construction Certificate, the applicant is to submit to Council a Hazardous Materials Assessment Report prepared by a suitably qualified person for the full heritage tower building.
22. Prior to the issue of any Construction Certificate, the applicant is to submit to Council a Site Clearance Certificate for Asbestos prepared by a suitably qualified and experienced contractor.
23. Prior to the issue of any Construction Certificate, the applicant is to submit to Council a written report prepared by a duly qualified person in accordance with EPA guidelines, which identifies that the aboveground and underground fuel tanks have been removed from the site in accordance with the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*. The report must describe the processes used to remove the tanks concerned and assess contamination at the storage site and describe any remediation work carried out during the removal of the tanks concerned.

Noise

24. Prior to the issue of any Construction Certificate, the applicant is to submit to Council an Acoustic Report prepared by a suitably qualified and experienced person, to confirm that noise emissions do not exceed trigger levels once final mechanical equipment and designs are confirmed.
25. Should any mechanical equipment and services within the entire development be located on roof tops, they must be suitably screened from view. Details as to how these services will be screened must be provided to Council for consideration of its suitability, prior to the issue of any Construction Certificate.

Council requires that the recommendations of the acoustic report be adopted, including:

- a) The Acoustic Report predicts that mechanical plant of the food and drink/retail building would be located on the roof of the building. The report recommends that the plant be located within 2 metres of the north-eastern corner of the roof and that the plant be shielded by a noise barrier with a height extending at least 1 metre above the plant, located so that it shields the serviced apartment building and the new dwelling house. The side of the barrier facing the plant must be lined with absorptive material with a minimum NRC of 0.8.

- b) The Acoustic Report states that car park exhaust (CPE) system ducting of the office/business building is to be installed within a riser behind the lift shaft. The CPE fan(s) could be roof mounted or within the carpark plantrooms. If roof mounted, the fan must be mounted on the opposite side of the lift overrun from the serviced apartment building so that CPE noise emissions to the area are shielded by the overrun building.
26. To mitigate the noise impact of vehicles passing 172 Howick Street (Lot 1 DP 737933), the following recommendations of the Acoustic Report must be carried out:
- a) A fence be constructed along the boundary line that is a minimum of 2.5 metres above the development's internal driveway around the base of the serviced apartment building that has an acoustic rating of 25 R_w with no gaps permitted at the base and joins.
 - b) An internal speed limit no greater than 10 km/h within the development be sign-posted.
 - c) Additional signage be installed to encourage quiet behaviour within the car parking area.
 - d) The driveway near the exit point be constructed so that the exit onto Howick Street is smooth with minimum bumps and deviations to avoid noise impact.
 - e) A sign near the exit be installed to advise drivers to exit the site quietly and consider neighbouring properties.

Lighting / Safety and Security

27. Prior to the issue of any Construction Certificate, a lighting plan for the entire development is to be submitted to Council and is to encompass Princes Street, Bentinck Street, Howick Street and the underground carparks.

All lighting for streets and public domain spaces provided as part of the development must be energy efficient (LED or equivalent) as approved by Council.

Street lighting is to be provided or upgraded in accordance with:

- a) AS/NZS 1158 Series (Parts 0-5) – Lighting for Roads and Public Spaces,
- b) SA/SNZ Technical Specification 1158.6 Lighting for Roads and Public Spaces – Luminaires,
- c) Council's Engineering Guidelines, and
- d) Any requirement of the appropriate electricity authority.

All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto any adjoining property or in an upward manner.

Landscaping

28. Prior to the commencement of any landscaping works, the applicant is to consult with Council in writing in relation to the proposed tree plantings within Council's road reserve. The number of street trees originally proposed may not be achievable due to several issues, including: the location of existing street tree plantings, proximity and clearance between existing trees, location

of electricity services (although this may change with the undergrounding of electricity lines), visibility and line of sight requirements at the intersection of Howick and Bentinck Streets.

29. **Landscaping is to be carried out and maintained in perpetuity in accordance with the certified landscape plan. Modification to the certified landscape plan shall only be after receiving written approval from Council.**

NOTE 1: The landscaping is to be completed prior to the occupation of the building and maintained in perpetuity.

30. Undeveloped parts of the site are to be maintained in a neat, clean and tidy condition following the completion of each stage of construction.

Privacy

31. Prior to the issue of any Occupation Certificate for the serviced apartment building (Quest), privacy screening is to be installed over windows (including those at the end of the hallways) to be located on the South-Eastern elevation of the serviced apartment building where they overlook surrounding residential developments.

Easements to be Shown on Final Plan of Survey

32. The final plan of survey is to show:
- a) Rights of Carriageway (ROW) at variable width within all affected lots and in favour of all benefiting lots, as shown on the approved "Subdivision Plan" (Reference No. DA 9303, Issue G, Dated 20/11/19). The ROW to be located over Lots 1 and 2 is to extend into the "tower residents garage" to be located on Lot 5 for the benefit of Lot 4, as shown on the approved "Lower Basement Plan (Overall)" (Reference No. DA1001, Issue H, Dated 10/9/19) and "Residential Building Lower Basement" (Reference No. DA D1001, Issue D, Dated 10/9/19).
 - b) An easement for services over the land affected by the Right of Carriageway (ROW) and in favour of benefiting lots.
 - c) An easement for stormwater drainage within all affected lots and in favour of all benefiting lots.
 - d) A Right of Carriageway (ROW) at variable width over the terrace piazza and shared pedestrian space within all affected lots and in favour of all benefited lots.
 - e) 15 of the 22 parking spaces within the "food and drink/retail" parking area on Lot 3 are to be made available for the use of guests of the "serviced apartment building" on Lot 2. An easement for parking over the 15 dedicated car parking spaces on Lot 3 is to be created for the benefit of Lot 2 (or some other arrangement to the satisfaction of Council).

- (d) notify those that made submissions of its decision; and

(e) call a division.

REPORT:

Site

Council has received a Development Application (DA) for a mixed-use development including office/business premises, food and drink premises, serviced apartments, a new dwelling house, a change of use of the heritage tower to a dwelling house and a 5 lot subdivision.

The land is identified as:

Property Address	Lot & DP
48 Bentinck Street Bathurst NSW 2795	Lot 112 DP 1232551
50 Bentinck Street Bathurst NSW 2795	Lot 1 DP 2067 Lot 2 DP 2067 Lot 19 DP 2067 Lot 20 DP 2067 Lot 21 DP 2067 Lot 22 DP 2067 Lot 23 DP 2067 Lot 24 DP 2067 Lot 25 DP 2067 Lot 28 DP 2067 Lot 30 DP 2067 Lot 2 DP 184456
178 Howick Street Bathurst NSW 2795	Lot 26 DP 2067 Lot 27 DP 2067

The subject land currently consists of 15 lots with a total combined area of approximately 5061.6m².

On the site is an existing brewery tower and access driveways from Princes, Bentinck and Howick Streets. The land is located within an established mixed-use area consisting of commercial uses to the north, north-west and south-west, residential land uses to the south-west, south and south-east and recreational uses to the north-east.

See location plan and aerial photo at [attachment 1](#).

Proposed development

The proposed development includes the redevelopment of the site for multiple uses including office/business premises, food and drink/retail premises, serviced apartments, a new dwelling house, adaptive reuse of historic brewery tower as a dwelling house and a five lot subdivision.

See tabulated description of the proposed development in [attachment 2](#).

Staging

The development is likely to be undertaken in stages, as tenancies and finances allow. Indicative staging is described in the Statement of Environmental Effects (SEE) as follows:

Stage	Description
A	Consolidation of the existing 15 lots into one, including: Lots 1, 2, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 & 30 DP 2067, Lot 112 DP 1232551 and Lot 2 DP 184456.
B	Safety works to brewery tower (as required).
C	Construction of serviced apartment building including associated access, basement and earthworks.
D	Subdivision of 1 lot (the consolidated lot) into 5 lots.
E	Construction of the basement and podium associated with the Food and Drink Building on Lot 3.
F	The following works as the market demands: <ul style="list-style-type: none"> i. Construction of Office/Business Building on Lot 1. ii. Construction of Food and Drink/Retail Building on Lot 3. iii. Fit-out and restoration of brewery tower for use as Dwelling House on Lot 4. iv. Construction of new Dwelling House on Lot 5.

See relevant plans and documentation at **attachments 3 to 20.**

It is likely that the serviced apartment component of the development will be the first to be constructed. **Attachment 8** ("Stage 1 Elevations", Reference No. DA 9305) provides a visual representation of this component of the development when constructed alone.

Summary of Attachments

See all supporting information, plans and documentation in the following **attachments:**

Attachment No.	Documentation
1	Map of Land Subject to Development and Surrounding Area.
2	Tabulated Description of Proposed Development.
3	Plans of Proposed Office/Business Building.
4	Plans of Proposed Food and Drink/Retail Building.
5	Plans of Proposed Serviced Apartment (Quest) Building.
6	Plans of Proposed New Dwelling House.
7	Plans of Proposed Change of Use of Brewery Tower to Dwelling House
8	Masterplans of Proposed Overall Development and Subdivision.
9	Plans of Proposed Landscaping.
10	Statement of Environmental Effects.
11	Traffic and Parking Assessment Report.
12	Statement of Heritage Impact.
13	Archaeological and Development Impact Assessment Report, April 2007.
14	Archaeological Research Design Report.
15	Plan of Management for Serviced Apartments.
16	Acoustic Assessment Report.
17	Environmental Site Assessment and Geotechnical Investigation Report, September 2012.
18	BASIX Certificate No. 1028967S for New Dwelling House.
19	BASIX Certificate No. 1049200S for Dwelling House in Tower.
20	BASIX Assessment Report for Dwelling House in Tower.
21	Copy of Public Submissions Received.
22	Map of Surrounding Public Transport and Footpaths.
23	Minutes of Councillor Submission Hearing held on Wednesday 6 November 2019.
24	Map of Easements (Right of Carriageways) Located over Land.
25	Proposal to Relocate Electricity Infrastructure.
26	Applicant's Commitment to Maintain the Site in a Neat and Tidy Condition.

History of the Site/Proposal

The land was previously the site of a convict hospital constructed in c.1824 and burned down in c.1878.

In c.1902, a butter factory was constructed on the land, which expanded into a facility used for the freezing of meats and manufacturing of ice by 1926. A milk pasteurising plant was constructed in 1938. In the 1980's the site continued to operate as a milk receival factory and for the production and distribution of cream, plain and flavoured milk.

During the 1920's a brewery was also constructed and operated on the land (which likely included the current tower building).

A portion of the site was also used as a soap factory between c.1930's to c.1950.

The most recent Development Applications lodged in relation to the land are:

Application No.	Description	Consent Authority	Determination	Date of Determination
2007/0801	Demolition Works and Construction of Shopping Centre.	Bathurst Regional Council	Approved	5 December 2007
2012/0518	Demolition Works and Construction of 40 Serviced Apartments, Café, Retail Premises, Commercial Premises and Tower Restoration	Bathurst Regional Council	Approved	16 September 2013
2015/0310	Six Lot Subdivision	Bathurst Regional Council	Approved	27 June 2016
2016/0043	Change of Use to Commercial Offices and Alterations to Existing Building	Bathurst Regional Council	Approved	11 April 2016
2016/116	Serviced Apartments and Retaining Walls	Bathurst Regional Council	Refused	27 June 2016

Note: Several of the earlier proposals have included other portions of land such as 50 Bentinck (IDG Architects) and 2 Princes (Probation and Parole). Neither of these properties form part of the current proposal.

State Environmental Planning Policies

SEPP (BASIX)

Two BASIX Certificates were submitted with the development application for the change of use of the existing brewery tower to a dwelling house (No. 1049200S) and the proposed new two-storey dwelling house (No. 1028967S).

The BASIX Certificates are adequate for the proposed development and indicate that each residential dwelling will achieve minimum thermal comfort, water and energy efficiency targets.

The development complies with the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

SEPP (Infrastructure)

The proposed development will comply with the requirements of *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP), subject to conditions of consent, as discussed below.

Subdivision 2 "Development Likely to Affect an Electricity Transmission or Distribution Network"

The proposal was forwarded to Essential Energy as the existing overhead powerlines, underground powerlines/cables and padmount station are located within close proximity to the development.

Initial advice received from Essential Energy included the need to provide additional information as follows:

1. *Specific tree heights and requirements will apply for all planting (trees/shrubs) near the existing overhead powerlines and also near the existing underground powerlines/cables. Detailed plans/specifications for the planting/vegetation proposed for the street frontages/planting near existing overhead and underground infrastructure is to be provided.*
2. *It is unclear as to whether clearances will be maintained between the existing overhead powerlines and the proposed new buildings. Detailed plans will need to be provided showing all proposed new buildings including elevations and height from the top of the proposed new buildings to the nearest conductors (powerlines) and nearest power poles. Does the Applicant propose to remove the existing overhead powerlines? The information provided does not note this. If not, they will need to engage the services of a Level 3 Accredited Service Provider to provide clearances from the all existing conductors, under blowout conditions, to the proposed new buildings. Essential Energy will require a minimum of 7.5 metres clearance from the centreline of the powerline.*
3. *No information is provided as to what is proposed for the existing padmount substation 4850 and the existing underground cable/s supplying this substation. Detailed information will need to be provided for further review and comment.*

In response the applicant has opted to alter the scope of the project (see **attachment 25**) to include:

- *The High Voltage and Low Voltage conductors between Poles 8215 and 8220 will be relocated to underground.*
- *Existing Radial Padmount Substation 95-131 inside the old development area is believed to be currently redundant and will be removed.*
- *A new 500KVA Padmount substation to supply the development will be inside a 4.2m x 7m easement and will be installed in the North East Corner of the Development.*
- *This Padmount substation will be supplied from pole 8215 and ring fed back into the existing HV network at 95-P68881.*
- *The new Padmount substation will also maintain supply to LVP10604 and tie back into the existing LV network at poles 8220 and 8215.*
- *All streetlighting which is removed along with poles adjacent to the development, will be installed on new lighting columns and supplied from the new Padmount substation."*

It is considered likely that the applicant's proposal will satisfy the requirements of Essential Energy and the Infrastructure SEPP.

Clause 101 "Development with Frontage to Classified Road"

The property has frontage to a classified road (Bentinck Street) and accordingly Clause 101 "Development with frontage to classified road" applies.

Clause 101 requires that where practicable and safe, vehicular access be provided from a road other than the classified road and the safety, efficiency and ongoing operation of the classified road not be adversely affected. In this case the existing access to the property from Bentinck Street will be removed and new accesses to Howick and Princes Street constructed. Accordingly, access is not provided from the classified road.

In terms of the safety, efficiency and ongoing operation of the classified road, the Traffic and Parking Assessment includes consideration of the intersection of Howick and Bentinck Street. Modelling suggests that whilst there will be an increase in traffic at the intersection it will not have a significant adverse impact on the operation of the intersection.

Clause 104 "Traffic Generating Development"

The Development Application was referred to the NSW Roads and Maritime Services (RMS) in accordance with Clause 104 "Traffic Generating Development", as the proposal includes more than 50 car parking spaces and the proposed site access from Howick Street is located less than 90 metres from its connection with a classified road, being Bentinck Street.

The NSW RMS raised no objection to the proposal, subject to the following conditions of consent:

- *"That the maximum vehicle size servicing the subject site is restricted to an 8.8m medium rigid vehicle.*
- *The development is carried out in accordance with the plans submitted to Roads and Maritime on the 8 October 2019 and the Traffic and Parking Assessment prepared by Traffic Solutions Pty Ltd dated September 2019".*

As noted elsewhere in the report the serviced apartment building and office/business buildings have been designed to accommodate vehicles smaller than the 8.8m specified by the RMS. The requirement for 8.8m vehicles is to apply to the food and drink/retail component of the development.

Additionally, the RMS requires concurrence with the submitted Traffic and Parking Assessment Report (**attachment 11**) which will be varied subject to conditions of consent (discussed further throughout this report). However, the conditions of consent are not expected to result in any adverse changes in traffic behaviour and will improve on the car parking circumstances as proposed.

SEPP 55 – Remediation of Land

In accordance with Clause 7 of *State Environmental Planning Policy No 55 – Remediation of Land* (SEPP No. 55), Council must not consent to the carrying out of any development on land unless it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The historical industrial uses of the site mean that there is the potential for the land to contain residual contamination. Historically there have been a number of investigations undertaken.

As part of the 2013 Development Application the former owners prepared the following reports:

- Destructive Hazardous Building Materials Assessment (HAZMAT), prepared by Prensa Pty Ltd, dated August 2012.
- Environmental Site Assessment and Geotechnical Investigation, prepared by Prensa Pty Ltd, dated September 2012.

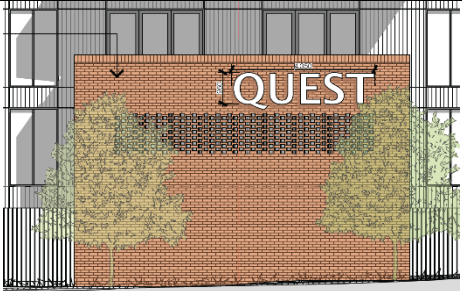
The HAZMAT assessment of the site examined the potential for buildings on the site to contain materials such as asbestos, synthetic mineral fibre, poly chlorinate biphenyls (PCB) and lead paint. Many of those buildings have since been demolished, however the tower building remains. The tower building has been identified as containing bonded asbestos, PCB's and lead containing paint. The HAZMAT assessment makes a number of recommendations in relation to the removal of asbestos by appropriately qualified persons.

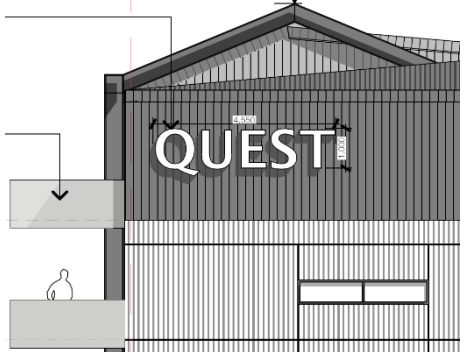
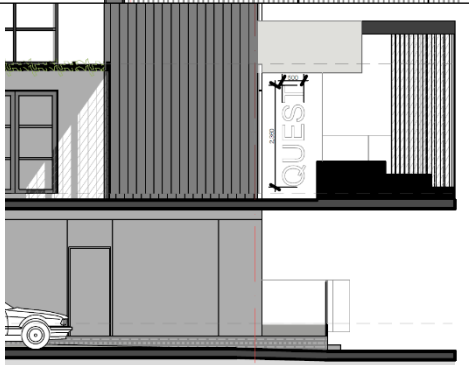
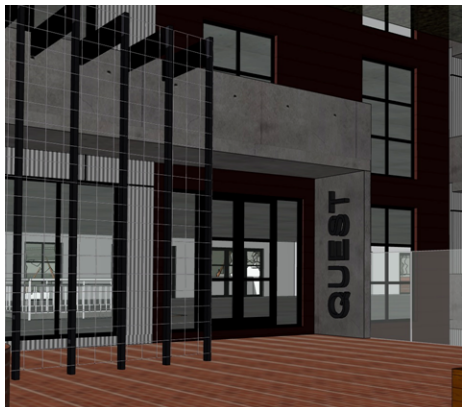
The Environmental Site Assessment identifies potential sources of contamination associated with underground and above ground storage tanks and boiler rooms. Sampling indicates that detectable levels of benzo(a)pyrene (BAP) were recorded on site, however these were within the acceptable limits for commercial usage. Further advice received as part of the current application is that the impacted area is to be located in the basement carpark area and will not be in the vicinity of the more sensitive residential uses proposed under this application.

The site is generally suitable for the proposed uses. Whilst there are some works to be undertaken to remove some residual contamination within the buildings and to provide clearances for historical removal of asbestos, these are all matters that may be achieved by appropriate conditions of consent.

SEPP 64 – Advertising and Signage

The proposed development includes the installation of three “Quest” business identification signs in association with the proposed serviced apartments, as described below:

Proposed Sign	Location	Dimensions	Plan
1 x Illuminated Flush Wall Sign – “QUEST”.	North-Eastern Elevation facing Howick Street	0.95m (height) x 4.35m (width)	

1 x Illuminated Flush Wall Sign – “QUEST”.	North-Western Elevation facing Bentinck Street	1m (height) x 4.55m (width)	
1 x Illuminated Projecting Wall Sign - “QUEST”.	North-Western Elevation facing Bentinck Street.	2.36m (height) x 0.5m (width)	 

The business identification sign (0.95m x 4.35m) to be located on the North-Eastern elevation will be located on a feature wall constructed of recycled “Bathurst red bricks” to ensure the development is consistent with the surrounding Heritage Conservation Area. It is considered that the proposed signage for the Quest apartments:

- is compatible with the existing theme and character of the surrounding commercial area;
- does not detract from the amenity or visual quality of the surrounding Local Heritage Items, the Bathurst HCA and open space areas;
- will not dominate the skyline or obscure or compromise any views, vistas and the viewing rights of other advertisers;
- is appropriate for the commercial streetscape and in keeping with the signage of surrounding shopping centres in regard to the scale, proportion and form of the signage;
- is sufficiently rationalised and will not result in any clutter or unsightliness.

Signage has also been detailed on the plans for the proposed food and drink/retail building (“Food and Beverage”), however, as discussed in the Statement of Environmental Effects, this signage is indicative only and does not form part of this

Development Application. A condition of consent will be implemented to provide clarification that only the three proposed “Quest” business identification signs have been approved as part of this application and that separate Development Applications will need to be lodged for any alternate or additional future signage.

Therefore, subject to conditions of consent it is considered that the proposed signage will comply with Schedule 1 and the aims and objectives of *State Environmental Planning Policy No 64 – Advertising and Signage*.

SEPP (State and Regional Development) 2011

The application is not classified as state or regionally significant development as the capital investment value is \$23.4375 million, which is less than the \$30 million threshold.

Bathurst Local Environmental Plan 2014

Zoning

The land is zoned B3 Commercial Core under *Bathurst Regional Local Environmental Plan 2014* (LEP 2014).

Objectives

The objectives of the B3 Commercial Core zone under LEP 2014, are as follows:

Zone B3 Commercial Core

1 Objectives of zone

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To encourage development that confirms the role of the Bathurst central business district as the primary retail and business centre in the region.*
- *To protect and conserve the historic and scenic quality of the Bathurst central business district as a key economic and social asset.*

The proposed development will be positioned in an accessible location of the Bathurst Central Business District (CBD) and will provide tourist and visitor accommodation (serviced apartments) and a variety of commercial uses, including retail (food and drink premises), business and office premises, which will offer employment opportunities, serve the needs of the local and wider community and confirm the role of the Bathurst CBD as the primary business and retail centre in the region.

The development will be located less than 200 metres from bus stops and taxi ranks located within upper Howick Street (between the two existing shopping centres) and the site is bordered by existing footpaths in Howick and Bentinck Streets. See map of existing public transport and footpath infrastructure in **attachment 22**.

Additionally, as discussed below, the proposed development will protect and conserve the historic and scenic quality of the Bathurst CBD through: maintaining suitable view corridors of and curtilage around the existing heritage tower; enabling the reuse and

conservation of the tower; the use of bulk, height, dark colours and contemporary materials in the new buildings to contrast the new from the old; the repetitive use of red brick which is characteristic of the Bathurst Heritage Conservation Area (HCA); the use of glass on the corner to soften the bulk of the development; the replication of the shape and form of the adjoining heritage cool rooms building (located on Lot 111 DP 1232551, 50 Bentinck Street) throughout the development; and the conservation of the existing well in the food and drink/retail building.

The development is therefore consistent with the objectives of the zone.

Permissibility

The development of business premises, office premises, retail premises (including food and drink premises), serviced apartments, dwelling houses (as defined below) and subdivision, is permissible with consent on land zoned B3 Commercial Core under LEP 2014.

It is noted that the documentation refers to the parts of the development as “commercial premises”. This is particularly so for the building located on the corner of Bentinck and Howick Street. Commercial premises is a group term under LEP 2014 which covers a range of sub-groups including “business premises”, “office premises” and “retail premises”. The applicant has confirmed as part of the assessment process that the intention is for the building to be used as office space. The application is assessed on the basis that the building on the corner is proposed to be used as business premises/office premises as opposed to retail premises. This reflects the different standards that apply to business/office premises as opposed to retail premises, e.g. car parking ratios.

The respective landuse definitions are below.

- **business premises** means a building or place at or on which—
 - (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
 - (b) a service is provided directly to members of the public on a regular basis,and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

Note. Business premises are a type of **commercial premises**—see the definition of that term in this Dictionary.
- **office premises** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

Note. Office premises are a type of **commercial premises**—see the definition of that term in this Dictionary.
- **retail premises** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out,

whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—

- | | | | |
|-----|---------------------------------|------|---------------------------------|
| (a) | (Repealed) | (i) | plant nurseries, |
| (b) | cellar door premises, | (j) | roadside stalls, |
| (c) | food and drink premises, | (k) | rural supplies, |
| (d) | garden centres, | (l) | shops, |
| (e) | hardware and building supplies, | (la) | specialised retail premises, |
| (f) | kiosks, | (m) | timber yards, |
| (g) | landscaping material supplies, | (n) | vehicle sales or hire premises, |
| (h) | markets, | | |

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

Note. Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

- **food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- | | |
|-----|------------------------------------|
| (a) | a restaurant or cafe, |
| (b) | take away food and drink premises, |
| (c) | a pub, |
| (d) | a small bar. |

Note. Food and drink premises are a type of **retail premises**—see the definition of that term in this Dictionary.

- **serviced apartment** means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner’s or manager’s agents.

Note. Serviced apartments are a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

- **dwelling house** means a building containing only one dwelling.

Note. Dwelling houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

Clause 4.1 Minimum Subdivision Lot Size

There is no minimum subdivision lot size (MLS) applicable to the subject land.

Clause 4.3 Height of Buildings

The following table provides the maximum proposed building heights of each building within the development, above the existing natural ground level.

Building Component	Maximum Height Proposed (Above Existing Natural Ground Level)
Business/Office Building	13.5 metres

Serviced Apartments	16.6 metres
Food and Drink/Retail Building	7.1 metres
New Dwelling House	10 metres
Dwelling House in Heritage Tower	19.2 metres (Existing). No increase in building height proposed.

The maximum building height limit applicable to the land under Council's LEP is 12 metres.

The proposed office/business building located on the corner of Bentinck and Howick Street is 13.5 metres high.

The serviced apartment building is proposed to be 16.6 metres above existing ground level at its highest point.

As these two buildings exceed the height limit, permissibility is contingent upon a variation under Clause 4.6 *Exceptions to Development Standards* considered below.

Clause 4.4 Floor Space Ratio

Council's LEP contains standards relating the floor space ratio in the B3 Commercial Core zone.

The floor space ratio is the ratio of the gross floor area of all buildings within the site to the site area. The site area is taken to be in the case of a development to be carried out on only one lot, that area of that land.

For the purposes of assessment the site area is taken to be the size of the lots once subdivided as opposed to the site area of all the current lots.

The maximum floor space ratio (FSR) applicable to the land is 2:1 (GFA:Site Area).

The plans indicate that the following floor space ratios (FSR) will be provided for each building in relation to each proposed lot within the subdivision:

Proposed Lot No.	Gross Floor Area (GFA) of Buildings	Proposed Floor Space Ratio (FSR)	Complies
Lot 1 = 1425.66m ²	GFA Office/Business Building = 2106.76m ² (Excludes Basement, Carparking, Services, Stairs, Lift, Atrium Void, Terrace and Plant).	2106.76 ÷ 1425.66 = 1.48:1	Yes
Lot 2 = 2062.87m ²	GFA Serviced Apartments = 4,546.94m ² (Excludes Lift, Stairs, Balconies and Terrace).	4546.94 ÷ 2062.87 = 2.20:1	No
Lot 3 = 690.07m ²	GFA Retail Building (Food and Drink/Retail) = 233.79m ² (Excludes Voids).	233.79 ÷ 690.07 = 0.34:1	Yes
Lot 4 = 417.60m ²	GFA Tower Dwelling House = 252.9m ² (Excludes Stairs, Terraces, Entry and Voids).	252.9 ÷ 417.60 = 0.61:1	Yes
Lot 5 = 516.61m ²	GFA New Dwelling House = 226.56m ² (Excludes Terraces).	226.56 ÷ 516.61 = 0.44:1	Yes

Note that minor alterations to the lot layouts during the assessment process have changed these FSR calculations to a minor extent.

The Quest apartments to be located on proposed Lot 2 have a FSR of 2.2:1 and therefore exceeds the maximum FSR. Permissibility is therefore contingent upon a variation under Clause 4.6 *Exceptions to Development Standards* considered below.

Clause 4.6 Exceptions to Development Standards

The maximum building height limit applicable to the land is 12 metres. Building height is measured as the vertical distance from the existing ground level to the highest point of the building. As the existing ground level over the site varies so too does the height plane relative to the ground level.

The two remaining buildings on the historical dairy farmers site include the former tower building and the former Cool Room building (currently occupied by IDG Architects). The latter is currently located on the adjoining site (Lot 111 DP 1232551, 50 Bentinck Street) on the corner of Bentinck and Princes Streets.

The former tower building has a current height of 19.2 metres above ground level and the former Cool Room building has a current height of 13.5 metres above ground level.

The proposed business/office building located on the corner of Bentinck and Howick Streets has a maximum height of 13.5 metres consistent with that of the adjoining Cool Room building.

The proposed Quest apartments has a maximum height of 16.6 metres.

Further, the maximum FSR applicable to the land is 2:1, however, the proposed serviced apartment building to be located on proposed Lot 2 has a FSR of 2.2:1. Therefore, the proposed development also includes a **10% variation** to Clause 4.4 of LEP 2014.

Assessment Table – Clause 4.6 Exceptions to Development Standards LEP 2014

Clause 4.6 Exceptions to Development Standards	Comment	Complies
<p>(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</p>	<p>The proposed development includes a variation to Clauses 4.3 (Height of buildings) and 4.4 (Floor space ratio) of LEP 2014, which are not expressly excluded from the operation of Clause 4.6.</p>	<p>Yes.</p>
<p>(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—</p>	<p>A written request that seeks to justify the contravention of the development standards has been provided in the Statement of Environmental Effects (SEE) submitted by the applicant (see attachment 10).</p>	<p>Yes.</p>
<p>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</p>	<p>The SEE provides that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case for the following reasons:</p> <ul style="list-style-type: none"> • <i>“The proposal is consistent with the objectives of the Zone B3... by:</i> <ul style="list-style-type: none"> a) <i>Locating a significant mixed-use development (with dominant commercial purpose) on the edge of the current CBD (near the core) where there is excellent access to services, transport & open space. This reinforces the role of the Bathurst CBD as a commercial and retail centre and encourages appropriate employment in an accessible location.</i> 	<p>Yes.</p>

- b) *Provid[ing] tourist and visitor accommodation in... proximity to those services and... the highway. It is expected to encourage walking and cycling for employees on the Site as well as users of the commercial/serviced apartments when accessing the CBD due to proximity.*
- c) *Provid[ing] a diversity of commercial spaces to support the local community as well as serviced apartments to meet tourist and visitor needs that strengthen the vibrancy of the CBD. It provides a central semi-public space that activates the large site and offers an appreciation of the heritage items."*
- *"The objective for height of buildings under Clause 4.3 of the LEP is "(a) to establish the maximum height limit to which buildings may be erected in certain location". By limiting the objective to compliance, it does not assist the Applicant to demonstrate that good design outcomes can be achieved with a variation to this control... We suggest that in meetings with Council it has been clarified that the over-riding objective is to achieve an appropriate heritage response with sensitivity to the existing and desired future streetscape and that heritage benefits can sometimes over-rule height controls."*
- *"The proposed density, bulk and scale of the Serviced Apartment building... is appropriate for the business zoning... and does not create undue impact on the streetscape or character of the area."*
- *The FSR variation is a direct result of a design decision to "shift development potential/massing away from the Brewery Tower to:*
 - a) *Create an "active curtilage" that improves the potential to appreciate the building, whilst providing active uses that encourage its preservation and enhancement."*
 - b) *Relocat[e] development potential (FSR/GFA) away from the Brewery Tower... towards the perimeter of the site... maintaining key views to the heritage item.*
 - c) *Maintain the Brewery Tower... higher than all of the proposed development on the site and visible from the surrounding area(s)."*
- *"The existing adjacent heritage item at... 50 Bentinck Street (former cool rooms)... sets a precedent for the ridgeline of the commercial buildings at around RL670.7 that is higher than the proposed serviced apartment building."*
- *"The development is largely compliant with all... [other] controls and addresses any impacts from the additional height/massing, particularly to adjacent properties".*
- *"The underlying objective and/or purpose of the standard[s] is not relevant and/or... the underlying objective and/or purpose would be defeated or thwarted if compliance was required... because, primarily, the heritage benefits of relocating permissible massing away from the heritage items outweighs a prescriptive approach to height/FSR, the development produces a better outcome than a compliant scheme, and the development is consistent with the objectives for FSR."*

<p>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</p>	<p>The SEE provides that there are sufficient environmental planning grounds to justify contravening the development standard, including:</p> <ul style="list-style-type: none"> • <i>"This site is... important... in terms of its location, relationship to the Bathurst CBD, historic industrial built form, and development potential and this must be balanced with the desired heritage outcomes."</i> • <i>"The site is located at a key gateway to the Bathurst CBD... It is surrounded by a mixture of building massing, heights, and articulation that ranges from the shopping centre... to smaller more articulated heritage and other buildings. There is no one consistent height profile and it is in part the diversity of building forms that creates visual interest."</i> • <i>"The site sits at the edge of the CBD core... A normal planning principle is to maximise employment and development opportunity where a site has good access to public transport, services... pedestrian... activity, employees, and strengthens the CBD activity overall. Key 'gateway' sites can often support some additional development bulk and massing to define the street edge, create higher buildings that assist with navigation and place-marking and define entrances to the CBD."</i> • <i>"There are few other commercial sites of this size and development potential in... proximity to the CBD core."</i> • <i>"There are compelling reasons for as full as possible realisation of the [development] potential of this... site... This is one of only a few prime large development opportunities that exist without the need for further impact.' If this Site is not maximised, there is the real possibility it would redirect development pressure to other more sensitive areas of the CBD, heritage conservation area, and lower density residential areas around the CBD."</i> • <i>The site has previously contained industrial "buildings that have generally had a significant massing and proportions without dominating the street. Whilst sensitivity towards the adjacent residential zone to the south is important... there should also be recognition..." of the historically "distinct difference in built form, height and scale in the commercial zone (and the industrial buildings that sat on this Site) compared to the surrounding residential zone."</i> • <i>"The most prominent item on the Site is the former Brewery Tower..." which "stands at around seven (7) storeys above the Howick St levels and five (5) storeys above the Princes and Bentinck St levels of the Site. All of the [proposed] buildings that have a height breach sit at least 1-2 storeys below the top of the tower."</i> • <i>"...50 Bentinck St (former cool rooms)... is the key reference point for creating the commercial building massing along the Bentinck St frontage... The height of the gabled roof is copied across to the commercial buildings and sits around RL670.7. Therefore, the breaches of the ridges of the proposed commercial buildings are similar (but not higher) than the heritage item."</i> 	<p>Yes.</p>
---	--	-------------

- *“The proposed serviced apartment building has a maximum height of RL670.32... falling to RL669.15 and RL668.52 as the levels drop down Howick St. Therefore, the maximum roof level is below the Relative Level of... 50 Bentinck St. However, it is recognised that the fall in existing ground level results in the building being higher than 12m and 3 storeys... This strong fall in site contours... should be seen not as a constraint on height (potentially resulting in a stepped building down the site) but as an opportunity to integrate basement parking... and create a higher pedestrian podium at the Princes St/Bentinck St level that creates a new 'ground plane' at this higher level – from which a 3-storey height extension is suitable.”*
- *“The primary driver for this new development application is to improve upon...” previous Development Applications (DAs). “Unlike, the... 2016 DA... this application addresses the entire site and does not deal with the serviced apartment building site in isolation. This has several key benefits including...:*
 - a) *...site constraints and opportunities are addressed holistically so there is a unified approach to key issues such as site location, levels, accessibility and parking, heritage, natural environment, view-lines, etc. that reduces conflicts and improves synergies across the Site – especially connectivity and site levels;*
 - b) *... greater certainty about the final development outcomes and its potential benefits/impacts;*
 - c) *The application... addresses the re-use of the Brewery Tower and makes it the 'centre-piece' of the development... The development is more likely to achieve the building's... restoration, maintenance and on-going adaptive re-use...*
 - d) *... Built form as a whole can... protect... the heritage item(s) and their curtilage...;*
 - e) *...Greater potential to create synergies between the different buildings and uses... including connectivity, shared spaces, separated pedestrian and vehicle movement, etc.; and*
 - f) *Diversifies the activities, attraction, and economic/social benefits of the Site and can activate the open space areas... in unison and across a range of hours/days.”*
- *“The integrated approach produces improved heritage outcomes... Space is created around the Brewery Tower and key sight-lines are opened up to draw people towards this heritage item... and provide space for appreciation of the adjacent former Cool Rooms... It is not part of the original history of the Brewery Tower (or realistic to expect) to maintain/create 360-degree sight-lines to the... Tower...”*
- *“A semi-public open space around the Brewery Tower... addresses... the heritage 'curtilage' of the buildings...” and “...the space needed to appreciate the buildings from a variety of angles... The ground level at 50 Bentinck St and the Brewery Tower... set the levels for... the rest of the Site. It creates... a 'ground-level' podium... This space is activated with potential retail/food and beverage/outdoor dining areas... By creating a 'movement economy' that is located towards the centre of the Site, it makes the heritage item the centre-piece of the development and respects and activates the heritage item(s)...”*

- *“...Key connections to and from the heritage item (and the associated sight-lines)... draw... people down from the CBD... to the commercial and retail uses at a potential range of hours. Built form and landscape elements are used to increase the connection of the Brewery Tower to the street.”*
 - *“The proposal is only achieving a combined FSR of ~1.37:1... Therefore, we suggest that this is not an overdevelopment of the Site **as a whole** in terms of FSR/GFA.”*
 - *“To better protect the heritage items, the integrated Site design...” shifts the “...development potential (GFA/FSR) or building ‘massing’ away from the Brewery Tower and towards the perimeter of the Site where it will have the least impact on heritage items and the conservation area.”*
 - *Shifting the development potential of the site towards the perimeter “conflicts with the height control... We suggest that for this Site (in this instance) the height control should be overridden to produce a better heritage outcome.”*
 - *“It is the clear intent of Clause 5.10(10)... of LEP 2014 that heritage values may sometimes over-ride other controls in the LEP when:*
 - a) *The conservation of the heritage item... is facilitated by the granting of consent, and*
 - b) *The proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
 - c) *The consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
 - d) *The proposed development would not adversely affect the heritage significance of the heritage item, including its setting... and*
 - e) *The proposed development would not have any significant adverse effect on the amenity of the surrounding area.*
- We suggest that the Statement of Heritage Impact (SHI) and other consultant reports have demonstrated the proposal meets the above requirements.”*
- *The maximum height of the proposed development has been reduced by 675mm, in comparison to the 2013 DA approval.*
 - *“...There has been greater articulation of the proposed building. The 2013 and 2016 serviced apartment buildings had a flat roof, less vertical and horizontal articulation, and a... larger bulk and scale, so the height breach had a greater impact. This propos[al]... has stepped the building down Howick St, used a mix of roof types... to reduce the height of the building at the street edge, and used a variety of materials and vertical openings to break up the building length (compared to the previous designs). The... Serviced Apartment building is now significantly below the*

height of the brewery tower and increases views towards the tower... The Serviced Apartment building is also setback further from the residential area to the south...

- *“The Serviced Apartment building fronts Howick Street... This is a wide street and the proposed building is setback an additional 4-5m from the street boundary. Due to the lack of built form on the... frontage of Howick Street, some additional height can ‘define’ the street without dominating it. The 4-5 storey street trees are similar in height to the proposed building.”*
- *“Howick St sits on the north-eastern side of the Site. Bentinck St sits on the north-western side of the site. This means they get good solar access through the day and are not affected by the proposal. The additional height has little impact until very late in the day in terms of street/pedestrian amenity.”*
- *“...The permitted maximum height of the adjacent residential zone... is 9m. The dwellings immediately adjacent to the site are 1 storey with hipped roofs and due to... constraints may not ever achieve the maximum height potential. However, other residential lots have this potential nearby. Therefore, a transition from 4-5 storeys to potentially 3 storeys is less significant than what is perceived to be a transition to 1-2 storeys.”*
- *“Compared to the 2013 approved plans that resulted in the Serviced Apartment’s south-western wall being located within 3.6m of the boundary with... 172 Howick St – the current Proposal has increased this setback to more than 8m adjacent to 172 Howick St and more than 6m at the closest point to the southern boundary.”*
- *“It is not appropriate to try to transition a commercial building in the CBD to the adjacent residential zone by using a ‘stepped’ building height – particularly with the significant fall along Howick St... the CBD should have a clear boundary created by a reasonable transition in height to the adjacent residential scale to ‘define’ the CBD and maintain the ‘gateway’ / entrance qualities of the Site. However, the building and form steps down Howick St... towards the south-east and reads more like... 3 storeys over basement parking at this boundary. In addition, the service areas at this end of the building allow for a lower hipped roof element that is more sympathetic to the residential forms adjacent.”*
- *“The unique orientation of Bathurst’s CBD grid means that the adjacent dwellings to the south-east receive solar access... and the majority of their rear yards... from 9am to 12pm, meeting the minimum standards. The location of the Serviced Apartment building means that the impacts from the additional height do not extend considerably beyond the Site and the adjacent 172 Howick St. Some shadow is from existing buildings like the Brewery Tower (e.g. on 170 Howick St) that remain unchanged.”*
- *“The Serviced Apartment building has been designed so most units and their balconies face north-east or south-west rather than looking south-east over the adjacent residential area. Immediately adjacent to 172 Howick St is the*

	<p><i>proposed stairwell for the Serviced Apartment building with no windows. Whilst there are some secondary windows overlooking the rear yard of 172 these are generally not the primary views of these units... This produces reasonable visual privacy for 172 Howick St.”</i></p> <ul style="list-style-type: none"> • <i>“The current application also improves public benefits relating to the clear separation of vehicle movements and parking away from pedestrian areas and connections. The 2013 approved plans allow for 39 car spaces to be located at the ground level between Princes and Bentinck Streets... as well as large vehicle manoeuvring... loading/unloading areas... a new driveway access point from Bentinck St and 3 vehicle access points to Princes St. This arrangement is likely to have caused significant impacts on public safety and amenity... The current Development Application has removed all parking from this level except limited car spaces approved for 50 Bentinck St, service vehicle movements that enhance safety and waste management along Princes St, and an increase in public parking along Princes St.”</i> • <i>“Another significant concern... of the 2016 application was that the Serviced Apartment building design and materials lacked any recognition of or response to the context of built form in Bathurst including local scale, rhythm and materials. The proposed development has significantly improved on this in the following ways:</i> <ol style="list-style-type: none"> <i>a) ...An integrated approach to form and scale across the site responding to the broader constraints and opportunities. The whole of the site is not built out but broken down into discrete buildings with clear way-finding/navigation between them for vehicles and pedestrians.</i> <i>b) The dominant form used around the site is...the former Cool Rooms (50 Bentinck St) with a high-pitched gabled roof facing Bentinck St, albeit with different materiality to reference the industrial/heritage buildings without replicating them.</i> <i>c) These higher pitched rooves may result in some height breach, but the Architect suggests these are critical to an interpretation of the site and its history and to integrate with the context of Bathurst's built form.</i> <i>d) Red bricks that have been kept from the demolition of previous buildings and reference key colour and brick types in Bathurst are proposed for re-use throughout the site, particularly around the base and as feature walls.</i> <i>e) The Commercial Building at the corner of Bentinck and Howick Streets has created a lower form for sight-lines to the tower, but reinforced the corner and street with a strong red brick base that wraps around the corner and support a modern transparent element backed by a solid red-brick feature wall.</i> <i>f) The longer building length of the Serviced Apartment building has been broken down into 3-4 distinct 'elements' – the longest at around 20m in length and narrower at either end – using different building and roof heights, roof types, vertical articulation rhythm, façade materials, balconies, and openings of different proportion. This reduces the perceived scale and massing of the building and the visual impact of its height.</i> <i>g) Variations in vertical rhythm are also important to Bathurst's street character where different proportions, heights and materials of buildings sit side-by-side but have some common patterns. For example, different window types reference terrace style windows with greater height to width and accentuated window bars.”</i> 	
(4) Development consent must	See below.	Yes.

not be granted for development that contravenes a development standard unless—		
(a) the consent authority is satisfied that—	See below.	Yes.
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>Compliance with the development standards (including Clause 4.3 “Height of Buildings” and Clause 4.4 “Floor Space Ratio”) is unnecessary of unreasonable in the circumstances of the case for the following reasons:</p> <ul style="list-style-type: none"> • The proposal is consistent with the objectives of the B3 Commercial Core zone (discussed below). • The density, bulk, scale and height of the development from Bentinck Street is consistent with the surrounding commercial developments, particularly the two neighbouring shopping centres (with Bathurst City Centre at Lot 333 DP 1159263, 210 Howick Street. • The former Cool Room building located on adjoining Lot 111 DP 1232551, 50 Bentinck Street includes a maximum Relative Level (RL) of 670.7 at the peak roof line. The proposed office/business building will be constructed to a maximum height of RL670.7 in keeping with the existing heritage building. No other buildings within the development will exceed this established maximum height datum. • It is acknowledged that the existing cool room building on Bentinck Street has a current height of 13.5m above existing ground level. The proposed new office/business building mirrors the existing building along Bentinck Street with the end result being a generally symmetrical and consistent streetscape. The area of non -compliance is limited to the apex of roof of the 2 buildings adjoining the cool room building (670,70m) before reducing to a compliant height on the corner of Bentinck and Howick Street (666.10m). Reducing the height of the building to achieve compliance for the office/business building would mean a loss of much of the symmetry that the current proposal offers for this building. The proposed additional height does not have any significant impact on adjoining properties. • The site itself slopes from Bentinck Street towards the east. This results in a height plane which is not a single level plane but rather reduces relative to the underlying ground level. The serviced apartment building is compliant at the western end but as the land slopes away results in exceedance of the 12m height plane. At the eastern end of the site the upper level of the building breaches the height plane by some 4.6m. • The development has been designed to shift any bulk and massing of the new buildings away from the existing heritage tower located on the land in order to establish an active curtilage and courtyard area around the building, which will ensure that views of the tower from surrounding areas will be maintained and encourage its appreciation and preservation. This has resulted in the new buildings being located further towards the perimeter of the site and 	Yes.

	<p>has contributed towards the proposed FSR variation for the Serviced Apartments to be located on proposed Lot 1. If the site area of Lot 1 were to be increased to ensure that the Serviced Apartments comply with the maximum FSR, then some of the open curtilage designed around the heritage tower may be lost.</p> <ul style="list-style-type: none"> • The FSR across the whole of the site is within the 2:1 ratio stipulated in the LEP. The higher FSR for the serviced apartment of the building could be artificially adjusted by alterations to the boundaries of the subdivision however this would come at the expense of elements of the overall masterplan. • The development is compliant with the objectives of Clause 4.4 “Floor Space Ratio” (discussed below). • The development is largely compliant with all remaining development standards of LEP 2014. • Accordingly, compliance of the Serviced Apartments on Lot 1 with Clause 4.4 “Floor Space Ratio” is considered unnecessary or unreasonable in the circumstances of the case, as the non-compliance results in a better outcome for heritage conservation and appreciation. • Accordingly, compliance of the with Clause 4.3 “Height of Building” for the business/office building and the serviced apartment building is considered unnecessary or unreasonable in the circumstances of the case, as the non-compliance results in a better outcome for heritage conservation and appreciation. <p>Further, there are sufficient environmental planning grounds to justify contravening the development standards (including Clause 4.3 “Height of Buildings” and Clause 4.4 “Floor Space Ratio”), including:</p> <ul style="list-style-type: none"> • The site is surrounded by a diverse mixture of commercial and residential buildings with varying heights, bulk and scale. • There is no defined height profile for the surrounding area and the varying heights of buildings contributes to its visual interest and character. • As a prominent landmark site on the edge of the Bathurst CBD, the land has significant development potential. It is good practice to maximise employment and development opportunities on sites which are located in close proximity to public transport services/facilities, goods and services of the greater CBD and pedestrian pathways and activity, in order to strengthen the viability and vitality of the CBD and the social and economic wellbeing of the local community. • Some additional bulk and massing on this landmark site will assist in defining the street edge and a gateway site to the Bathurst CBD, which may assist with local place-marking and navigation. 	
--	---	--

- This site is one of few remaining sites within the Bathurst CBD which has prime development potential that can be fulfilled without resulting in any adverse significant impacts. If the development potential of the site is not maximised, there is the possibility that development pressure could be otherwise directed towards more sensitive areas of the Bathurst CBD, particularly highly significant HCA/items and lower density residential areas.
- The site has historically contained industrial buildings with a larger massing and scale than the adjoining residential developments located in Howick Street. The historical distinctions between the built form, height and scale of the commercial zone against the adjoining residential zone are recognised.
- Despite the proposed height limit exceedances, the existing heritage tower will continue to be approximately 1 storey higher than all proposed buildings and will continue to be visible from surrounding areas.
- The height and massing of the proposed Business/Office Building will be consistent with the former Cool Rooms currently located on adjoining Lot 111 DP 1232551, 50 Bentinck Street.
- The maximum height of the proposed Serviced Apartment Building is RL 670.32, which is below the maximum height of the adjoining former Cool Rooms (Lot 111 DP 1232551) being RL670.7. However, the site falls toward the South-East along Howick Street and it is at the lower end of the site where the Serviced Apartment Building exceeds the 12 metre height limit. Rather than stepping the building down in accordance with the natural ground contours, the fall of the land has been optimised through integrating a basement car park into the design to provide much needed off-street car parking to service the development. The placement of carparking beneath the development also reduces vehicular and pedestrian traffic interactions, thereby improving the public safety and amenity of the site.
- Unlike the most-recent Development Application for the site (DA No. 2016/116) which was refused by Council on 27 June 2016, this application includes an integrated design approach incorporating the entirety of the site and all elements of the development. The heritage tower is the centrepiece of the proposal and includes a surrounding open curtilage area which enables public appreciation and conservation of the heritage item. This has resulted in the bulk and massing of the development being shifted towards the perimeters of the site and subsequently, a FSR variation for the serviced apartments building to be located on proposed Lot 1.
- The entire GFA of each proposed building and the entire area of each proposed lot, results in an **overall** FSR of approximately 1.44:1. Whilst it is noted that the FSR must be calculated according to proposed buildings on each proposed lot, this overall figure demonstrates that at present, the proposal will not result in an overdevelopment of the site in its entirety. Additionally, it indicates that the area of proposed Lot 1 could be increased to achieve compliance of the serviced apartment building with the maximum FSR, however, this would encroach onto the

necessary curtilage of the heritage tower. Therefore, the current location of the proposed buildings and their scale/massing in relation to the proposed lot areas is appropriate to ensure the continued heritage conservation of the tower.

- Development Consent (No. 2012/0518) issued on 16 September 2013 for serviced apartments and various commercial premises on the land provided approval for the construction of a serviced apartment building with a maximum height of 17.5 metres. However, this height was stepped down to approximately 14.6 metres on the Southern end, neighbouring the Howick Street cottages (see **green** in Figure below). The serviced apartments proposed as part of this application include a maximum height of approximately 16.6 metres (see **red** below). This design decision reduces the degree of contrast in height and scale between the neighbouring cottages (off Howick Street) and the serviced apartment building and the subsequent degree of overshadowing, in comparison to the previous approval.



- The serviced apartment building has been slightly stepped down Howick Street in accordance with the slope of the land and incorporates a variety of roof forms to reduce bulk at height (see **red** in above Figure). It is approximately 1 to 2 storeys lower in height than the existing heritage tower located on the site (see **blue** above) and the building component located closest to the neighbouring dwelling house at 172 Howick Street (Lot 1 DP 737933) has been setback approximately 8 metres from the North-Western boundary of this

residential lot (see **red** above).

- The main North-Eastern external wall of the serviced apartment building has been setback 3.6 metres from the North-Eastern boundary along Howick Street, in order to reduce the impact of bulk and height on the streetscape.
- The proposed development will result in additional overshadowing of residential properties on 21 June (see **attachment 8** (“Shadow Diagrams”, Reference Nos. DA 9100 – DA 9106), particularly the proposed new dwelling house, the tower dwelling house and the neighbouring residential properties located to the South off Howick Street. However, in accordance with *Bathurst Regional Development Control Plan 2014* (DCP 2014) the proposed development will generally maintain at least 2 hours of sunlight to all neighbouring indoor and outdoor living hours between 9am and 3pm on 21 June.

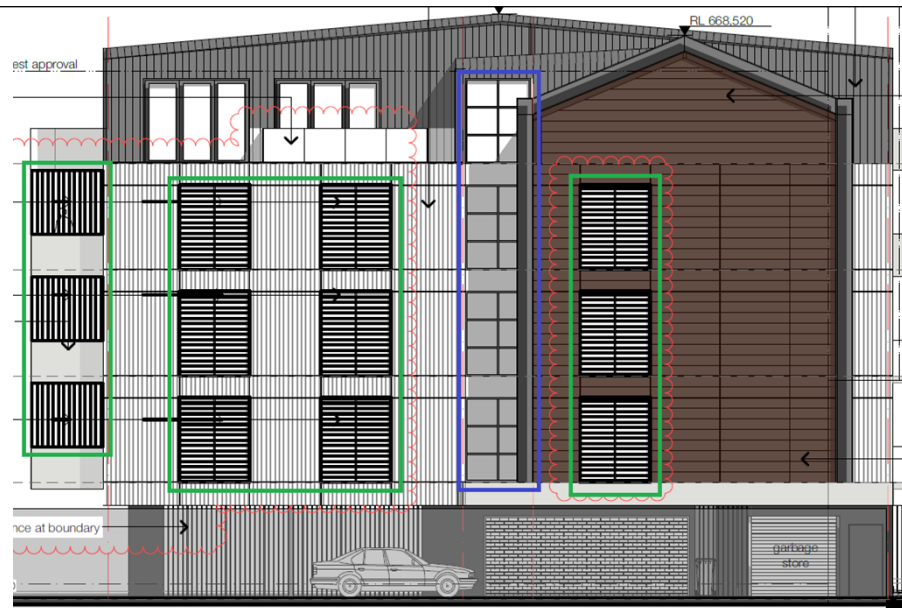
The development will overshadow the proposed new dwelling house, however, it has been demonstrated that this new dwelling house will achieve minimum BASIX targets.

The dwelling house within the existing tower will also experience overshadowing, particularly at lower levels and in the open space area. However, it is likely that upper living areas will receive some solar access and this dwelling will also comply with minimum BASIX targets.

Property	Currently overshadowed between 9am and 3pm	Overshadowed by Proposed Development between 9am and 3pm	More than Two Hours of Solar Access Maintained between 9am and 3pm
172 Howick Street	No.	Yes between 11am – 3pm. One window blocked by proposed 2.5m high acoustic fence.	Yes. Approx. 2 hours.
168 Howick Street	No	Yes between 2pm – 3pm.	Yes. Approx. 5 hours.
166 Howick Street	No.	No.	Yes. All 7 hours.
170 Howick Street (at rear)	Yes, minor overshadowing from tower at 11am – 3pm. Site also experiences overshadowing from neighbouring Juvenile	Yes between 11am – 3pm.	Yes. Approx. 2 hours.

	Justice Centre.		
52 & 54 Bentinck Street	Yes, at 9am from the existing cool rooms.	Yes at 9am only (as existing).	Yes. Approx. 6 hours.
4, 6 & 8 Princes Street	No.	No.	Yes. All 7 hours.
Proposed Lot 5	--	Yes, between 9am – 3pm.	No.
Proposed Lot 4	--	Yes, between 9am – 3pm.	No.

- The maximum building height currently applicable to the adjoining R1 General Residential zone located to the South (incorporating Howick Street residences) is 9 metres. Therefore, there is also a potential for future multi-storey residential development to occur to the South of the site.
- The height and massing of the proposed development will create a landmark site that clearly defines the edge of the CBD.
- Balconies and windows located on the South-Western and South-Eastern elevations of the proposed serviced apartment building could result in overlooking of neighbouring residential developments, particularly the proposed new dwelling house, the proposed tower dwelling house and the neighbouring dwelling houses located to the South off Howick Street. As part of a series of amendments made to the plans post exhibition *some* windows and balconies to be located on the South-Eastern elevation will be screened to reduce any privacy impacts on the neighbouring residences located to the South off Howick Street (see **green** below). Under the current proposal the windows at the end of each hallway are recessed back but are not proposed to include privacy screening. The balcony/outdoor area located on the 4th floor is proposed to be setback from the edge of the building to limit the extent of overlooking. It is considered that additional privacy screening to the hallway windows would further reduce the extent of overlooking into the properties to the South-East (see **blue** below). Conditions of consent will be implemented to ensure that these overlooking windows are given the same screening treatment.



- The built form of the proposed buildings replicate the existing high pitched roof of the adjoining former Cool Rooms (see Figure below). The high-pitched rooves do result in some height exceedances (particularly the office/business building) but are essential to ensure that the development is in keeping with the adjoining Heritage Item and surrounding HCA.



- The serviced apartment building is broken into 3 to 4 distinct elements using different building and roof heights, roof types, vertical articulation rhythm, façade materials, balconies and openings of different proportion. This reduces the perceived scale and massing of the building and the visual impact of its height.
- The development is largely compliant with all remaining standards of LEP 2014.

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be

The objective of Clause 4.3 “Height of Buildings” is *“to establish the maximum height limit to which buildings may be erected in certain locations.”* For reasons discussed in the above row, it is considered that the heights of the proposed serviced apartment and office/business buildings are appropriate for this landmark site located on the edge of the CBD.

The objectives of Clause 4.4 “Floor Space Ratio” are as follows:

(a) *“to ensure that the density, bulk and scale of development is appropriate for business and industrial land, and*
 (b) *to ensure that the density, bulk and scale of development integrates with the streetscape and character of the area in which the development is located.”*

The proposed development will be located on a prime landmark site within the Bathurst CBD, with suitable and convenient access to public transport, goods and services and pedestrian connectivity and activity. The density, bulk

Yes.

<p>carried out, and</p>	<p>and scale of the development is appropriate for the business land. It maximises the development potential of the site, may enhance the viability and vitality of the CBD, will create a memorable gateway into the CBD to assist in navigation and place-making and will define the edge of the CBD against the adjoining residential area.</p> <p>Further, the density, bulk and scale of the development integrates with the streetscape and character of the area through the following measures:</p> <ul style="list-style-type: none"> • The high-pitched roof form of the adjoining former Cool Rooms building has been repeatedly adopted throughout the design of the development. • A central pedestrian piazza and activity area has been incorporated into the development to integrate the site into the footpath system of the surrounding CBD and integrate the various building and land use elements of the site together. • The serviced apartments are setback approximately 8 metres from the neighbouring dwelling house located on Lot 1 DP 737933, 172 Howick Street. This reduces the impact of the bulk and scale of the development on the adjoining residential land uses and ensures better integration of the development with the character of the mixed-use area. • The serviced apartment building is setback approximately 3.6 metres from the North-Eastern boundary of the site and the North-Eastern façade is broken into 3 to 4 distinct elements using different building and roof heights, roof types, vertical articulation, materials, balconies and openings. This reduces the perceived bulk and scale of the development and ensures that it better-integrates with the streetscape of Howick Street. • The bulk, scale and density of the development is consistent with many commercial and residential buildings located in the surrounding area, notably the two neighbouring shopping centres at 210 Howick Street (Lot 333 DP 1159263) and 40 William Street (Lot 17 DP 707583), the adjoining former Cool Rooms building at 50 Bentinck Street (Lot 111 DP 1232551) and the two-storey terrace building at 52-62 Bentinck Street (Lots 1-5 DP 1035111 and Lot 50 DP 582025). • The heritage tower currently forms an important role in the character of the surrounding HCA being visible from surrounding streets and properties. The tower has been established as the centrepiece of the development with an open curtilage area provided around the building to enable its continued visibility, appreciation and conservation. This has caused the massing and FSRs of the new buildings to be displaced towards the perimeter of the site. However, this displacement is necessary to ensure the development integrates with the existing streetscape and heritage character of the surrounding area. • The development retains an overall FSR of 1.44:1 which is less than the maximum applicable FSR of 2:1. However, 	
-------------------------	--	--

the establishment of the heritage tower and curtilage as the centrepiece of the development and shifting of massing towards the perimeter of the site has resulted in a 10% FSR variation for the serviced apartments on proposed Lot 1. Therefore, overall the development will not result in an unacceptable building density within the CBD and will be in keeping with density of the surrounding commercial area.

The proposed development is consistent with the objectives of the B3 Commercial Core zone, as follows:

- *“To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To encourage development that confirms the role of the Bathurst central business district as the primary retail and business centre in the region.*
- *To protect and conserve the historic and scenic quality of the Bathurst central business district as a key economic and social asset.”*

The proposed development will be positioned in an accessible landmark location on the edge of the Bathurst CBD and will provide tourist and visitor accommodation (serviced apartments) and a variety of commercial uses, including retail (food and drink premises), business and office premises, which will offer employment opportunities, serve the needs of the local and wider community and confirm the role of the Bathurst CBD as the primary business and retail centre in the region.

The development will be located less than 200 metres from bus stops and taxi ranks located within upper Howick Street (between the existing shopping centres) and the site is bordered by existing footpaths in Howick and Bentinck Streets. See map of existing public transport and footpath infrastructure in [attachment 22](#).

Additionally, the proposed development will protect and conserve the historic and scenic quality of the Bathurst CBD through: maintaining suitable view corridors of and curtilage around the existing heritage tower; enabling the reuse and conservation of the tower; the use of bulk, height, dark colours and contemporary materials in the new buildings to contrast the new from the old; the repetitive use of red brick which is characteristic of the HCA; the use of glass on the corner to soften the bulk of the development; the replication of the shape and form of the adjoining heritage cool rooms building (Lot 111 DP 1232551, 50 Bentinck Street) throughout the development; and the conservation of the existing well in the food and drink/retail building.

Therefore, the proposed development will be in the public interest because it is consistent with the objectives of the particular standards and the B3 Commercial Core zoning.

(b) the concurrence of the Secretary has been obtained.	<p>In accordance with Planning Circular No. PS 18-003 (dated 21 February 2018), concurrence of the NSW Department of Planning and Environment (DPE) may only be assumed by a delegate of Council where the development contravenes a numerical standard by 10% or less. Accordingly, concurrence may be assumed for the proposed 10% variation to Clause 4.4 “Floor Space Ratio”. However, the proposed variation to Clause 4.3 “Height of Buildings” is approximately 38.3%.</p> <p>However, the purpose of the restriction on assumed concurrence applying to delegates is to ensure that variations of this nature are considered by the Council and that they are subject to greater public scrutiny than decisions made by Council staff under delegation. Accordingly, as the application is to be referred to and determined by the elected Council and is not determined by a delegate of Council, it is not required to be referred to the NSW DPE for concurrence.</p>	
(5) In deciding whether to grant concurrence, the Secretary must consider—	Not applicable. The development is not required to be referred to NSW DPIE for concurrence.	N/A.
(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1, RU2, RU3, RU4, RU6, R5, E2, E3 and E4 if—	Not applicable. The development does not involve subdivision of land in any of these zones.	N/A.
(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant’s written request referred to in subclause (3).	A record of this Council Report and all relevant plans and documentation relating to this Development Application will be kept by Council.	Yes.
(8) This clause does not allow development consent to be granted for development that would contravene any of the following—	None of the following development standards are proposed to be varied as part of this application. Clauses 4.3 and 4.4 of LEP 2014 are not listed in the following exclusions.	Yes.
(a) a development standard for complying	No complying development standards proposed to be varied.	Yes.

development,		
(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,	No BASIX commitment standards proposed to be varied.	Yes.
(c) clause 5.4,	No variation to Clause 5.4 has been proposed.	Yes.
(ca) clause 6.1, 6.2, 6.3, 7.7, 7.8 or 7.11.	No variation to Clauses 6.1, 6.2, 6.3, 7.7, 7.8 or 7.11 has been proposed.	Yes.

Clause 5.10 Heritage Conservation

The land is identified as a Local Heritage Item, known as “Dairy Farmer’s Factory (Former Convict Hospital)”, and is located within the Bathurst HCA under LEP 2014.

The whole site is an item of local significance under Bathurst Regional Local Environmental Plan 2014 (i95) and located within the Bathurst Heritage Conservation Area. The site is identified on the OEH State Heritage Inventory Database (item no.1080015). The site is not on the National Trust Register.

The site has a strong social history as it was previously used as a former convict hospital, constructed in 1824 and burnt out in 1878. This hospital was a simple structure with only 4 large rooms with verandahs.

The site has a strong economic history through previous industrial land uses. The site was used as a brewery by Walker & Co Brewer from 1908-1930s. Macquarie Soap Factory utilised the site from 1934-1950’s. The latest use of the site was from Dairy Farmers. The brick tower still has the inscription “Dairy Farmers’ which is a familiar landmark within Bathurst.

The site did contain other buildings. These buildings were demolished in previous Development Applications. There are heritage buildings which remain on or adjoining the site and one of these is the iconic Dairy Farmers tower.

Tower

The proposed use of the heritage tower as a residence is supported. The extensive floor space usage and addition of a modern intervention as the stairs on the outside of the building provides a contemporary and appropriate response to the limited internal space available and to the heritage significance of the item. It should be noted that most other potential uses of this building will not provide as extensive adaptive reuse opportunity as the residence does.

For the conservation of the heritage tower, the development of the site is required. The impact of the development needs to be mitigated by maintaining an appropriate curtilage to the tower and maintaining view corridors.

The views to the tower will have a direct view from Bentinck Street. The walkway has been effectively designed to allow direct external views to the heritage building/tower. The use of the food area at the foot of the tower will enable high pedestrian activity within proximity to the tower.

The view of the tower directly from Howick Street/Durham Street will be obstructed by the Quest Apartment building with only a small part of the top of the tower visible from a distance. This has a negative impact on the views to the building but is considered acceptable in this instance on the basis of the proposed overall renewal of the site. It is noted that a previous Development Application has approved a building on Howick Street that is higher than the current proposed development.

The views to the tower from Princes Street will be maintained with minimal impact.

The site will maintain views from a distance as it is one of the highest buildings within the Bathurst CBD area. It should be noted that the topography of the site plays an important role in the views to and from the site.

Howick Street Frontage

The Howick Street frontage, whilst obviously commercial, provides a variety of design responses to its immediate surrounding. The materials and design features are overtly contemporary and highlight the nature of the smaller and more vernacular heritage building adjacent. The use of red brick as the signage foundation and the darker set back metal cladding combined with the lighter metal cladding of the bulk of the façade on this end of the building ensures separation of the site within the heritage conservation area. The use of the windows, cladding, balconies and landscaping articulate the building to compliment its immediate surroundings and provide a bold statement of presence.

The height of the Quest apartment building interface with the single storey residential dwellings is considered acceptable in this instance as the Quest building has been designed to reduce the height through articulation and change in the building form for this interface. The previously approved DA had the building closer to the adjoining boundary and the height was similar.

Corner Treatment

The use of red brick at street level is commended as it ties the new development to the existing buildings on site and the greater heritage conservation area and particularly the state listed properties across the road. The glass on the corner of the building/site is a unique feature and is used to reduce the bulk of the corner and create interest in the site.

The reduction in the height of the building on the corner maintains the views to the tower from the intersection of Howick and Bentinck Street and is complimentary to the height of buildings apposite.

Bentinck Street/Commercial (Office/Business) Buildings

The proposed walkway allows a view to the heritage item from the street for pedestrians and users of the site. The walkway provides a physical separation between new and old (existing) building and is considered an appropriate curtilage.

The replication of the bulk and scale of the existing building through the proposed thick metal frames of the buildings shows a connectivity between the new buildings and the existing heritage building. The use of glass as a modern material effectively breaks up the elevation of the building and creates an interesting streetscape. The use of the alternative materials creates a clear distinction between the old and new buildings on the site.

New Dwelling

The proposed new residence at the foot of the tower is an appropriate integration of contemporary design in context with a heritage item. The fact that the new building is subservient to the tower building and uses a range of lightweight (glass) and industrial (steel) building fabrics shows that the design is a considered response to its positioning on the site.

Archaeology

The potential archaeology on the site is an uncommon and significant resource representing the remains of over 200 years of development and occupation of the site in its earliest use as a Bathurst Convict Hospital. The potential archaeological remains have the ability to demonstrate elements of the historic, economic and social development of this site and surrounding area.

Well

The conservation of the well is an important heritage feature to be incorporated into the design and landscaping of the open area. Its maintenance and associated interpretation form an appropriate response and provide mitigation measures for the development.

Summary

Overall, the activation of this iconic site has been achieved with a balance between its heritage significance and the requirements of a modern design response. The heritage impacts have been suitably and appropriately addressed during the design phase in consultation with Council officers.

The design of a strong metal frame which mirrors the bulk and scale of one of the existing heritage buildings is a theme for the site. The replication of this design element effectively links together the buildings and the previous land uses and provides uniformity within the site.

Design and materials are sympathetic to the site's history and are appropriate to the heritage items contained within the curtilage. Whilst the bulk and scale are large, the various design elements provide setbacks, open spaces and a range of visual details that provide a suitable overall architectural design.

Conditions of consent will be implemented to ensure the ongoing conservation of the site during the construction and occupation of the development. Therefore, subject to conditions of consent it is considered that the proposed development will not place any adverse impact on heritage conservation and complies with Clause 5.10 of LEP 2014.

Clause 7.1 Flood Planning

The land is partly identified as being within the "Flood Planning Area" on the Flood Planning Map, however, is protected by the Havannah Street levees. Therefore, it is considered that the proposed development: is compatible with the flood hazard of the land; will not significantly adversely affect flood behaviour increasing the potential flood affectation of other development or properties; will be protected by existing measures to manage risk to life from flood; will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses; and is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding. The development complies with the requirements of Clause 7.1 of LEP 2014.

Clause 7.5 Essential Services

The proposed development will retain connections to electricity supply and Council's water, sewerage and stormwater reticulation networks, subject to conditions of consent.

Vehicular access will be provided in two locations over the North-Eastern boundary from Howick Street and in two locations over the South-Western boundary from Princes Street. The vehicular accesses will be suitable for the proposed development, subject to conditions of consent.

Clause 7.10 Signage

The proposed development includes the installation of three "Quest" business

identification signs. The signs will be used in association with the proposed use of the site for serviced apartments. The proposed signage is not oversized in comparison to the scale of the serviced apartment building and is suitably sized to perform its function of informing the public. Therefore, the proposed development will comply with Clause 7.10 of LEP 2014.

Bathurst Development Control Plan 2014

The proposed development will generally comply with the requirements of *Bathurst Regional Development Control Plan 2014* (DCP 2014) subject to conditions of consent, with the exception of Chapter 5 (Heights of buildings) and Chapter 14 (parking).

Chapter 3 – Subdivision of land

The proposed development generally complies with the requirements of Chapter 3 of DCP 2014 subject to conditions of consent, as discussed below.

Minimum Lot Size

There is no subdivision Minimum Lot Size applicable to the land under LEP 2014 and therefore, the size of the proposed lots comply with the requirements of DCP 2014.

Electricity and Telephone

Conditions of consent will be imposed to ensure that prior to the issue of the subdivision certificate, the developer provides documentary evidence which confirms that electricity and telephone services will be available to the proposed allotments.

Drainage

Conditions of consent will be imposed in relation to the provision of drainage.

Reticulated Water and Sewer

Conditions of consent will be imposed in relation to the provision of separate connections to water and sewer for the proposed allotments.

Soil and Water Management

Conditions of consent will be imposed to ensure that the provisions of Council's Environmental Management Guidelines for Land Development are observed.

Land Contamination

The historical industrial uses of the site mean that there is the potential for the land to contain residual contamination. As noted previously, whilst there are some works to be undertaken to remove some residual contamination within the buildings and to provide clearances for historical removal of asbestos, these are all matters that may be achieved by appropriate conditions of consent.

Heritage Conservation Areas, Heritage Items and Archaeological Sensitive Lands Map

These matters are addressed elsewhere within the report.

Chapter 4 – Residential Development

The site is contained within Precinct 1 under DCP 2014, in which the development of dwelling houses is permissible with consent. The proposal complies with the objectives of the Precinct and the development standards for dwelling houses.

Development Standard	Proposed	Permissible	Complies
Minimum Lot Size	<p><u>Lot 4 (Dwelling House – Tower)</u> 417.60m²</p> <p><u>Lot 5 (New Dwelling House)</u> 516.61m²</p>	No MLS applicable.	Yes
Setbacks	<p><u>Lot 4 (Dwelling House – Tower)</u> NE – 3.1m SE – 0.8m SW – 1.0m NW – 5.2m</p> <p><u>Lot 5 (New Dwelling House)</u> N – 0.8m NE – 0.6m SE – 1.0m SW – 3.0m NW – 0m</p>	Front to complement existing. Side and rear to comply with BCA.	Yes
Private Open Space (POS)	<p><u>Lot 4 (Dwelling House – Tower)</u> 4 Bedrooms (including Study) >50m² POS</p> <p><u>Lot 5 (New Dwelling House)</u> 4 Bedrooms >50m² POS</p>	50m ² per 4 or more bedroom dwellings	Yes
Car Parking	<p><u>Lot 4 (Dwelling House – Tower)</u> 2 Covered Car Parking Spaces in Garage to be Located on Lot 5 and 2 Carports to be located in proposed Right of Carriageway (ROW) and over the shared boundary of Lots 3 (Food and Drink/Retail) and 4 (Tower).</p> <p><u>Lot 5 (New Dwelling House)</u> 2 Covered Car Parking Spaces in Garage</p>	1 Covered per dwelling house.	<p>Condition of consent to ensure that a ROW is established over the Garage on Lot 5 (New Dwelling) to benefit Lot 4 (Tower).</p> <p>Yes, subject to conditions.</p>
Overshadowing	<p><u>172 Howick Street (Lot 1 DP 737933)</u> Overshadowed between 11am – 3pm. Approx. 2 hours of solar access.</p> <p><u>168 Howick Street (Lot 1 DP 197926)</u> Overshadowed between 2pm – 3pm. Approx. 5 hours of solar access.</p> <p><u>166 Howick Street (Lot 14 Sec 9 DP 758065)</u> No overshadowing.</p> <p><u>170 Howick Street (at rear) (Lot 1 DP 995899)</u></p>	At least two hours sunlight to indoor and outdoor living areas on other property is to be maintained between 9.00am and 3.00pm on 21 June.	Yes. All neighbouring residential dwelling houses to retain at least two hours solar access between 9am and 3pm on 21 June (see <u>attachment 8</u>).

	<p>Overshadowed between 11am – 3pm. Approx. 2 hours of solar access.</p> <p><u>52 & 54 Bentinck Street (Lots 5 & 4 DP 1035111)</u></p> <p>Overshadowed at 9am. Approx. 6 hours of solar access.</p> <p><u>4, 6 & 8 Princes Street, Lots 10 & 9 DP 2067 and Lot 1 DP 910735</u></p> <p>No overshadowing.</p>		
--	---	--	--

Chapter 5 – Business and Industrial Development

The proposed development generally complies with the requirements of Chapter 5 of DCP 2014, with the exception of the 3-storey height limit as discussed below.

Development Standard	Proposed	Permissible	Complies
Setbacks	<p><u>Lot 1 (Office/Business Building)</u> NE – 0.0m SE – 3.0m to wall. Awning and steps encroach into proposed Lot 2. SW – 0.4m NW – 3.4m to wall.</p> <p><u>Lot 2 (Serviced Apartments)</u> NE – 1.2m SE – 2.9m (5.8m from residence on Lot 1 DP 737933, 172 Howick Street) SW – 0.0m NW – 1.8m</p> <p><u>Lot 3 (Food and Drink/Retail Building)</u> NE – 0.0m SE – Encroachment proposed at basement level. SW – 0.5m NW – 1.1m</p>	Front to complement existing. Side and rear to comply with BCA.	<p>Yes. Setbacks to walls comply.</p> <p>There are number of scenarios where elements of the proposal encroach across proposed boundaries; e.g. the cover across the driveway. These minor encroachments can be appropriately dealt with by adjustments to the proposed boundaries or easements as the case may be.</p> <p>Further, a condition of consent will be implemented to ensure that a ROW is established over all shared pedestrian walking space within the proposed piazza on Lots 1 (office/business), 2 (serviced apartments) and 3 (food and drink/retail). This will ensure that this space remains publicly accessible as a piazza and that encroachments such as steps continue to be maintained by all relevant parties.</p>
Height of	<u>Lot 1 (Office/Business</u>	A building containing	As previously discussed

Buildings	<p><u>Building</u> 3 Storeys Above Basement Parking.</p> <p><u>Lot 2 (Serviced Apartments)</u> 4 Storeys Above Basement Parking</p> <p><u>Lot 3 (Food and Drink/Retail Building)</u> 2 Storeys Above Basesment Parking</p> <p><u>Lot 4 (Dwelling House – Tower)</u> Existing – 6 Storeys</p> <p><u>Lot 5 (New Dwelling House)</u> 2 Storeys Above Basesment Parking</p>	<p>more than 3 floors shall not be erected unless the building:</p> <p>(i) does not detract from the existing streetscape and landscape, or</p> <p>(ii) is located behind the existing buildings within the streetscape such that its height does not detract from that streetscape or landscape, or</p> <p>(iii) is an extension of or constitutes the rebuilding of a building to a height not exceeding the height of the building at 27 March 1987.</p>	<p>throughout this report, the height of the proposed buildings will not detract from the existing streetscape or landscape. The proposed variation is considered acceptable in this case.</p>
Loading, Unloading, Storage Garbage or Open Work Areas	<p>Located behind buildings lines.</p>	<p>Be located behind the building alignment and screened from view of a public road.</p>	<p>Yes.</p>
Fencing	<p>Appropriately designed and located.</p> <p>2.5 metre high fence proposed between shared boundary of Lot 2 and the adjoining 172 Howick Street. Not along street frontage.</p>	<p>Fences/screen walls (including security fencing) not to be located within 5 metres of the front boundary and 3 metres of a boundary adjoining a side or rear street, unless adequate landscape screening is provided.</p>	<p>Yes.</p>

Chapter 9 – Environmental considerations

The proposed development generally complies with Chapter 9 “Environmental Considerations” of DCP 2014.

Flooding

The land is partially identified as Flood Planning Area on the Flood Planning Map under LEP 2014, however, is protected by the Havannah Street levees. The development complies with the requirements of Clause 9.6 of DCP 2014.

Sustainable Building Design and Energy Efficiency

BASIX Certificates submitted with the Development Application demonstrate that the two

proposed dwelling houses (including change of use to the existing tower and new dwelling) will achieve minimum water efficiency, thermal comfort and energy targets. Orientation to optimise solar access is not achievable for the proposed change of use of the historical brewery tower to a dwelling house, however, the dining room and terrace of the new dwelling house have been placed on the North-Eastern side to optimise solar access.

In addition, the proposed office/business buildings will need to comply with Section J – Energy Efficiency of the National Construction Code.

Therefore, the development generally complies with the requirements of Clause 9.9 of DCP 2014.

Chapter 10 – Urban Design and Heritage Conservation

Residential Development within the Bathurst Heritage Conservation Area

The roof pitch, windows, roof plumbing and materials of the proposed new dwelling house and tower dwelling house are generally consistent with those seen in the heritage conservation area.

The proposed residential garages to be located beneath the new dwelling are also considered appropriate as they are located behind the main building line and complement the design and character of the main building.

Only side fencing has been proposed as part of this application.

The utility services of the proposed new dwelling house and tower dwelling house will not generally be visible from the street, particularly given that the residential buildings are set back from the main building line. A 10,000 litre rainwater tank (required by BASIX) will be installed and connected to the tower dwelling house.

Therefore, the proposed dwelling houses comply with Chapter 10 of DCP 2014 and will not place any adverse impact on the Heritage Conservation Area.

Commercial Development within the Bathurst Heritage Conservation Area

The proposed serviced apartment, office/business and food and drink/retail buildings, their facades, materials, colours, finishes and roof designs are generally consistent with those used in the Heritage Conservation Area.

The development is to be located on a landmark site within the CBD and will provide a contribution to the city's architectural landscape, preserve significant heritage features, provide a reference point for users of the CBD, incorporate appropriate features that create interest and provide the building with a recognisable identity and include design features that address the corner.

The utility services of these commercial buildings are likely to be located on roofs and visible from the street. Conditions of consent will be implemented to ensure that any roof-top services are suitably screened from view.

Therefore, subject to conditions of consent, the proposed commercial buildings will comply with Chapter 10 of DCP 2014 and will not place any adverse impact on the Heritage Conservation Area.

Archaeological Permits

The land previously contained the Bathurst Convict Hospital and is identified on “DCP Map No. 35 – Archeological Sensitive Lands Map” as having a “high archaeological potential”.

The application was accompanied by a Heritage Impact Statement, Archaeological and Development Impact Assessment Report and Archaeological Research Design Report (see **attachments 12 to 14**). Conditions of consent (as listed in DCP 2014) will be implemented to ensure that a Construction Heritage Management Plan is formulated and an excavation permit is sought from the Heritage Council of NSW (NSW Department of Premier and Cabinet) prior to the issue of any Construction Certificate and that any archeological remains discovered on site are dealt with appropriately.

Aboriginal Heritage

The property is located within an established urban area and has been previously disturbed by past industrial development and demolition work and therefore has limited potential for aboriginal objects. An AHIMS search has been undertaken and revealed that there are no recorded Aboriginal sites or places within the vicinity of the site. Therefore, it is considered unlikely that the proposal will place any adverse impact on Aboriginal cultural heritage.

It is noted that the land is the site of the former Bathurst Hospital. The Conservation Management Plan for the property states that *“it is of special note that the tribal leader, Windradyne, was brought to the Bathurst Hospital to seek medical assistance when he was critically injured.”* The following passage is noted in *A History of Bathurst Volume 1* by Theo Barker.

“In 1835 Windradyne was wounded in a tribal fight and taken to the Bathurst Hospital to be attended by the surgeon Dr George Busby. After treatment he refused to stay and went to his own people at Brucedale. Gangrene developed, he died and was buried there.”

There is some conjecture as to the timing of Windradyne’s attendance at the hospital and as to whether he died there. There is currently reference to these events on the “Delightful Spot” signage installed by Council in Quota Park opposite the site.

Ultimately the capacity to interpret this (if appropriate) and other stories associated with the historical development of the site is a matter that can be included into the interpretation strategy proposed for the site.

Chapter 11 – Outdoor Lighting

Conditions of consent will be implemented to ensure that all lighting associated with the development is not a nuisance for neighbouring properties and does not cause significant night glow.

Chapter 12 – Signage and Colour Schemes

The proposed development generally complies with the requirements of Chapter 12 of DCP 2014.

Advertising Signage

As previously discussed, the proposed development includes the installation of three “Quest” illuminated business identification signs on the serviced apartment building, two being flush wall signs and one being a projecting wall sign. The north-eastern elevation facing Howick Street will contain one flush wall sign (4.1m²) and the north-western elevation facing towards Bentinck Street will contain one flush wall sign (4.6m²) and one projecting wall sign (1.2m²). The proposed signage generally complies with the requirements of Chapter 12 of DCP 2014.

Development Standard	Proposed	Permissible	Complies
Locational Requirements	All three signs to be illuminated and located on new serviced apartment building which is not heritage item. The projecting wall sign will be visible from Bentinck Street which is a major road. However, there are no other projecting wall signs located on the land.	Illuminated Sign – Not be located on a heritage item. Projecting Wall Sign – Not be located: Above awning level within a HCA, above awning level on a heritage item or where it is visible from a State Highways or major road and another projecting wall sign is already located on the land and is visible from a State Highway or major road.	Yes
Associated Use	Proposed signage to be located on serviced apartment building. The use is permissible with consent.	Signage must be used in conjunction with a permissible use and be situated on the land on which the use is conducted.	Yes
Scale and Proportion	The size of the signs and their contents complement the scale of the serviced apartment building.	Size of the sign and its contents must complement the proportion of the building to which it relates.	Yes
Elevation Coverage	<u>North-Eastern Elevation</u> Wall Area = Approx. 918.4m ² Sign Area = Approx. 4.1m ² Coverage = Approx. 0.5% <u>North-Western Elevation</u> Wall Area = Approx. 337.5m ² Total Combined Sign Area = 5.7m ² Coverage = Approx. 1.7%	Maximum 5% of any elevation. Total number of signs must not detract from the overall aesthetic character of the building.	Yes
Business Identification Sign	Three building identification signs to be located in purposely designed spaces on the new serviced apartment building. Architectural features of the building will not be covered.	Placed in an appropriately or purposely designed space on new buildings. If backing boards are used, their shape and size must be of the right proportions for the allocated space on the building so that signage does not cover the architectural features of a building.	Yes.
Flush Wall	Two flushed wall signs to be	Placed in an appropriately or	Yes.

Sign	located in purposely designed spaces on the new serviced apartment building. Architectural features of the building will not be covered. Proposed sizes = 4.1m ² and 4.6m ² (Less than 5% of elevations).	purposely designed space on new buildings. If backing boards are used, their shape and size must be of the right proportions for the allocated space on the building so that signage does not cover the architectural features of a building. Not exceed 6m ² in area or 5% of the building elevation.	
Projecting Wall Sign	Projecting wall sign to be located below the roof height of the building. Proposed size = 1.18m ² Sign to be structurally adequate to withstand wind loads.	Height of sign must not exceed the roof height of the building. Size must not exceed 5m ² . Structurally adequate to withstand the dead and live (wind) loads that may be imposed on it.	Yes.
Visual Dominance	The three proposed signs do not dominate the walls of the serviced apartment building or detract from its aesthetic character. They are to be located in purposely designed spaces and are in keeping with the scale of the respective elevations. No backing boards have been proposed.	Not visually dominate the area of building walls. The total number of signs must not detract from the overall aesthetic character of the building. Placed in an appropriately or purposely designed space. Shape and size of backing boards is to be of the right proportions for the allocated space on the building so that signage does not cover the architectural features or obscure windows of a building.	Yes.
Size, Shape, Scale and Proportion.	The three proposed signs are in sympathy with the shape and proportions of the building and streetscape. The surrounding commercial area also includes large-scale signage, particularly on the two neighbouring shopping centres.	Take into account the shape and proportion of the space they will fill and be in sympathy with it. Size of the sign and its contents must complement the scale of the building and its streetscape. Sign and its contents are in proportion to the building.	Yes.
Colours	The proposed signs will not be located on a heritage building. The signs are white, which is a neutral colour that will place no adverse impact on the surrounding HCA.	Colours to include those outlined in section 12.3.3. Corporate colours should be modified to match the traditional colour range or be used only as trim on the sign.	Yes.
Historic Reflections	The three proposed signs will not be located on a heritage building.	Lettering/numbers/symbols used should generally reflect the designs that would have been historically used during the era when the building was constructed.	N/A.

Colour Schemes for Buildings

The existing heritage tower is not proposed to be painted.

Proposed colours and materials are included in the submitted documentation.

Chapter 13 – Landscaping and Greening

The site is a landmark site within the Bathurst CBD and accordingly, a Landscaping Plan was submitted with the Development Application (see **attachment 9**).

The submitted landscape plan has provided comprehensive information in relation to the establishment of the landscape, including proposed plantings, species, planting densities, pot sizes and locations of plantings and utilised a mixture of tree and shrub species in the landscape design which are suitable for use in the Bathurst climate. Additional information has also been provided in respect to site preparation, planting specifications for tree and shrub species, irrigation requirements (to be specified separately) and mulching of the various tree and garden areas.

Upon assessment of the site and the development as a whole, it appears that the requirements contained in the Development Control Plan for business developments in respect to the planting of trees to provide adequate screening and softening of the building structure may not be achievable due to the size (height) of the development and proximity of the proposed structures to the adjoining footpath. However, it is believed that the intent of the landscape design in these areas, utilising a range of plantings, including smaller species of trees and mass plantings, assists in mitigating this issue.

In regard to the establishment and ongoing maintenance of this landscape, given the high profile nature of this development and its location, it is recommended that conditions of consent include the requirement to implement and maintain the landscape for the life of the development.

In regard to the installation of street trees within the verge areas adjacent to Howick and Bentinck Streets, the number of street trees proposed for installation may not be achievable due to several issues including the location of existing street tree plantings, proximity and clearance between existing trees, location of electricity services (although this may change with the undergrounding of electricity lines) and due to visibility, line of sight requirements at the intersection of Howick and Bentinck Streets. Further details on planting within the public domain will be necessary but is ultimately achievable via conditions.

Therefore, it is considered that the landscaping plan achieves the design principles under DCP 2014 and will be appropriately maintained for the life of the development by way of conditions of consent.

Further, it is noted that many of the proposed landscaping beds encroach over proposed lot boundaries, including into Council's road reserve. With the exception of proposed street trees, conditions of consent will be implemented to ensure that all landscaping beds are contained entirely within the boundaries of each lot.

Chapter 14 – Parking

The proposed development does not comply with the requirements of Chapter 14 of DCP 2014. However, it is considered that traffic generated by the development may be suitably accommodated on site subject to conditions of consent.

Location and Dimensions of Carparking and Manoeuvring Areas

With the exception of some additional on-street car parking to be created in Princes Street, all proposed off-street carparking and loading/unloading areas will be located behind the primary building alignments and screened with landscaping.

Sufficient manoeuvring areas have been provided throughout the development to support a 5-metre-long passenger vehicle (i.e. private car) to enter and exit the site in a forward direction. Clause 5.6.2 of DCP 2014 also requires that all commercial developments have sufficient manoeuvring areas to allow a 12.5-metre-long truck to enter and exit the site in a forward direction. This is not achievable for the Quest serviced apartment building, office/business building or food and drink/retail building. However, the Traffic and Parking Assessment Report has demonstrated that sufficient manoeuvring areas will be provided for any service vehicle likely to be required for each particular use proposed, as below:

Commercial Component	Likely Service Vehicles	Complies
Office/Business Building (Lot 1)	Office premises is unlikely to require truck deliveries. Kerb side waste collection proposed in Howick Street.	Yes.
Quest Serviced Apartment Building (Lot 2)	Linen collection van 5.2m long. Kerb side waste collections proposed in Howick Street.	Yes.
Food and Drink/Retail Building (Lot 3)	Medium rigid vehicle (such as garbage truck) 8.8m long. Kerb side waste collection proposed in Princes Street.	Yes.

Therefore, it is considered that the size and dimensions of all car parking, access and manoeuvring areas will be sufficient for the proposed use of each component within the development.

Bicycle Parking Requirements

Sufficient bicycle car parking has been proposed for each component of the development in accordance with Clause 14.4 of DCP 2014, as below:

Proposed Development Component	DCP Requirements			Proposed Bicycle Parking Spaces	Complies
	Development	Minimum Standard	Calculated Requirement		
Office/Business Building (Lot 1)	Business Premises / Office Premises	<u>If the floor area exceeds 1000m²</u> 1 space per 300m ² + 1 visitor space per 1000m ²	Gross Business/Office Floor Area = 1,803.08m ² (1,803.1 ÷ 300) + (1,803.1 ÷ 1000) = 8 spaces	12 Bike Parking Spaces	Yes.
Serviced Apartments Building (Lot 2)	Serviced Apartments	1 per 40 rooms	75 Units 75 ÷ 40 = 2 spaces	8 Bike Parking Spaces	Yes.

Food and Drink/Retail Building (Lot 3)	Retail / Restaurant or Café	1 space per 100m ²	Gross Retail/Restaurant or Café Floor Area = 233.79m ² 233.79 ÷ 100 = 3 spaces	10 Bike Parking Spaces	Yes.
			Total Required = Minimum of 13 spaces	Total proposed = 30 Bike Parking Spaces	Yes.

Calculated Car Parking Requirements

In accordance with Clause 14.3 of DCP 2014, the following car parking is required for each component of the development.

Note that for the purposes of assessment “part parking spaces” are usually rounded up.

Proposed Development Component	DCP Requirements			Proposed Car Parking Spaces	Complies
	Development	Minimum Standard	Calculated Requirement		
Office/Business Building (Lot 1)	Business Premises / Office Premises	1 space per 50m ²	Gross Business/Office Floor Area = 1,803.08m ² (Excludes Services, Stairs, Lift, Bathrooms, Hallways/Circulation Areas, Voids, Terrace, Plant, Lobby and Gallery (Plan No. DA9301, Issue E, dated 10/9/19)) 1,803.1 ÷ 50 = 36 spaces	39 Car Parking Spaces + 2 Motorcycle Spaces	Yes.
Serviced Apartments (Lot 2)	Serviced Apartments	1 space per unit + 1 space per 2 employees.	75 Units = 75 spaces + Max. 5 Employees During Peak Guest Hours = 2.5 spaces 78 spaces	46 Car Parking Spaces + 5 Motorcycle Spaces	No.
Food and Drink/Retail Building (Lot 3)	Shops / Restaurant or Café	1 space per 35m ² (Inside CBD)	Gross Retail/Restaurant or Café Floor Area = 233.79m ² 7 spaces	22 Car Parking Spaces	Yes.

Dwelling House (Change of Use of Tower) (Lot 4)	Single Dwelling House	1 covered parking space	Minimum 1 covered space	2 Covered Car Parking Spaces in double garage.	Yes.
New Dwelling House (Lot 5)	Single Dwelling House	1 covered parking space	Minimum 1 covered space	2 Car Parking Spaces	Yes.
			Total Required = Minimum of 123 spaces	Total proposed = 111 Car Parking Spaces + 7 Motorcycle Spaces	No.

Office/Business Building (Lot 1)

The office/business building located on the corner of Howick and Bentinck Streets provides an overall floor area of 1803.08m². Access to the carpark will be via the proposed shared ROW off Howick Street.

Council's adopted DCP standards for business premises, office premises, amusement centres, public administration buildings, industrial retail outlets, restricted premises, community facilities, public facility or building, medical centres, veterinary hospital and health consulting rooms is 1 space per 50m².

Based on the proposed floor area of the building and its proposed use as a business and/or office premises, a total of 36 car parking spaces would be required for the building. The office/business building proposes 39 car parking spaces consistent with Council's DCP.

It is noted that the carpark to the office/business building is proposed to be gated for staff use only and public access will not be available. Patrons of the building will be reliant upon on street parking. Whilst the DCP states that "*car parking required to be provided on-site... is to be freely available to the users of the building which it serves*" it does not necessarily preclude provision of staff only arrangements. Staff are users of the building and it remains an operational decision of the building owners to determine whether the parking is provided to employees, patrons or combination thereof.

Further, it is noted that the DCP adopts a standard of 1 space per 35m² for shops (except supermarkets) and restaurant or cafés. Insufficient parking would be available if the building was to be used for these purposes.

Food and Drink/Retail Building (Lot 3)

The food and drink/retail building is located on Princes Street with vehicular access to the proposed basement car park via the shared ROW from Howick Street. The building has a floor area of 233.79m².

Council's adopted DCP standard for restaurants and cafes within the CBD is 1 space per 35m². Based on this floor area the building would require 7 spaces (rounded up from 6.7 spaces). The food and drink/retail building proposes 22 car parking spaces and is consistent with Council's DCP.

No details are provided in relation to the access arrangements for this carpark, i.e. whether it is gated or fully accessible. Pedestrian access is provided between the carpark level and the food and drink/retail level.

Residential Buildings (Lots 4 and 5)

The 2 proposed dwelling houses each have adequate car parking in accordance with Chapter 4 of the DCP. Access to the dwellings will be via the shared ROW from Howick Street.

Serviced Apartment (Quest) Building (Lot 2)

Dual Key Arrangements

The proposal involves a “dual key” arrangement for 33 of the total 42 apartments. This arrangement allows for flexibility in the use of the apartments where, by closing the dividing door, each apartment may effectively be divided into 2 self-contained apartments. In total there are 42 apartments but with the use of the dual key arrangement this increases to 75 individual apartments.

Number of Staff Employed

Estimates of staff numbers is provided in the table below, based on the recent Quest Apartment building in Orange NSW:

Quest Apartments Staff Daily Roster – Orange NSW 2800					
Staff	12am – 6am	6am – 10am	10am – 4pm	4pm – 6pm	6pm – 12am
Manager	1	1	1	1	1
Reception	0	2	2	2	2
Cleaning/support	0	2	5	2	2
Total	1	5	8	5	5

Staff numbers peak at 8 during the 10am to 4pm period when guest numbers are limited. Staff numbers on site during the evening periods, when guests are present, are generally 5.

Council’s Adopted Standard

Council’s adopted DCP standards for hotel or motel accommodation and service apartments is 1 space per unit plus 1 space per 2 employees.

Based on this scenario the development would require 78 car parking spaces in order to comply with Council’s DCP. This conclusion is based on 33 of the 42 apartments being capable of use as 2 separate apartments (dual key) and a predicted staff total of 5 during peak guest hours (i.e. 75 spaces for the individual apartments and 3 spaces for staff).

Serviced Apartment Parking Arrangements

The Quest serviced apartment development currently proposes providing 46 spaces on site. This is divided into 35 secured spaces (i.e. gated off) and 11 unsecured spaces.

The proposal also allows for 5 motorcycle spaces, however, these are not relevant to the overall calculation of carparking spaces.

Access to the carparking area is from Howick Street following a one-way circulation pattern with egress back out onto Howick Street at the eastern end of the site. Whilst the development shares a ROW with the adjoining lots and development components, each lot and component is a stand-alone entity.

The deficit for the Quest development on its own site is 32 spaces relative to the Council adopted standard (i.e. 78 spaces less 46).

Reasons Put Forward to Support the Variation

The Traffic and Parking Assessment (**see attachment 11**) puts forward a number of reasons why the variation to parking provided compared to Council's DCP for the Quest serviced apartment development should be supported.

1. *"The peak parking demand of Quest apartments is outside business hours (i.e. overnight) when the on-street car parking demand is minimal. The peak on street demand in Howick Street occurs during business hours when used by CBD workers, as Howick Street is not time restricted.*
2. *The total car parking on site for Stage 1 Quest Apartments, plus the South side of Howick Street equals 56 spaces and increases to 70 parking spaces when the North side is added. Therefore, should Quest Apartments achieve 92% room occupancy with 8% dual key and 1 car is required for each key the on street parking on Howick Street will be sufficient.*
3. *Four (4) additional legal on street car parking spaces will be gained over the total Masterplan due to the removal of redundant driveways.*
4. *Council's car parking requirements for the Masterplan are cumulative, and consideration of a reduced total number should be considered due to the various uses that complement each other.*
5. *The car parking requirement for the food and beverage component of the proposal will be reduced due to its proximity to the CBD and likely clientele from the adjoining commercial use and Quest Apartments.*
6. *The components of the Masterplan peak parking demands do not coincide i.e. commercial during day, apartments overnight.*
7. *Quest Apartments cater for corporate professionals many of whom may fly, and the peak patronage is midweek.*
8. *The close proximity to the CBD.*
9. *The close proximity to bus, rail, public transport and Taxi ranks."*

These reasons are further supplemented in the Statement of Environmental Effects (**see attachment 10**) as follows:

1. **"Proximity to CBD:** *The site is located immediately adjacent to the Bathurst CBD and within walking distance of most major services and facilities in the CBD as well as adjacent recreation areas and major visitor attractions, potentially reducing the need for reliance on private vehicles for access to/from the site to the CBD;*

2. **Proximity to Public Transport:** *Most of the major bus routes pass along Bentinck and Howick Streets adjacent to or near the Site with a major bus stop located on Howick St (80m from the Site) and the Bentinck Bus Interchange (210m from the Site). The CBD taxi rank is also in Howick St (90m from the Site). This would assist employees and customers using the commercial services and possibly visitors without private vehicles to access areas across Bathurst. The Site is also close to the Bathurst Rail Station and some corporate customers will use the airport. That may encourage serviced apartment users to travel to Bathurst without a private vehicle and reduce parking demand. There are public benefits from encouraging use of public and active transport over private vehicles (for the environment and site outcomes);*
3. **Zone Objectives:** The objectives for Zone B3 Commercial Core specifically seek to encourage public and active transport and walking over reliance on private vehicles including:
 - a) *To encourage appropriate employment opportunities in accessible locations.*
 - b) *To maximise public transport patronage and encourage walking and cycling.*
 - c) *To protect and conserve the historic and scenic quality of the Bathurst central business district as a key economic and social asset.*
4. **Improved Heritage & Visual Outcomes:** *There are significant public benefits from producing an improved heritage and visual outcome by reduced parking. There is development approval for the Site in 2013 that would have resulted in a significant amount of parking at the Princes St level surrounding the key heritage items on the Site and 50 Bentinck St. This would have produced a poorer heritage outcome as at-grade parking and large hardstand areas would dominate the heritage curtilage of these buildings. Due to these buildings there are limitations to the amount of parking the Site can sustain in basement parking without going down multiple levels. We suggest that the heritage benefit of significantly reducing at-grade parking around the heritage items outweighs the on-site parking requirement/payment of contributions and produces a net public benefit.*
5. **Improved Urban Design Outcomes:** *There are significant public benefits from producing an improved urban design outcome by reduced parking and vehicle access to the Site. Like the improved heritage outcomes, the design seeks to improve other urban design outcomes. This includes:*
 - a) *Improved pedestrian connectivity, safety and amenity through the creation of an open terrace/piazza that creates a new public space and connects buildings.*
 - b) *The removal of vehicles from the Princes St level to the basement and lower basement levels that reduces the visual impact and safety issues of both parking and access driveways/ramping from Bentinck and Princes St that was the failure of previous designs.*
 - c) *The improved activation of Bentinck St and Princes St, wrapping around into Howick St with built form that defines the streets, has active frontages and pedestrian entrances, and 'stitches' the site back into the CBD.*
6. **Estimated Occupancy:** *Whilst it is acknowledged that there is potential to occupy all of the 75 apartments independently, this is highly unlikely in practice. The Traffic & Parking Assessment has put forward figures of occupancy rates for other Quest serviced apartments across eastern NSW that counters the assumption in the Bathurst DCP car-parking requirements of 100% occupancy. The average occupancy rate of 16 similar Quest buildings is 67%. This substantially reduces the*

average car-parking needed to around 50-52 spaces (46-49 are provided under the Serviced Apartment building).

7. **Dual Key Arrangements:** Whilst it is acknowledged that the dual-key arrangements enable every apartment to be occupied independently this is highly unlikely in practice as there are limited two-bedroom units (16%) and families will often require 3-4 beds. The design of the building enables multiple apartments to be combined to service families and larger groups and these groups often arrive in a single vehicle, reducing the parking demand. The Traffic & Parking Assessment has put forward figures of dual-key usage rates for other Quest serviced apartments across eastern NSW that suggest a 33% average for 3-bedroom turn-key units, potentially reducing parking demand by a similar amount.
8. **Definition of 'Unit':** The key issue comes down to the definition of 'unit' in the DCP for parking and how this is affected by a dual-key arrangement. The Applicant submits that as multiple 1 or 2-bedroom apartments can be combined, Council has the discretion to refer to this combination as a 'unit' (42 units) rather than defining each independent apartment as a 'unit' (75 keys). However, even if this is not accepted, it is suggested that some consideration of dual key arrangements can be allowed for in reducing on-site parking demand.
9. **Alignment of Uses - Peak & Total Parking:** The proposal is a large mixed-use development adjacent to the CBD. It combines uses that are likely to activate the Site with peak activity at different times of the day. Commercial uses and parking demand are strongest from 9am to 5pm, whilst serviced apartment uses and parking demand are strongest from 5pm to 9am, and the food and beverage area peaks during lunch and possibly dinner times. Mixed-use sites create the opportunity to better utilise parking infrastructure by sharing some over-flow parking areas (like that under the Food & Beverage podium).
10. **Consistent with 2013 Approval:** The 2013 development approval provided for 40 serviced apartments (67 keyed units) a total of 42 car spaces. This is consistent with one space per dual-keyed (combined) apartment plus 2 spaces for staff/servicing. The Proposal provides a consistent amount of parking under the Serviced Apartment building.
11. **Provision of Motorbike & Bicycle Parking Spaces:** The proposal provides alternate modes of private and active transport through the provision of thirty (30) bicycle spaces/racks (exceeding the requirement for 16 spaces by 14 additional spaces) as well as the provision of 7 motorcycle spaces (5 for the serviced apartments and 2 for the commercial). This provides alternate means of transport than cars that somewhat reduces the shortfall (though it is acknowledged the requirements are for these as 'additional' to required car spaces).
12. **Economic/Tourism Benefits:** The provision of serviced apartments to the visitor and tourist accommodation market will provide a net benefit to the local Bathurst economy. We suggest there is a distinct lack of / quality of tourist accommodation in Bathurst during peak/major events and this may be reducing local expenditure. The total development also has significant potential to provide local employment and commercial office space and services that could be of benefit to the community. These are located on the edge of the CBD where overflow parking to the street (if it occurs) is less likely to impact on retail users or even nearby residential users."

The Extent to Which Dual Key Arrangements May be Used

The Traffic and Parking Assessment provides comparative data for occupancy rates at similar Quest developments in NSW, Victoria and Queensland. The comparative data is provided in the table below:

Quest Average Occupancy Rates			
Property	Total Apartments	Total Keys	Occupancy
Shepparton	40	69	76%
Mackay	54	97	50%
Mildura	41	66	80%
Ballarat	31	52	80%
Portland	46	51	64%
Bendigo	38	60	81%
Dubbo	42	65	84%
Whyalla	30	56	58%
Breakfast Creek	67	132	56%
Wodonga	48	80	73%
Rockhampton	44	73	65%
Mackay	62	115	51%
Townsville	55	85	52%
Griffith	40	68	71%
Newcastle West	47	78	65%
Average			67%

The average occupancy rates are based on the total maximum potential occupancy of the respective facility, i.e. the total number of keys or separately lettable apartments as opposed to the lesser number of apartments.

The average occupancy rates range between 50% (Mackay) up to 84% (Dubbo) with an overall average usage rate of 67%.

Quests own forecast usage rates assumes an occupancy rate of 72% by year 3.

The Traffic and Parking Assessment concludes that the carpark will be full (i.e. all 46 spaces used) once occupancy rates exceed 60.5%. This conclusion is based on the presumption that all occupants arrive in 1 car per keyed room as opposed to some other means or shared travel arrangement. The applicant has however pointed out that *“it is reasonable to expect that some of the visitation to Bathurst is by other available transport modes that the occupation of the Quest apartments at 60% will not generate overflows to the street. The statement in the Traffic Report takes the most conservative view so that a “worst case” potential impact on the street is assessed”*.

The DCP standard adopted by Council assumes that each person or group occupying a room arrives by car. The extent to which this assumption rings true or not in reality has not been quantified in the data provided. Certainly attempting to discount parking rates absent any data as to the modes of transport would be difficult and is not an approach that could be supported.

Based on these assumptions the Quest development will be reliant upon off site carparking in most scenarios put forward, i.e.:

- 10 of the 15 regional examples provided exceed average occupancy rates of 60.5%, being the point when the proposed 46 space carpark is assumed to be full.

- The overall regional average occupancy rates of 67% likewise exceeds the point where the carpark is assumed to be full.
- Quest's own estimates for expected average occupancy rates of 72% exceeds the point where the carpark is assumed to be full.

The data therefore allows for a number of different scenarios to be examined based on various occupancy rates. These are illustrated in the table below relative to the current proposal.

Estimate	Occupancy Rate (% of Total Rooms)	Number of Rooms/Spaces (i.e. 75 Rooms x % Occupation)	Number of Spaces (Staff)	Total Required	Deficit (Based on Current 46 On-site)
Quest Regional Average	67%	51	3	54	8
Quest 3-year Forecast	72%	54	3	57	11
Highest Regional Occupancy	84%	63	3	66	20
Typical Design Percentile	85%	64	3	67	21
Realistic Capacity	95%	72	3	75	29
Full Compliance	100%	75	3	78	32

Changes to Available on Street Parking

Due to proposed changes including the construction of new driveways, the removal of redundant driveways and reconfiguration of parking in Princes Street, there will be changes in the number of available spaces within the adjoining streets.

Existing and Proposed on Street Car Parking		
Street	Existing	Proposed
Howick Street	12	10
Bentinck Street	3	7
Princes Street	8	10
Total	23	27

Overall there will be a minor reduction in on street parking in Howick Street (-2), increases in current 2 hour restricted spaces in Bentinck Street (+4) and unrestricted spaces in Princes Street (+2).

Availability of On-Street Parking

The Quest apartment building has direct frontage to Howick Street. This section of Howick Street (between Bentinck and Seymour) provides for unrestricted parallel parking. This section of Howick Street is currently estimated to allow for 12 car parking spaces on the southern side and 14 car parking spaces on the northern side (total 26 spaces). This figure is slightly reduced to 10 spaces on the southern side and 24 in total once the modifications to driveways are factored in.

Due to its proximity to the CBD and the fact that it is unrestricted, it is used as all day parking by workers in the CBD.

Surveys of parking within Howick Street as part of Council's CBD Car Parking Strategy and supplementary reviews demonstrate high usage of the all-day parking spaces in Howick Street between Bentinck and Seymour Streets. Parking usage rates indicate occupancy rates of 69% (2000/01), 80% (2009/10) and 72% (2014).

Bentinck Street (between Howick and Russell Streets) is generally subject to 2-hour time limits. Occupancy levels in this section of Bentinck Street range from 25% (2014) to 37% (2000/01). This reflects the fact that it is of limited value for staff due to the parking time restrictions and there is limited commercial development on this side of Bentinck Street.

The CBD Car Parking Strategy does not provide historical data in relation to usage rates in Princes Street. Anecdotally at least, it remains attractive for all day parking due to its proximity to the CBD. The dynamics in this area may well have recently changed with the opening of the Juvenile Justice Centre at the end of Princes Street. Due to the presence of private residences in Princes Street, introduction of time limits may be contentious in this area.

It is to be noted that the parking surveys undertaken as part of the CBD Car Parking Strategy were limited to day-time periods. There is limited data available on night-time usage rates.

The submitted Traffic and Parking Assessment Report (**see attachment 11**) does provide some data as to the usage rates in Howick Street during the evening period, i.e. from 5pm onwards.

Howick Street Parking Demand			
Date	Time	South Side (Current Capacity of 12)	North Side (Current Capacity of 14)
Wednesday 4 September 2019	5.13pm	4 cars	2 cars, 1 truck and 2 motorcycles
	6.00pm	1 car	1 car and 2 motorcycles
	7.15pm	0	0
Monday 9 September 2019	5.02pm	9 cars	9 cars and 1 motorcycle
Wednesday 11 September 2019	4.45pm	5 cars	4 cars and 1 motorcycle
	5.05pm	5 cars	4 cars and 1 motorcycle
	6.45pm	0	0

Whilst it is a limited data set, the figures confirm that this area is used for all-day parking by workers in the CBD and that usage rates decline in the evening. The data does not provide any AM figures and the extent to which the 2 user groups overlap is unknown.

Likewise, the potential for events at adjoining Carrington Park and the Sportsground to impact on the availability of on street parking in the vicinity has not been examined.

Proximity to Public Transport/CBD etc.

Whilst it is acknowledged that the site is close to public transport linkages and the CBD, the extent to which this may ultimately reduce the demand for on-site parking has not been quantified.

The DCP parking provision figures do not make any distinction between tourist and visitor accommodation in different locations and universally applies the standard notwithstanding proximity to public transport or other factors. It would be somewhat fraught to attempt to apply discounts to the parking rates due to proximity to public transport or proximity to the CBD.

Overlap with Other Uses Occurring On-site

Based on the current development plans, each Lot will be developed individually and potentially at different times. Whilst the various Lots share usage of the ROW, carparking on each Lot is limited to usage by the individual tenants.

Certainly there will be different usage patterns for the various uses occurring on the site and where the site is to include common areas of parking and operate as a wholistic entity (as a number of the previous proposals did), then the argument for dual use of parking areas could be supported to a certain extent.

The extent of dual use of parking areas is however limited by virtue of ownership and security arrangements proposed as part of the development. For instance, whilst the office/business building located on the corner of Howick and Bentinck will provide 39 car spaces, it has restricted access by virtue of the security gates provided at the entrance/exit. Parking within this area will not be available to the general public (meaning all visitors will be reliant upon on-street parking) and would not be available to users of Quest.

Whilst there is the potential for usage of the car parking located beneath the food and drink/retail building on proposed Lot 3, and indeed there is an oversupply of parking on this Lot relative to the parking ratios under Council's DCP, there is no mechanism proposed to enable its use by Quest customers in any formal sense. Access to the food and drink/retail carpark will effectively be at the discretion of the landowners.

What is an Acceptable Level of Parking

It would be reasonable to accept that it is unlikely all 75 apartments will be separately occupied on a regular basis. Designing to accommodate 100% compliance would include an amount of redundancy.

Likewise, it is readily accepted that the current proposal to provide only 46 spaces for the Quest serviced apartment building represents a significant under-provision of parking given the data provided above in relation to usage rates of other Quest facilities and their own estimates of occupancy rates.

The question therefore remains as to the acceptable level of parking usage for the proposed development. The data provided suggests a number of alternatives to full compliance, being:

- 67% – The overall average occupancy.
- 72% – Quest's own estimate of occupation.
- 84% – The highest of the provided occupancy rates
- 85% – The "typical design percentile".
- 95% – The "realistic capacity".

It would be somewhat difficult to justify the regional average figure when Quest's own internal estimate is at least 72% occupancy.

Based on the abovementioned data provided in the Traffic and Parking Assessment, it is recommended that the typical design percentile for Quest buildings of **85% be adopted for the basis of assessment**. This means that a total of 67 car parking spaces (64 spaces for guests and 3 spaces for staff) would be required for the Quest serviced

apartment building.

Options to Deal with the Shortfall in Quest Serviced Apartment Parking

Based on the adopted 85th percentile (67 required spaces), the Quest serviced apartment building has a shortfall of 21 spaces. On the basis of this shortfall, there would appear to be the following options:

1. Council could refuse the DA for the lack of parking provided for the Quest serviced apartment component of the development.
2. The Quest serviced apartment component, or other components of the development, could be reduced in size, which would result in a corresponding reduction in the number of car parking spaces required to be provided.
3. Council could require the provision of additional (or re-distribution) of on-site car parking to accommodate the shortfall.
4. Council could require that a contribution be paid towards the provision of a new off-site carpark in accordance with its adopted *Section 94 (Section 7.11) Development Contributions Plan – Bathurst CBD Car Parking 2014*.
5. A combination of Options 2 – 4 could be formulated.

Option 1 – Refusal of the Application

Whilst refusal of the application remains an option it would generally only be taken where other options are not acceptable or where the cumulative effect of other non-compliances made the proposal unacceptable to Council. This option is not recommended.

Option 2 – Reductions in Floor Space

Broadly this could be achieved by reducing the size of the Quest serviced apartment development or redistributing floor space and parking across the site. For example, removing the top level of the Quest building would reduce number of apartments by 20 and the parking obligation to 58 spaces. Reducing floor space on other aspects of the development (e.g. the commercial space or food and drink/retail) and reallocating carparking on site to Quest would have significant flow on effects to the overall design of the development.

Given the potential for this approach to result in a significantly different development to that proposed, it is not recommended.

Option 3 – Additional On-site Parking

Given that the proposal seeks to maximise development across the site, there are limited opportunities to construct additional carparking without significant excavation. The extent to which this is feasible has not been documented.

An opportunity exists to alter the provision of parking allocated for the Quest serviced apartment building if an arrangement could be made with the food and drink/retail component of the development. As noted above, the food and drink/retail aspect of the site (Lot 3) only requires 7 spaces under Council's DCP but is proposed to provide 22 spaces. Accordingly, there are 15 spaces in excess of requirements which could assist to defray the shortfall from the Quest serviced apartment site (Lot 2). Access to these

spaces would increase the available spaces for the Quest serviced apartments to 61 (i.e. 46 plus 15). This remains slightly less than the parking provisions required to accommodate Quest at the typical design capacity of 85% or 67 spaces.

This arrangement would however mean that the food and drink/retail carpark would need to be constructed as part of the Quest serviced apartment development and usage of the carparking spaces secured by virtue of changes to the subdivision layout and/or cross easements for parking or some other arrangement.

The shortfall of 6 spaces (67 less 61) would need to be accounted for either on street or via Section 94 (7.11) Contributions.

Option 4 – Section 94 (Section 7.11) Contributions

In 2014 Council adopted the *Section 94 (Section 7.11) Development Contributions Plan Bathurst CBD Car Parking*.

The Plan applies to the land and extends generally to the much broader commercial core area bounded by Rankin Street, Piper Street, Seymour Street through to the northern side of Durham Street.

The Plan allows for the imposition of conditions of consent requiring payment to Council of monetary contributions which will be used for the construction of new public carparks within the CBD. The Plan does not necessarily specify the location and form of the carpark nor the timing for its construction.

Whilst there have been some discussions regarding the construction of additional carparking in Carrington Park, no firm commitment has been made as to the location, form or timing of its construction (if at all).

The contribution per car parking space in Council’s adopted revenue policy is \$18,498.80 per space (2019/20). The following table provides the deficit payments applicable for Options 3 and 4 based on the typical design percentile of 85%.

Section 94 (7.11) Contributions Payable for Options 3 and 4				
Option	No. Car Parking Spaces Required (85% + 3 Staff)	No. Car Parking Spaces Provided	Deficit	Contribution (Deficit x \$18,498.80)
Option 3 – Arrange for the 15-space-surplus of the food and drink building to be made available for the Quest serviced apartment building.	67	61	6	\$110,992.80
Option 4 – Pay Section 94 Contributions for the total parking deficit.	67	46	21	\$388,474.80

Given that there is no timetable for construction of the new public car parking areas, acceptance of a monetary contribution will result in the equivalent amount of on-street car parking in the short-term. However, Council has consistently required a monetary contribution for parking shortfall with other CBD developments.

Car Parking Conclusion

The parking arrangements for the majority of the development are compliant with Council's DCP with the exception of the arrangements for the serviced apartments.

The serviced apartment building proposes 46 spaces which, relative to Council's standard, represents a significant undersupply of parking.

Council's DCP assumes 100% occupancy of all rooms and it is acknowledged this is unlikely to be regularly achieved in practice.

For the purposes of assessment, the 85th percentile has been proposed as an acceptable level of parking provision.

An opportunity exists to redistribute some of the proposed parking on site from the food and drink/retail component of the development and allow its use by the Quest development. This reduces the overall Quest shortfall to 6 spaces whilst the food and drink/retail component remains compliant. The remaining shortfall should however still be subject to Council's Section 94 (Section 7.11) Contributions Plan.

Conditions of consent are therefore proposed as follows:

The proposed "basement parking area and podium" associated with the food and drink/retail building (described as "Stage E" in the indicative staging contained in the Statement of Environmental Effects) is to be constructed as part of the construction of the serviced apartments (if not constructed beforehand).

15 of the 22 parking spaces within the food and drink/retail parking area are to be made available for the use of guests of the serviced apartments making a total of 61 spaces available on site for the use of the serviced apartments.

Upon the subdivision of the land an easement (or some other arrangement to the satisfaction of Council) over the 15 spaces is to be created benefitting the serviced apartments.

All spaces are to be available prior to any Occupation Certificates being issued for the serviced apartments.

A contribution equivalent to 6 parking spaces is to be paid in accordance with Council's Section 94 Development Contributions Plan Bathurst CBD Car Parking.

Chapter 15 – Crime Prevention

The application was referred to the NSW Police for assessment under Council's *Crime Prevention Through Environmental Design (CPTED) Protocol*. The advice provided by NSW Police notes the following:

- *"...Prior to the demolition of the old buildings it was a place that attracted young people and antisocial behaviour. The site is surrounded by a mix of residential, recreational and commercial enterprises with two of Bathurst major shopping centres within a short walking distance. The new development will add to the vibrancy of the Bathurst CBD.*
- *The proposed development will be completed in various stages. The first stage is the construction of a four-storey serviced apartment complex along the Howick*

Street frontage. This will provide for 42 combined Units and provisions to cater for larger groups and families by combining Units with key access, a total of 75 Units. The mix consists of 34 Studio, 29 x1- bedroom and 12 x 2-bedroom apartments.

- *Provision has been made for basement level car parking facilities to cater for the Quest clientele. Further DA's will be submitted in due course to accommodate the future retail /commercial development, at this stage no timeframe has been given for the future development. The apartments are designed for short and medium term stays and will accommodate tourists and visitors to the city of Bathurst. The development will fit in with the existing mix of recreational, retail and residential and will enhance the existing landscape.*
- *After conducting a Safer by Design Evaluation for this development application the crime risk rating has been identified on a sliding scale of low, moderate and high. The rating for this development is Low Crime Risk.*
- *From data gathered from intelligence and local knowledge there are no current crime trends impacting on the current site. Historically, prior to the demolition of the site, there was a high level of antisocial behaviour and criminal activity within the confines of the derelict buildings.*
- *Stage 1 refers only to the Quest apartments. It is not anticipated that the construction of the apartments will have an impact on crime in the area, but rather enhance the disused site as it is in its present state. This can be achieved through the introduction of natural guardians, such as the on-site manager, CCTV surveillance and security measures set in place to restrict unauthorised access to the premises.*
- *It is not envisaged at Stage 1 of the development that there will be any undue impact on the ability to police this space, no unforeseen issues have been created because of this development. Traffic flow studies have been undertaken and it is noted that there will be minimal impact on current traffic flows.*
- *The development applicant submits a lighting plan, that encompasses Princes Street and Howick Street and the underground car park.*
- *The Traffic management plan be submitted to the Traffic Management Committee at Bathurst Regional Council.*
- *[NSW Police are]...unable to assess the built environment without having regard to the type of activity that may be proposed. For example, if it was a 9-5 Cafe, would be a total different consideration than if it was a licensed premise, night club etc.*
- *[Potential for] Late-night trading could also have an impact on the Assessment as well.*

Ultimately it is difficult for NSW Police to assess the exact degree of risk for the proposed office/business building and food and drink/retail building, as the exact tenancy type (e.g. business premises, office premises, restaurant, café, take-away, pub, small bar etc.) is unknown at this stage.

Accordingly, the NSW Police determined that the rating of this development, as currently proposed as a whole, is Low Crime Risk. It is likely that additional Development Application(s) will need to be submitted to Council in the future for the fit-out of these buildings, particularly where a food and drink/retail tenancy is proposed and given that no detailed floor plans (or fit-out plans) have been provided with this DA. Depending on the proposed use of any future tenancy (e.g. licensed premises, medical centres, large shops (>1000m²), clubs, function centres, restricted premises, tattoo parlours etc.) future applications may need to be referred to the NSW Police in accordance with Chapter 15 of DCP 2014, at which time the crime risk would be reassessed and appropriate CPTED measures implemented accordingly.

Therefore, it is considered that subject to conditions of consent, the development as currently proposed (as a whole) will not result in any adverse crime risks.

Chapter 16 – Earthworks

Significant earthworks have been proposed as part of this application, particularly in association with the proposed basement car parking. Excavations and fill in excess of 1 metre may be permitted to allow for compliant driveways and basement garages providing the excavations are adequately drained. Conditions of consent will be implemented to ensure that an adequate stormwater management system is established.

No retaining walls or significant change in level has been proposed at the interface between the proposed office/business building and adjoining former Cool Rooms (Lot 111 DP 1232551, 50 Bentinck Street) and the proposed serviced apartments and adjoining residential dwelling houses off Howick Street. However, the garage wall of the proposed new dwelling house at the rear of the site will abut the boundary of the adjoining residential dwelling house at Lot 1 DP 995899, 170 Howick Street. This wall retains a cut associated with the basement garage and acts as an external building wall for the garage and lower level of the dwelling (see below Figure). Accordingly, the wall is not strictly a retaining wall and no variation to Chapter 16 is proposed in this instance. The proposed earthworks will not place any adverse impact on the surrounding residential developments and are supported.



Public Consultation

Exhibition Period

The land is identified as a landmark site and accordingly, the development was placed on public exhibition for a period of fourteen (14) days between Monday 30 September 2019 and Tuesday 15 October 2019, in accordance with Section 13.14 of *Bathurst Regional Council Community Participation Plan 2014*.

The application was also referred to the Bathurst NSW National Trust branch, however, no comments were received from the National Trust.

Number of Submissions

A total of five (5) submissions were received during the exhibition period and one (1) late submission was provided at the Councillor Submission Hearing held on Wednesday 6 November 2019. See submissions at **attachment 21**.

Submission Hearing

A Councillor Submission Hearing was held on Wednesday 6 November 2019. See detailed Minutes of this meeting at **attachment 23**.

Issues

Issues raised in the submissions are summarised as follows:

- The group term “commercial premises” is used, which encapsulates a large range of specifically defined land uses, including retail premises (which further includes food and drink premises, garden centres, shops, hardware and building supplies, landscaping material supplies, vehicle sales or hire premises etc.), business premises and office premises. The specific land uses for which consent is being sought must be identified in order to allow a proper and robust assessment of all potential impacts of the proposal.
- Specific land uses have differing car parking demands. For example, an office premises requires 1 space per 50m² of floor area and a shop requires 1 space per 35m² of floor area. The proposed car parking deficiencies may be exacerbated if the proposed land uses are not specifically identified.
- Inconsistencies within the Statement of Environmental Effects.
- The provision of additional retail floor space in the Central Business District (CBD) is not justified given the current level of existing vacancies.
- A comprehensive retail impact assessment has not been provided to demonstrate the justification for the provision of a significant amount of additional retail floor space.
- If consent is sought for offices only, there is concern that a future change of use to a retail premises could occur as exempt development, without requiring any further assessment and consideration of additional impacts, such as traffic generation and parking impacts.
- In the event that the application is recommended for approval, a condition of consent should be implemented stating that the consent relates to the use of the office/business building as an office premises only, and that a separate development consent must be sought for any proposal relating to an alternative form of commercial use.
- The proposal could lead to long term detrimental impacts on the viability and vitality

of the Bathurst CBD.

- The proposed development will impact on adjoining residential properties by way of privacy, overshadowing and scale/height.
- The proposed development will impact on the heritage significance of the adjoining cottages within Howick Street.
- The height of the proposed buildings is excessive, particularly at the South-Eastern end of the site where it exceeds the 12-metre height limit.
- The proposal will overshadow residences located to the South-East of the site, subsequently resulting in reduced solar energy collection and natural lighting.
- The size and scale of the building is incongruous with surrounding buildings.
- The shortfall in proposed off street car parking will adversely impact the current shortage of parking experienced in the street during business hours.
- The Howick Street frontage includes little heritage elements and due to its large rectangular bulk, scale and height exceedances, it will have an overbearing impact on the small adjoining heritage cottages and amenity of the street.
- It is suggested that the serviced apartment building be reduced by one storey. This approach would reduce the impacts of the development on the neighbouring Howick Street cottages and ensure the proposal is better aligned with the number of proposed car parking spaces.
- The proposed development is staged to align with commercial exigencies and this means that the entirety of the development may not proceed as planned. The applicant has indicated that the re-subdivision of the land and development of the serviced apartments will occur first, which means that the remainder of the land could be left bare, sold off and redesigned/redeveloped by future owners.
- The proposed car parking shortfall is justified on the development of the site in its entirety. This provides more reason as to why the development should be entirely constructed at the one time.
- Conditions of consent should be implemented to ensure that the whole of the proposed development is carried out as one.
- The current plans and information do not sufficiently detail the extent of overshadowing on adjoining properties.
- There is conflicting information between the plans and the Traffic and Parking Assessment Report regarding the entrance and exit points onto Howick Street, the layout of traffic flow and the location of bins.
- The development will have various noise impacts on adjoining residents, due to: air conditioning units on balconies, roof mounted HVAC, carpark exhaust emissions, plant room, speed humps.
- It is suggested in the Acoustic report that a 2.5-metre-high fence will be constructed above the internal driveway adjoining the Howick Street properties. This is not reflected on the plans and may impede light and airflow.
- Vehicle emissions from the proposed vehicular access on Howick Street will impact neighbouring residences.
- No control measures have been proposed to prevent large vehicles and trucks from using the Howick Street accesses.
- There is a need for privacy screens between Levels 1 to 4 of the serviced apartments building, particularly where windows and balconies face South-East towards adjoining residences.
- The balcony of the newly proposed dwelling house will overlook surrounding residential properties, resulting in privacy conflicts. The vegetation shown on plans will not provide sufficient screening.
- A fence and pathway should be constructed along the South-Eastern boundary between the neighbouring residences. This will allow airflow, greenery rather than overbearing walls and access to plumbing and drainage.

- Frosted windows should be installed on the serviced apartments overlooking residential properties.
- The plant room and emissions exhaust fans should be located along Bentinck Street.
- No speed humps should be installed near residential developments located on Howick Street.
- No boom gates should be installed.
- An additional exit should be constructed.
- The Howick Street frontage is incompatible in bulk and scale with the neighbourhood.
- The ground floor use and wall facing Howick Street is not conducive to CPTED principles, especially the principle of surveillance where people feel safe in public areas when they can see and interact with others. An active use overlooking the street through the proposed landscaping would assist this principle.
- The proposed buildings will overshadow the internal courtyard/piazza area in winter, including the proposed retail space.
- The apartments must be compliant with Australian Standard 1428 “Access for people with disabilities”.
- Universal access should be provided throughout all public areas and into commercial and retail areas.

It should be noted that further to the Submission Hearing, informal discussions were carried out between the applicant and the landowner of 172 Howick Street resulting in some amendments to the plans.

Discussion of Issues

Group Terms

It is acknowledged that various group terms (e.g. *commercial premises*) have been used within the documentation to describe the proposal. For the purposes of assessment those uses are more accurately described as follows:

- The “Office/Business Building” (to be located on proposed Lot 1 at the corner of Bentinck Street and Howick Street) is proposed to be used for office premises and/or business premises.
- The “Food and Beverage Building” (to be located on proposed Lot 3 off Princes Street) is proposed to be used as a food and drink premises or retail premises.

Chapter 14 “Parking” of DCP 2014 prescribes the same car parking requirements for office premises and business premises, being 1 space per 50m², and for shops (excluding supermarkets) and a restaurant or café, being 1 space per 35m² (in the CBD). Therefore, it is considered that the use of group terms for these components of the development is appropriate and will not result in any car parking consequences.

It is acknowledged that *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* and LEP 2014 each prescribe circumstances in which a change of one use (e.g. business premises) to another use (e.g. shop) may be carried out as exempt development. However, these “changes of use” have been determined to be exempt development by the NSW Government due to their minor nature and therefore, any future exempt change of use for these buildings is not expected to result in any adverse impacts. Additionally, a Development Application will need to be lodged for any future proposed change of use which is not exempt development and will be subject to

further assessment of its suitability.

Economic Impacts

The proposed development is expected to result in an increase in local employment throughout the construction period, and a slight increase in employment during its occupation. The provision of tourist and visitor accommodation on the edge of the CBD and within close-proximity of public transport services may encourage visitors to access other goods and services available within the CBD and greater Bathurst region. Additional office, business and retail floor space may attract new businesses and services to the city and provide further benefit to the local economy and community.

Council's *Bathurst CBD & Bulky Goods Business Development Strategy 2011* identifies that the following additional core retail floorspace (i.e. non-bulky goods retail) and office floorspace is required for the Bathurst urban area:

Commercial Floorspace Type	Required Additional Gross Leasable Floor Area (GLA) Over Period	
	2010 – 2021	2021 – 2036
Core Retail Floorspace (Non-Bulky Goods Retail)	13,300 – 17,370m ²	22,420 – 29,240m ²
Office Floorspace	6,140 – 8,360m ²	10,510 – 13,440m ²

The Strategy also identifies that approximately 11,000m² of the core retail floorspace required for the Bathurst urban area should be located within the Bathurst CBD.

The proposed development includes approximately 233.79m² of potential retail floorspace (within the food and drink/retail building) and approximately 2106.76m² of potential office floorspace (within the office/business building). Accordingly, for the period 2021–2036, the proposed development will provide a minor contribution (1.0% – 0.7%) towards the retail needs of the Bathurst urban area and a significant contribution (20.0% – 15.7%) towards the office floorspace needs. Based on the above findings of the 2011 Strategy, it is considered likely that Bathurst has the economic capacity to support the proposed development and that no further Economic Impact Assessment Report is required for this proposal.

Capacity to Stage Development

As noted in the SEE the development is likely to be constructed in stages. The issue of being able to “require” the development to be constructed in a single stage was raised in the public submissions.

The development has been deliberately designed to be capable of being constructed in discrete stages, which is fully understandable given the scale of this development, and that each element of the development can sit comfortably as a stand alone entity. In particular the visual appearance of the Quest building to be constructed as stage 1 is such that it will still sit comfortably in the streetscape in its own right (see **attachment 8** (“Stage 1 Elevations”, Reference No. DA 9305)).

There seems little planning case to be made for “requiring” the development to undertaken as a single stage unless one stage is dependent on other facilities to be provided (such as being recommended with the parking provision). In this regard, the developer has committed to maintain undeveloped parts of the site in a neat and tidy condition as the stages of construction progress, in accordance with their correspondence as follows (see **attachment 26**):

“Joss’ Development Application proposes that that the Dairy Farmers Site is developed in stages.

Whilst it is our preference to construct the entire development at once, commercial realities may well dictate that a staged construction / development may be necessary.

This being the case, it remains our intention to complete works on the entire site as soon as possible. Additionally, if constructed in stages Joss commits to maintaining those undeveloped portions of land in a neat and tidy manner so that they do not detract from the completed elements on the site and the overall appearance of the precinct.”

Privacy and Overlooking

The proposed multi-storey serviced apartment building, new dwelling house and use of the tower as a dwelling house could result in privacy conflicts due to overlooking of neighbouring residential developments.

Serviced Apartment Building (Lot 2)

As previously discussed, the balconies and windows to be located on the south-western and south-eastern elevations of the proposed serviced apartment building could overlook neighbouring residential developments, including the proposed new dwelling house, the proposed tower dwelling house and the existing dwelling houses located to the south of Howick Street. Some windows and balconies to be located on the south-eastern elevation will be screened to reduce any privacy impacts on the neighbouring residences, however, conditions of consent will be implemented to ensure that all windows on the south-eastern elevations overlooking surrounding residences are appropriately screened.

New Dwelling House (Lot 5)

The proposed new dwelling house is three storeys high and contains windows and terraces that will overlook properties located to the south-east and south off Howick Street. However, the dwelling will not be located directly adjacent to any existing dwelling houses, some landscape screening has been proposed on the south-eastern boundary and northern corner of proposed Lot 5 and no windows have been proposed on the south-western side of the dwelling. It is considered that these measures will prevent any adverse privacy conflicts from occurring.

Tower Dwelling House (Lot 4)

The proposed use of the existing tower as a dwelling house will enable some overlooking of neighbouring residential properties and large expanses of the CBD and surrounding urban area. Given that the proposal is working within the confines of the existing heritage structure the proposal is acceptable.

Overshadowing and Solar Access

As previously discussed, the proposed development will result in overshadowing of residential properties on 21 June (see **attachment 8** (“Shadow Diagrams”, Reference Nos. DA 9100 – DA 9106), particularly the proposed new dwelling house, the tower dwelling house and the neighbouring residential properties located to the south off Howick Street. However, in accordance with DCP 2014 the proposed development will generally

maintain at least 2 hours of sunlight to all neighbouring indoor and outdoor living hours between 9am and 3pm on 21 June.

The development will overshadow the proposed new dwelling house, however, it has been demonstrated that this new dwelling house will achieve minimum BASIX targets and it is the landowner's/applicant's design decision to burden this development with minimal solar access. The dwelling house within the existing tower will also experience overshadowing, particularly at lower levels and in the open space area. However, it is likely that upper living areas will receive some solar access and this dwelling will also comply with minimum BASIX targets.

Noise Impacts

The construction and operation of the proposed development is likely to result in some noise conflicts. An Acoustic Assessment Report (see **attachment 16**) was submitted with this Development Application.

Serviced Apartment Building

The Acoustic Report identifies that the main source of noise from the serviced apartment building will be the operation of individual air-conditioning condenser units located on room balconies during the day and night. The balconies are assumed to be solid with no gaps and constructed of a material with an acoustic rating of 25 R_w (Weighted Sound Reduction Index) or greater. The residents of the proposed new dwelling house are likely to be most affected with the boundary of proposed Lot 5 to be 5.5 metres from the south-western corner of the building.

Based on the sound power level selected in the Acoustic Report for on balcony air-conditioning condenser units, the noise level at the closest residential boundary is predicted to be 38 dBA with all balcony units in operation.

The plans indicate that a plant room will be constructed at ground level on Howick Street (see **attachments 5 & 8**), but the type of plant for this room is not nominated at DA Stage. Any noise emissions from plant located in this room will need to be controlled to meet noise trigger levels.

Office/Business Building

The Acoustic Report identifies that the main known source of mechanical service noise from the office/business building is a car park exhaust system (CPE) and building air-conditioning plant. The CPE is automated and could operate at all hours and the air-conditioning plant would only operate during business hours of the office/business premises (7:00am to 7:00pm, Mondays to Saturdays).

The Acoustic Report states that CPE system ducting is to be installed within a riser behind the lift shaft. The CPE fan(s) could be roof mounted or within the carpark plantrooms. If roof mounted, the fan should be mounted on the opposite side of the lift overrun from the serviced apartment building so CPE noise emissions to the area are shielded by the overrun building. This recommendation will be adopted as a condition of consent.

As there is no proposal for the type of air-conditioning, the Acoustic Report modelled two cooling towers on the roof of the building located at the middle and on the side facing Bentinck Street. The opposite side of Bentinck Street consists of commercial buildings where the noise trigger level is 65 dBA. The Acoustic Report indicates that the proposed

building roof height and the neighbouring commercial building on the corner of Bentinck and Princes street (the former cool rooms) will protect the residences on Princes Street.

Other mechanical services for offices within the building are unknown at this stage. Any mechanical plant installed during the office fit out will need assessment to confirm compliance with the project noise trigger levels. Conditions of consent will be implemented to ensure that further assessment is undertaken at that time.

Food and Drink/Retail Building

The Acoustic Report states that the main known source of mechanical service noise from the proposed food and drink/retail building would be a kitchen exhaust fan and air-conditioning condensers. The building is proposed for use as a restaurant or café with proposed hours of operation 7:00am to 10:00pm on Mondays to Saturdays and 8:00am to 8:00pm on Sundays.

The Acoustic Report predicts that mechanical plant would be located on the roof of the building. The report recommends that the plant be located within 2 metres of the north-eastern corner of the roof and that the plant be shielded by a noise barrier with a height extending at least 1 metre above the plant, located so that it shields the serviced apartment building and the new dwelling house. The side of the barrier facing the plant must be lined with absorptive material with a minimum NRC (Noise Reduction Coefficient) of 0.8. These recommendations will be adopted as conditions of consent.

No noise control measures have been proposed in relation to the occupation of the building as a restaurant or café (i.e. crowd noise) and accordingly, conditions of consent will be implemented to restrict hours of operation.

Proposed Residential Uses – Tower and New Dwelling House

On the south-western corner of the development site, a new dwelling house is proposed to be constructed and the existing tower will be converted into a dwelling house. The Acoustic Report states that these developments could include air-conditioning units and that standard acoustic treatments could be used to control noise emissions from any plant associated with these residential developments.

Vehicle Entrance and Exit Locations

Vehicular access points for the car parking areas of the proposed office/business, serviced apartment, food and drink/retail and residential buildings are located on Howick Street. An entrance is located between the office/business building and the serviced apartment building and a dual entrance/exit is located between the serviced apartment building and the neighbouring residence at 172 Howick Street (Lot 1 DP 737933).

During daytime hours, vehicles from all components of the development will use the Howick Street entrances and exit with delivery vehicles encouraged to park and deliver from Princes Street. During after-business hours, generally only the residents/guests of the serviced apartment building and residential dwelling houses will use the entrances and exit.

To mitigate the impact of vehicles passing 172 Howick Street, the Acoustic Report recommends that:

- A fence be constructed along the boundary line that is a minimum of 2.5 metres above the development's internal driveway around the base of the serviced

apartment building that has an acoustic rating of 25 R_w with no gaps permitted at the base and joins.

- An internal speed limit no greater than 10 km/h within the development be sign-posted.
- Additional signage be installed to encourage quiet behaviour within the car parking area.
- The driveway near the exit point be constructed so that the exit onto Howick Street is smooth with minimum bumps and deviations to avoid noise impact.
- A sign near the exit be installed to advise drivers to exit the site quietly and consider neighbouring properties.

Conditions of consent will be included to ensure that these recommendations are implemented.

The report also states that based on an assessment that 80% of the vehicles from the office/business building carpark left the site from 5:00pm to 6:00pm in a regular fashion, the predicted noise LAeq noise level over a 15 minute period would not exceed 49 dBA within the boundary of the residence at 172 Howick Street. Outside of business hours, vehicles leaving the site would be occasional after hours workers in the office/business building and mostly residential traffic. If four vehicles left the site in 15 minutes on average the predicted noise LAeq noise level over a 15 minute period would not exceed 38 dBA within the boundary of the residence at 172 Howick Street.

Vehicles exiting the site between 10:00pm and 7:00am are expected to be a minimal number consistent with residential use.

Noise Impact Conclusion

Subject to conditions of consent aligning with the recommendations of the Acoustic Report, the proposed hours of operations and local permitted construction hours, the development should not result in any adverse noise impacts on surrounding premises. Any future Development Applications for the fit-out of the proposed office/business building and food and drink/retail building will provide further consideration towards likely noise impacts, particularly in relation to the specific use and occupation of the buildings.

Fencing

A 2.5 metre high acoustic fence has been proposed along the shared boundary of proposed Lot 2 containing the serviced apartments and the neighbouring dwelling house at 172 Howick Street. The proposed fence will conceal the existing windows located on the north-western elevation of the existing dwelling house and no details have been given in relation to the proposed construction material.



Environmental Impacts – Waste, Dust and Erosion and Sedimentation

Conditions of consent will be implemented to ensure that a Construction Management Plan and Erosion and Sediment Control Plan is produced and submitted to Council prior to the issue of any Construction Certificate, including measures to reduce environmental impacts such as waste, dust, erosion and sedimentation.

Internal Referrals

The application was referred to the following Council Officers, who raised no objection to the proposal, subject to recommended conditions of consent.

- Environmental Health Officer.
- Environmental Officer.
- Liquid Waste Officer.
- Subdivision Supervisor.
- Health and Building Surveyor.
- Plumbing and Drainage Inspector.
- Senior Heritage Planner.
- Operations Manager Parks.

Integrated and Designated Development

The development is not integrated under Section 4.46 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) or designated development under Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation).

Biodiversity

The proposed development includes the removal of some minor regrowth located over the property. The land has been subject to previous disturbance and it is unlikely that the development will significantly affect threatened species.

EP&A Regulation – Fire Safety (CI 93), Upgrading of the Building (CI 94), The Building Code of Australia (CI 98)

The proposed development will be required to comply with the EP&A Regulation as a condition of consent.

Covenants, Restrictions and Easements

Lot 30 DP 2067 (vacant) is burdened by an existing Right of Carriageway (ROW) off Princes Street, which benefits the adjoining Lot 111 DP 1232551 containing the former cool rooms building (50 Bentinck Street) (see **attachment 24**). The ROW proposed from Princes Street as part of this development will align with the existing ROW and accordingly, access to Lot 111 DP 1232551 will be maintained.

Further, Lot 2 DP 184456 (containing the existing tower building) was burdened by a ROW off Howick Street (see **attachment 24**). The applicant has advised that this ROW was extinguished with the resolution of Lot 1 DP 327257, 2 Princes Street.

Therefore, subject to conditions, the development will not contravene any covenants, restrictions or easements applicable to the land.

Development Contributions

The following Development Contributions are required to be paid, normally prior to the issue of any Construction Certificate:

Contribution	BRC Fees and Charges 2019/2020	Total Units	Payment Amount
Section 94 (7.11) Bathurst CBD Car Parking	\$18,498.80 per car space	6 car parking spaces in deficit	\$110,992.80

Disabled Access

An internal fit-out plan has not been provided for the proposed food and drink/retail building and accordingly, no accessibility details between basement and upper levels have been provided. Conditions of consent will be implemented to ensure that the development complies with the Building Code of Australia.

CONCLUSION:

Council has received a Development Application for redevelopment of the site for multiple uses including office/business premises, food and drink/retail premises, serviced apartments, a new dwelling house, adaptive reuse of the historic brewery tower as a dwelling house and a five lot subdivision.

The application seeks a 38.3% variation to Clause 4.3 “Height of Buildings” of LEP 2014 and a 10% variation to Clause 4.4 “Floor Space Ratio” of LEP 2014. These proposed non-compliances are considered to be acceptable in the circumstances of the case under Clause 4.6 of LEP 2014, as compliance with the development standards is deemed unreasonable or unnecessary, there are sufficient environmental planning grounds to justify contravening the development standards and the development is in the public interest.

The application also seeks a variation to Chapter 14 “Parking” of DCP 2014, with a 32 space shortfall in onsite carparking proposed for the Quest serviced apartment building. However, with the adoption of the 85th typical design percentile and the implementation of a condition of consent which requires the applicant to designate the proposed 15 space

surplus of the food and drink/retail carpark to the Quest serviced apartment building, the overall shortfall is reduced to an acceptable 6 spaces which can be offset through the payment of Section 7.11 (previously Section 94) Development Contributions for Bathurst CBD Parking.

Further, the land is identified as a Local Heritage Item and is located within the Bathurst Heritage Conservation Area. The proposed development will contribute to the ongoing conservation of the site and surrounding area. Conditions of consent will ensure that an interpretation strategy for the site is produced and implemented to allow the continual appreciation of its heritage.

The proposed development will be positioned in an accessible location of the Bathurst CBD and will provide tourist and visitor accommodation (serviced apartments) and a variety of commercial uses (including retail (food and drink premises), business and office premises) which will offer employment opportunities, serve the needs of the local and wider community and confirm the role of the Bathurst CBD as the primary business and retail centre in the region.

It is recommended that Development Application No. 2019/295 be approved.

FINANCIAL IMPLICATIONS:

Nil at this stage.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 4: Enabling sustainable growth.

- Strategy 4.1 Facilitate development in the region that considers the current and future needs of our community.
- Strategy 4.6 Plan for, assess and regulate development activity.

COMMUNITY ENGAGEMENT:

02 **Consult** - to obtain public feedback on alternatives and/or decisions

ATTACHMENTS:

1. Attachment 1 - Map of Land and Surrounding Area [8.2.3.1 - 2 pages]
2. Attachment 2 - Table of Proposed Development [ISHT] [8.2.3.2 - 3 pages]
3. Attachment 3 - Plans of Proposed Office/Business Building [8.2.3.3 - 9 pages]
4. Attachment 4 - Plans of Proposed Food and Drink/Retail Building. [8.2.3.4 - 8 pages]
5. Attachment 5 - Plans of Proposed Serviced Apartments (Quest) Building [8.2.3.5 - 17 pages]
6. Attachment 6 - Plans of Proposed New Dwelling House. [8.2.3.6 - 10 pages]
7. Attachment 7 - Plans of Proposed Change of Use of Brewery Tower to Dwelling House [8.2.3.7 - 13 pages]
8. Attachment 8 - Masterplans of Proposed Overall Development and Subdivision [8.2.3.8 - 30 pages]
9. Attachment 9 - Plans of Proposed Landscaping [8.2.3.9 - 12 pages]
10. Attachment 10 - Statement of Environmental Effects [8.2.3.10 - 69 pages]
11. Attachment 11 - Traffic and Parking Assessment Report [8.2.3.11 - 40 pages]

12. Attachment 12 - Statement of Heritage Impact [**8.2.3.12** - 38 pages]
13. Attachment 13 - Archaeological and Development Impact Assessment [**8.2.3.13** - 127 pages]
14. Attachment 14 - Archaeological Research Design Report [**8.2.3.14** - 50 pages]
15. Attachment 15 - Plan of Management for Serviced Apartments [**8.2.3.15** - 13 pages]
16. Attachment 16 - Acoustic Assessment Report [**8.2.3.16** - 16 pages]
17. Attachment 17 - Environmental Site Assessment and Geotechnical Investigation Report, September 2012 [**8.2.3.17** - 1098 pages]
18. Attachment 18 - BASIX Certificate No. 1028967S for New Dwelling House [**8.2.3.18** - 9 pages]
19. Attachment 19 - BASIX Certificate No. 1049200S for New Dwelling House in Tower [**8.2.3.19** - 7 pages]
20. Attachment 20 - BASIX Assessment Report for Dwelling House in Tower [**8.2.3.20** - 10 pages]
21. Attachment 21 - Copy of Public Submissions Received [**8.2.3.21** - 18 pages]
22. Attachment 22 - Map of Surrounding Public Transport and Footpaths [**8.2.3.22** - 1 page]
23. Attachment 23 - Minutes of Councillor Submission Hearing held on Wednesday 6 November 2019 [**8.2.3.23** - 2 pages]
24. Attachment 24 - Map of Easements (Right of Carriageways) Located over Land [**8.2.3.24** - 1 page]
25. Attachment 25 - Proposal to Relocate Electricity Infrastructure [**8.2.3.25** - 4 pages]
26. Attachment 26 - Applicant's Commitment to Maintain the Site in a Neat and Tidy Condition [**8.2.3.26** - 1 page]

8.2.4. DEVELOPMENT APPLICATION 2019/135 - DEMOLITION OF EXISTING GARAGE AND LATER REAR ADDITIONS TO DWELLING, NEW ADDITIONS AND ALTERATIONS TO DWELLING AND NEW GARAGE AT 251 PIPER STREET, BATHURST. APPLICANT: MR O BREUST. OWNER: MR O & MRS M BREUST

File No: 2019/135

RECOMMENDATION:

That Council:

- (a) as the consent authority, grant consent pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 to Development Application No. 2019/135, subject to conditions able to be imposed pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979, as amended and including conditions to the effect that:
 - (i) Any materials suitable for reuse should be recovered and recycled wherever possible.
 - (ii) During the carrying out of the proposed works, if any archaeological remains are discovered, the developer is to stop works immediately and notify the NSW Department of Premier & Cabinet (Heritage). Any such find is to be dealt with appropriately and in accordance with the Heritage Act 1977, recorded, and details given to Council prior to the continuing of works.
- (b) notify those that made submissions of its decision; and
- (c) call a division.

SUMMARY:

Council has received a Development Application (DA) for demolition of an existing garage and later rear additions to dwelling, new additions and alterations to dwelling and new garage at 251 Piper Street, Bathurst, described as Lot 4, DP 259909.

The Development Application was initially considered by Council at its meeting held on 18 September 2019. Council resolved that the application be deferred subject to a report from an arborist and that the application be referred to Council's architectural advisory service for comment.

The applicant has since deleted the tree removal component of the proposal, negating the need for an arborist report.

The application has been referred to the Council's architectural service for review. The findings are discussed in detail below.

REPORT:

The Site

Council has received a Development Application (DA) for demolition of an existing garage and later rear additions to dwelling, new additions and alterations to dwelling and new garage at 251 Piper Street, Bathurst, described as Lot 4, DP 259909.

A location plan, aerial photo, plans and submissions are at **attachment 1**, contained within the previous report to Council.

The subject site currently contains a single storey Late Victorian cottage with later rear additions and a detached single car garage.

History of the proposal

The proposal, as originally submitted, comprised the following elements:

- Demolition of the existing garage and later rear additions to the dwelling;
- Construction of a new attached mono-pitched roof garage of 6 metres x 17 metres with a front boundary setback of 7.1 metres and a front building line setback of 1 metre;
- Construction of new rear additions and internal alterations to the existing dwelling;
- A new roof structure over the proposed rear dwelling additions with an overall height of 9.1 metres at the rear; and
- Removal of one large deciduous tree.

In response to concerns raised by neighbours, the local branch of the National Trust and Council's Planning Officers, amended plans were submitted that incorporated the following key changes:

- A detached hipped roofed garage of 5.15 metres x 13 metres with a front boundary setback of 15.12 metres and a setback 9.5 metres behind the front building line.
- A new hipped roof structure over the proposed dwelling additions with an overall height of 7.4 metres at the rear.

The application was initially considered by Council at its meeting held 18 September 2019. Council subsequently resolved to defer the application pending the submission of an arborist report and referral to Council's architectural advisory service for comment.

The proposal

The current proposal involves:

- Demolition of an existing garage and later rear additions to dwelling;
- New rear additions and internal alterations to dwelling; and
- New detached hipped roof garage.

As the application remains unchanged, with the exception of the retention of the tree, Council's original assessment remains valid and is provided at **attachment 1**.

A copy of the amended plan indicating retention of the tree is provided at **attachment 2**.

Referral to Architectural Service

Consistent with Council's resolution the application was referred to a member of Council's architectural advisory panel (Welsh + Major) to review the proposal.

A copy of the review undertaken by Welsh + Major is provided at **attachment 3**.

As part of the review the applicant arranged for the erection of a "height template" to indicate the finished height of the proposed roof. This enabled the reviewer to understand the finished height of the building when viewed from the adjoining property.

The reviewer undertook a site inspection of the properties on 10 October 2019. The site inspection included visiting 255 Piper Street to understand the views from that property. The site inspection was undertaken with the owners of 255 Piper Street.

The review includes an assessment of the impact of the development relative to the Land and Environment Court Planning Principles established in *Tenacity Consulting v Warringah Council (2004) NSWLEC 140*.

Consistent with the established Planning Principles the reviewers report notes the following:

- The views in contention are from the verandah of 255 Piper in an east and south easterly direction towards Bathurst town centre and beyond, across the side boundary of 251 Piper.
- The landmarks of the carillon and courthouse dome are only visible from a few vantage points along the verandah and from the room behind it and from a few vantage points in the garden.
- The view under question is technically a side view and should be considered as such when being assessed. Tenacity notes that *"the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic"*.
- The distant views currently enjoyed will be adversely impacted. Whilst the impact will vary according to the vantage point, the view to the landmark buildings and much of the view of the distant ranges will be lost.
- The extension to the rear of 251 Piper is a reasonable, compliant proposal which complies with the aims of the LEP and the development standards of the DCP.

It is noted that it is beyond the brief of the architectural advisory service to design or redesign the proposal. Whilst a number of suggestions have been made in relation to the proposal, Council's obligation is to consider that proposal before it. Alternate designs would not change the impact on views from 255 Piper Street.

A copy of the reviewer's report has been provided to the owners of 251 and 255 Piper Street.

Arborist report

Council's original decision to defer the proposal included the requirement to submit an arborist report in relation to the tree.

The applicant has since deleted this aspect of the proposal. Tree removal is not part of the current proposal and accordingly there is no need to further pursue an arborist report.

Whilst tree removal is not part of the current proposal it is not a protected species under Council's Tree Preservation Management Policy being under 9m in height. A tree permit or consent for its removal is not required. It is however observed that while the tree possesses good structural form there was a significant amount of dead wood present within the crown of the tree and growing tips which suggests the tree is possibly in a state of decline.

CONCLUSION:

Council has received a Development Application for demolition of an existing garage and later rear additions to dwelling, new additions and alterations to dwelling and new garage at 251 Piper Street, Bathurst. As the original proposal included a garage with a floor area in excess of 45m² in the Bathurst Heritage Conservation Area the Development Application was notified to adjoining property owners. As a result of concerns raised by neighbours, the local branch of the National Trust and Council's Planning Officers, amended plans were submitted that incorporated the changes outlined in the previous report to Council.

The application was also reviewed by Council's architectural advisory service given the impact on loss of views from 255 Piper Street. The review acknowledges that the proposal will have an adverse impact on views from 255 Piper but that the proposal is reasonable and complies with the aims of the LEP and the development standards of the DCP.

It is recommended, for the reasons outlined in this report, that the Development Application be approved.

FINANCIAL IMPLICATIONS:

Nil.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 4: Enabling sustainable growth.

Strategy 4.6 Plan for, assess and regulate development activity.

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

02 **Consult** - to obtain public feedback on alternatives and/or decisions

ATTACHMENTS:

1. Location plan, development plans and previous Council report [8.2.4.1 - 50 pages]
2. Amended site plan [8.2.4.2 - 1 page]
3. Architectural Review, 251 Piper Street, Bathurst [8.2.4.3 - 8 pages]

8.2.5. DEVELOPMENT APPLICATION 2019/148 – ADDITIONS AND ALTERATIONS TO EXISTING DWELLING AND DEMOLITION OF EXISTING SHED AT 228 DURHAM STREET, BATHURST. APPLICANT AND OWNER: L SINGH

File No: 2019/148

RECOMMENDATION:

That Council:

- a) having undertaken a review of Development Application 2013/0239 under Division 8.2 of the Environmental Planning and Assessment Act 1979, reaffirm its decision to impose Condition 1 of its Notice of Determination dated 6 August 2019.
- b) call a division.

SUMMARY:

Council has received a request to review a condition imposed upon a development consent (determined under delegation) for alterations and additions at 228 Durham Street, Bathurst. The condition relates to a fence that has been erected on the property without consent. The fence was erected at the time the application was under assessment. The condition proposes replacing the fence with a more appropriate fence given the residential context. The applicant/owner wishes to retain the fence as constructed.

REPORT:

Council has received a request to review its decision in relation to the imposition of a condition imposed upon a Development Application pursuant to Section 8.3 of the Environmental Planning and Assessment Act 1979.

The Site

The property in question is located at 228 Durham Street, Bathurst, on the corner of Hope Street. Victoria Park and the Adventure Playground is located opposite the site.

The location of the property is shown in **attachment 1**.

The Proposal

The proposal involved the demolition of an existing shed located in the rear yard of the property and accessed off Hope Street.

The proposal involved the construction of additions to the rear of the property, i.e. along Hope Street with an attached garage off Hope Street.

The extension itself is quite large and adds considerably to the bulk of the current dwelling. During the assessment process several amendments were made to the plans to allow the addition to sit more comfortably into the streetscape, particularly in relation to the garage doors fronting Hope Street. The previous solid timber fence aided in reducing the visibility of the garage doors.

A copy of the approved plans is provided at [attachment 2](#).

The fence

The plans as submitted note the existence of an “existing timber fence” along the Hope Street frontage of the site.

In practice the timber fence was a timber paling fence of approximately 1.5 – 1.8 metres in height which enclosed the rear yard of the property. The original fence is shown in the documentation provided in the review request. The applicant has observed in the review request that the fence was “*in poor condition with many of the posts and palings needing replacement*”.

During the assessment process Council observed that the existing timber fence had been removed and in its place a metal palisade fence of approximately 1.8 metres had been installed along the Hope Street frontage.

The fence did not form part of the plans considered by Council and would have ordinarily required development consent. As discussed below the fence is not considered to be appropriate in a residential zone within the Heritage Conservation Area.

Accordingly, Council imposed upon the consent a condition relating to the fence as follows:

- *The recently unapproved man proof palisade fence on the Hope Street property boundary is to be removed and replaced with fencing more sympathetic and suited to the location within the Heritage Conservation Area. The design, including a description of materials and colours is to be submitted to Council prior to issue of Construction Certificate.*

The review seeks the removal of Condition 1 from the consent and the fence as constructed to remain.

The review request is at [attachment 3](#).

Images of the fence are provided at [attachment 4](#).

All other aspects of the approval remain unaffected by the review.

The need for consent for the fence

Council’s LEP contains a number of exemptions from the need to obtain consent for minor development including fences. In this case the fence would be taken to be a “front fence” being a fence “built forward of both the front and side building alignments”.

The fence would be too high to be considered exempt and would arguably not meet the criterion of “*the colouring and type of materials used must match those used on the main*”

building or neighboring fences”.

Similarly, State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides exemptions from the need to obtain consent for fences. The development would not be considered exempt as it is more than 1.2m above ground level and along the boundary of, or within the setback area to, a primary or secondary road.

There is nothing in the review request to suggest that the fence may be considered exempt development. The request does note that the owner said he contacted Council regarding the need to obtain consent or otherwise for the replacement fence. Council’s usual practice in these cases is to require the owners to advise of their intention to undertake exempt development using a standard notification form. This avoids any misunderstandings as to the need to obtain consent. No such notifications were received.

BRC DCP 2014 - Chapter 10 Urban Design and Heritage Conservation

The relevant provisions of Chapter 10 of Council’s DCP governing front fences within the Heritage Conservation Area are below.

Front Fences

Development Standards

- a) *Fencing material is to be brick, timber and/or wire. Pre-coloured metal sheet fencing is not permitted in front of the building line or where it is visible from the street.*
- b) *Fence heights are to generally be in accordance with the following table.*

Type of Fence	Maximum Fence Height
<i>Solid masonry</i>	<i>900 mm</i>
<i>Open or partially transparent styles (e.g., palisade or picket fences)</i>	<i>1200 mm with posts/piers no higher than 1500mm</i>
<i>Side and rear fences in front of building line/visible from street</i>	<i>1800 mm</i>

- c) *Council may consider a solid fence exceeding the heights shown in the table above where:*
 - i) *it can be shown that the fence is required to reduce street noise to a residence, and*
 - ii) *sufficient decorative detail has been incorporated within the fence design to minimise its impact of the streetscape.*
- d) *Front fences are to follow the front boundary and be of a design that is appropriate to the style and architectural period of the building. The table below provides some guidance on the type of fence that may be suitable.*

Era	Fence Type
<i>1930s to 1950s</i>	<i>Low brick walls and piers and pipe rails.</i>
<i>Federation, Victorian and Georgian</i>	<i>Timber and metal pickets palisade and Victorian wire, brick walls within featured panels and piers.</i>

In this case the review request makes the observation that Clause 10.5.3 of the DCP provides that open or partially transparent styles fences should generally be 1200mm with posts/piers no higher than 1500mm and separately, side and rear fences may be up to a maximum of 1.8m. It is suggested it would be an inappropriate interpretation of the DCP to suggest that the two standards can be put together to justify the fence as constructed.

The review request notes that there is a large variation in the types of fences in the locality ranging from low brick and timber fences to no fences. This is particularly the case on the Durham Street frontage (where there is no change proposed) and the non-corner lots in this section of Peel Street.

As is often the case with corner lots, rear yards are typically enclosed with higher fences to give residents privacy. Within the vicinity there are a number of examples of corner properties with enclosed rear yards. As is common in the Heritage Conservation Area timber fences are more usually used to enclose rear yards; e.g. the pre-existing fence on the site, 96 and 100 Hope Street and 359 and 392 Howick Street.

The applicant makes the point that security for the property is necessary given the proximity to Victoria Park and the Adventure Playground.

It is also a feature of the Heritage Conservation Area that there are often higher metal palisade/picket fence such as that constructed. One of the features of those fences is they often have masonry pillars or are constructed on a masonry plinth. This serves to break up longer and higher fences and they tend to sit more comfortably within the streetscape. Unfortunately, in this case the fence is both high and long and lacks any detail to break it up. Whilst it is beyond the scope of the review itself to suggest a solution, the fence may well be made acceptable by introducing masonry pillars along its length.

Fences surrounding schools

The review request also notes that the fence is similar, if not identical, to those constructed around many of the schools in central Bathurst, e.g. Bathurst High, Cathedral and Bathurst Public.

Whilst this point is acknowledged, the erection of security fencing up to 3 metres high on the external boundaries of schools is exempt development under State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. This same dispensation does not extend to private entities. The other significant difference is that school fences are often over an extended frontage which can result in a unified streetscape. That is not the case in this situation where there is variation between fences on adjoining properties. It is difficult to accept that the form of school fences is any sort of precedent to the current situation.

Opportunities for landscaping

The applicant makes the point that landscaping of the area is proposed following the alterations and additions however no details are provided. Absent any details, it is of limited value in Council's consideration.

CONCLUSION:

Council has received a request to review a condition imposed upon a Development Application regarding alterations to a fence constructed at 228 Durham Street, Bathurst. The fence does not sit comfortably in the streetscape because of its height, length and materials as constructed. It remains open to the applicant to provide alternate options for the fence, but none have been put forward to satisfy the condition imposed.

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 1: Our sense of place and identity.

Strategy 1.5 Promote good design in the built environment.

Objective 4: Enabling sustainable growth.

Strategy 4.6 Plan for, assess and regulate development activity.

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

1. Location map [8.2.5.1 - 1 page]
2. Approved DA plans [8.2.5.2 - 7 pages]
3. Request for review [8.2.5.3 - 7 pages]
4. Photos [8.2.5.4 - 9 pages]

8.2.6. DRAFT BATHURST 2040 OPEN SPACE STRATEGY

File No: 20.00314

RECOMMENDATION:

That the draft Bathurst 2040 Open Space Strategy be placed on public exhibition for 28 days.

REPORT:

Council engaged Parkland Planners and Otium Planning Group to prepare the Bathurst 2040 Open Space Strategy.

The key objectives of the Strategy are to:

- identify current open space (local and regional level and active and passive), its current usage level and facilities available at each location,
- predict the optimum level of open space provision (on a per capita basis) for the population of Bathurst (local/regional and active/passive),
- prioritise the actions of Council in relation to purchase, embellishment and/or upgrading of open space,
- identify any open space that may be suitable for disposal or repurposing,
- establish and/or review the minimum standards (including embellishment) of open space in accordance with Council's adopted open space hierarchy or asset maintenance level classifications, and
- identify the optimum location of future open space (local and regional and active and passive open space), particularly in the growing suburban locations.

The Bathurst Region has a wide range of informal, active and natural open spaces to cater for the recreation, sporting, community and social needs of its population. There is approximately 370ha of open space in the Local Government Area, or about 8.6ha per 1,000 people.

Open space plays an important role in our society, including providing places of diverse activities such as exercise, quiet reflection, children's play and organised sport. As the Bathurst community grows and changes, greater attention needs to be placed on the planning of open spaces to ensure that they can respond to current and future needs.

The draft Bathurst 2040 Open Space Strategy sets out the rationale for the planning and provision of open space to meet the needs of the Bathurst Region community over the next 20 years.

The Strategy seeks to ensure that:

- Most residents will have safe walking and cycling access to recreation parks and informal outdoor recreation and local play opportunities.
- Public parks and community facilities will be located and designed to maximise visual and physical access and allow for a wide range of potential uses and user groups.

- Public parks will be complemented by a walk and ride pathway network which adds value to the accessibility of parks and contributes to the diversity of outdoor recreation opportunities available to a community.
- Public parks will contribute to the strengthening of community by providing spaces and places for physical activity, social interaction, expression of community culture (including youth) and the activities of community-based groups.

A copy of the Executive Summary of the draft Strategy is provided at **attachment 1**. A full copy of the Strategy can be obtained from Council's Environmental Planning and Building Services Department.

Key recommendations/outcomes of the Strategy include:

1. Establish a minimum level of supply of open space:
 - 3 hectares per 1,000 residents for community parks, i.e. formal parkland settings providing non-organised outdoor recreation at local and destination levels.
 - 1.5 hectares per 1,000 residents for formal sporting and organised public recreation activity.
 - Plan for a community park opportunity within 400-500 metres safe walking distance in urban areas. For rural villages, access is desirable within 1,000 metres.
 - Plan for most residents to be able to have access to a large destination recreation park and/or sporting opportunity within 10-20 minutes via car.
2. Establish minimum levels of development/embellishment of open space, including preferred size, service access radius, minimum road frontage, usable area for main purpose, slope and topography, flooding and other hazards, paths and access, and other design criteria (e.g. facilities, and lighting).
 - Plan for a diversity of landscape settings across the network that define character through the inclusion of unique or notable landscape features.
 - Plan for open spaces that provide opportunities for physical activity, social inclusiveness, interaction and participation in outdoor recreation.
3. Maintain existing open space in established residential areas where increased living densities are likely to occur into the future.
4. Master Plan and implement quality new open space areas in greenfield locations.

Recommendations are also provided for each planning area (suburb/growth area) considered by the Strategy. These recommendations are shown in the series of maps at **attachment 2**. Note that the reference numbers shown on each map align with the reference numbers of each recommendation for that planning area as included in the executive summary at **attachment 1**.

Council and the consultants engaged with the community in November and December 2017 to inform the preparation of the Strategy. It would now be timely to place the draft Strategy on public exhibition to enable final feedback from the community. Note that commencement of exhibition of the draft Strategy will occur after the Christmas/New Year period.

CONCLUSION:

Council has engaged consultants to prepare an Open Space Strategy to inform the future planning of public open space in the Bathurst Region. The final draft report has been received by Council and it is recommended that the draft report be placed on public exhibition to allow community feedback on the recommendations of the Strategy. The draft Strategy will then be presented to Council for consideration of its adoption.

FINANCIAL IMPLICATIONS:

The preparation of the draft Strategy was managed within Council's current budget.

Whilst some new open space areas will be dedicated to Council as new residential areas are developed, the increasing area and the standards of embellishment and maintenance expected by the community will be a significant financial challenge for Council.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 3: Environmental stewardship.

Strategy 3.1 Protect and improve our natural areas and ecosystems, including the Macquaire River and other waterways.

Objective 4: Enabling sustainable growth.

Strategy 4.3 Ensure services, facilities and infrastructure meet the changing needs of our region.

Strategy 4.6 Plan for, assess and regulate development activity.

Objective 5: Community health, safety and well being.

Strategy 5.1 Provide opportunities for our community to be healthy and active.

Strategy 5.5 Plan and respond to demographic changes in the community.

Objective 6: Community leadership and collaboration.

Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region.

COMMUNITY ENGAGEMENT:

02 **Consult** - to obtain public feedback on alternatives and/or decisions

ATTACHMENTS:

1. Executive Summary [8.2.6.1 - 8 pages]
2. Maps [8.2.6.2 - 12 pages]

8.2.7. PLANNING PROPOSAL – SCHEDULE 5 ENVIRONMENTAL HERITAGE

File No: 20.00318

RECOMMENDATION:

That Council:

- (a) prepare a Planning Proposal in accordance with the NSW Department of Planning, Industry and Environment guidelines to update Schedule 5 - Environmental Heritage of Bathurst Regional Local Environmental Plan 2014 to include an initial list of moveable and monumental items as heritage items;
- (b) forward the Planning Proposal to the NSW Department of Planning and Environment requesting a Gateway Determination;
- (c) accept any delegations from the NSW Department of Planning, Industry and Environment in relation to this Planning Proposal; and
- (d) call a division.

REPORT:

The Bathurst Region Heritage Plan (2017 – 2020) includes actions in relation to the region's moveable heritage:

- Action 2.6.4 - Develop a database of moveable and monumental heritage of the Bathurst region.
- Action 5.2.1 - Facilitate opportunities to showcase and share moveable heritage objects and assets within the community.
- Action 11.9 - Identify, collect, manage and preserve moveable and intangible (oral history) heritage.

To support these actions Council staff have been developing a database of moveable and monumental heritage including Statements of Significance for items on the database. The database list is not complete and will be continuously added to as new items are identified.

At this stage it is proposed that a Planning Proposal be prepared to update Schedule 5 - Environmental Heritage of Bathurst Regional Local Environmental Plan (LEP) 2014 to include an initial list of moveable and monumental items as heritage items under the LEP.

The Planning Proposal will list the following as heritage items:

Council Owned		
Ben Chifley Engine	Bathurst Railway Station	(amend existing item)
Aviator Stone	Bathurst Showground	(amend existing item)
Pillars of Bathurst	Bicentennial River Park	(amend existing item)
Flag Staff	Bicentennial River Park	(amend existing item)
Footsteps in Time Pillar	Bicentennial River Park	(amend existing item)

Steam Roller	Bicentennial River Park	(amend existing item)
Kite Structure	Bathurst Memorial Entertainment Centre	
Broken Blade	Bathurst Memorial Entertainment Centre	
Horse Trough	Bathurst Waterworks	
Holtermann Fountain	Bathurst Regional Council Civic Centre	
Bronze Soldier	Bathurst RSL	
Ranken's Bridge Pillar	Eglington	
Hill End War Memorial	Hill End	
Sofala Dredging Monument	Sofala	
Sofala Foot Bridge	Sofala	

Privately Owned		
Portable Ballroom	4824 Great Western Highway, Glanmire	
Chinese Shrine Cabinet	248 Conrod Straight, Bathurst Goldfields	
Railway Gantry Crane	34 Alpha Street, Bathurst	
Hill End Honour Rolls	Hill End Public School	
Mew Chip's Register	Hill End NPWS Office	
Bathurst Agricultural Research Station Collection		
Bathurst District Historical Society Collection		
Rockley Mill & Museum Collection		

This is not an exhaustive list of moveable and monumental heritage in the region but has been identified as those worthy of listing at this time. It is envisaged that future planning proposals would expand on this listing.

The Planning Proposal will be publicly exhibited and owners notified in the new year. A further report will then be presented to Council with respect to this matter.

The listing of moveable and monumental heritage items on the Local Environmental Plan will assist owners in applying for State Government grants. The Bathurst District Historical Society approached Council to list its collection on the LEP for this reason. It will also ensure appropriate long term management of items through the development consent process, particularly in terms of ensuring items are not lost to the Bathurst region.

FINANCIAL IMPLICATIONS:

The planning proposal will be prepared within existing budgets.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 1: Our sense of place and identity.

Strategy 1.2 Protect, enhance and promote the region's European heritage assets and character.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

Nil

8.2.8. BATHURST REGION HERITAGE REFERENCE GROUP

File No: 20.00123

RECOMMENDATION:

That the information be noted.

REPORT:

The Bathurst Region Heritage Reference Group met on 11 November 2019. The minutes of that groups' meeting are provided at **attachment 1**.

The group will meet next on 10 February 2020.

With respect to the implementation of the 2017-2020 Bathurst Region Heritage Plan, the following highlights Council's achievements to date for this financial year (2019/20):

- 56 site visits undertaken as part of Heritage Advisory Service and 22 Development Applications were provided advice by Council's Heritage Advisor.
- The Bathurst Heritage Conservation Area Review was adopted by Council. Planning Proposal information is currently being prepared.
- Council has commenced a review into Ch 12 Signage and Colour Schemes of BRDCP 2014. A workshop with members of the BRHRG signage sub committee, signage companies and business representatives in Bathurst was held in late August.
- At Council's July 2019 meeting, funds were allocated to match the monetary contribution of Charles Sturt University to contribute to the Bathurst Town Centre Master Plan. Tenders have been called for the preparation of the Master Plan.
- Restoration works have commenced on the Headmasters Residence (former TAFE site) with grant funding received from the State government.
- Interpretative signage at Alan Morse Park has been installed. Machattie Park tour and Heritage tour of St Michael's and St John's Cathedral is now live on the Bathurst Step Beyond App.
- The Bathurst Region Aboriginal Heritage Interpretation Strategy has been finalised. Ongoing discussions with the Traditional Elders and the Bathurst Local Aboriginal Lands Council have commenced to implement the Strategy.

FINANCIAL IMPLICATIONS:

Funding for this item is contained within existing budgets

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 1: Our sense of place and identity.

Strategy 1.1 Respect, protect and promote the region's Aboriginal heritage assets.

- Strategy 1.2 Protect, enhance and promote the region's European heritage assets and character.
- Strategy 1.3 Enhance the cultural vitality of the region.
- Strategy 1.5 Promote good design in the built environment.

Objective 6: Community leadership and collaboration.

- Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

1. Previous minutes [8.2.8.1 - 6 pages]

8.2.9. WESTERN RESEARCH INSTITUTE - BIG IDEAS FOR REGIONAL NSW

File No: 20.00071

RECOMMENDATION:

That the report be noted.

REPORT:

Western Research Institute Ltd (WRI) conducted a Big Ideas for Regional NSW event on 26 September 2019 at Charles Sturt University.

The aim of the event was to conduct a "Regional Brainstorm" in order to develop ideas to grow regional communities with the following theme: *"No idea is too big or too small if it leads to actionable change for the future of our regional communities"*.

The Big Ideas for Regional NSW had the following objectives:

- A list of solid inter-regional priorities
- Collaboration and cooperation between participants
- Create a list of ideas that WRI can analyse and present back to potential stakeholders or funding bodies as viable and actionable initiatives for regional NSW.

The event was chaired by Matthew Dickerson, former Mayor of Dubbo and IT expert.

The event was attended by 48 participants from across the Central West. Council was represented by Deputy Mayor Cr Ian North and Council's Business Development Officer, David Flude. Each participant logged into a software program through their smart device to input ideas directly to the brain storming cloud.

There were 149 different ideas proposed, with no limits as to the viability or sensibility of the proposal. Ideas ranged from recycling of sewerage for drinking water, the Blue Mountains expressway/tunnel and providing tax exemptions for Central West businesses (such as payroll tax).

Many ideas focussed on strategies to grow the regional population. Cr North spoke of the requirement to ensure that infrastructure was in place prior to seeking large increases in population, particularly in relation to water security and transport issues associated with urban sprawl.

As a follow-up to the meeting a survey was sent to all participants to gauge their opinions on the importance of the top ten topics identified at the forum. These topics were (alphabetically)

1. Aboriginal culture
2. Aging population
3. Decentralisation
4. High speed internet connectivity

5. Regional alliances
6. Regional recycling centre
7. Renewable energy
8. Special activation precincts
9. Water sensitive cities
10. Youth retention

In the survey, participants were asked to rate the importance of each topic as well as identify a likely implementation timeframe (in years) for any policy to be implemented.

The results of the survey will be used by the WRI team to investigate each issue to create further awareness and development of these ideas in order to prepare viable and actionable initiatives to be used in the future for the development of regional NSW.

The survey results have not been made public.

CONCLUSION:

Most of the top 10 ideas identified at the workshop are relevant to the Bathurst region. As WRI undertakes the economic and social analysis of each idea, opportunities may be presented for Council to pursue in the future.

FINANCIAL IMPLICATIONS:

There are no financial implications resulting from this report.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 2: A smart and vibrant economy.

Strategy 2.2 Grow local employment, investment and attract new businesses by nurturing and supporting entrepreneurs, partnerships and local skill development.

Objective 4: Enabling sustainable growth.

Strategy 4.1 Facilitate development in the region that considers the current and future needs of our community.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

Nil

8.2.10. 5G IN THE BATHURST REGION

File No: 20.00315

RECOMMENDATION:

That Council acknowledge the Australian Radiation Protection and Nuclear Safety Agency as the authority responsible for determining safety standards associated with 5G technology.

SUMMARY:

5G is the next step in mobile network technology promising faster internet data speeds, more simultaneous connections and less time between the signal being sent and received. Members of the public have raised public health concerns with the technology. This report challenges those beliefs and recommends Council acknowledge the outcomes of scientific research into the risks of new technology. The recommendation of the report is consistent with Council's existing Telecommunications and Radiocommunications Policy.

REPORT:

Public exposure to electromagnetic emissions is regulated by the Federal Government through the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). ARPANSA determine the maximum exposure limits of RF-EMF (radiofrequency electromagnetic fields) and have advised that there is no established scientific evidence to support any adverse health effects from RF-EMF exposure to populations and individuals at levels below that of the safety standard.

Council is confident that ARPANSA is the appropriate authority to determine safety standards and has the necessary legislative powers to implement effective controls to ensure the safety of the public against RF-EMF exposure. It is also well established that a Council is unable to set a standard different from the acknowledged regulatory authority, ARPANSA in this case.

The location of telecommunication infrastructure is considered under the Environmental Planning and Assessment Act and State Environmental Planning Policy (Infrastructure). The latter overrides planning controls of a Council. The Department of Planning, Industry and Environment has also published the NSW Telecommunications Facilities Guidelines. This provides guidance to consent authorities as to the matters that it must consider when dealing with any Development Application for telecommunications facilities. Any telecommunication facility must be designed, installed and operated to ensure that the maximum human RF-EMF exposure is within ARPANSA guidelines and an EME Environmental Report is produced to confirm this is the case.

The principles described above are captured in Council's existing Telecommunications and Radiocommunications Policy.

At the Working Party of 14 August 2019, Council received a briefing from Professor Rodney Croft (Professor of Health Psychology, University of Wollongong), an internationally recognised independent expert on the health impacts of RF-EMF.

Professor Croft confirmed there is no proven link between 5G and cancer, the dominant public health risk raised by objectors to the technology, an opinion based on extensive scientific research. Professor Croft indicated that whilst 5G electromagnetic waves are sent at a higher frequency than 4G, they remain within the non-ionising part of the electromagnetic spectrum, as illustrated in the attachment.

It has been brought to Council's attention that Blue Mountains City Council has debated the roll out of 5G. That Council has acknowledged there are concerned members of the community, sought assurances that concerns about public safety will be appropriately considered and called for a report on whether to hold a public forum. It is suggested that similar actions by Bathurst Regional Council are unnecessary, ineffective and outside Council's jurisdiction. Concerned citizens should direct their enquiries to ARPANSA.

CONCLUSION:

ARPANSA have advised that there is no established scientific evidence to support any adverse health effects from RF-EMF exposure to populations and individuals at levels below that of the safety standard. It is recommended Council have confidence that ARPANSA is the appropriate authority to determine safety standards and has the necessary legislative powers to implement effective controls and guidelines to ensure public safety against RF-EMF exposure.

FINANCIAL IMPLICATIONS:

There are no financial implications resulting from this report.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 2: A smart and vibrant economy.

Strategy 2.1 Support local business and industry.

Strategy 2.3 Develop Bathurst as a Smart City.

Objective 6: Community leadership and collaboration.

Objective 2: A smart and vibrant economy.

Strategy 2.3 Develop Bathurst as a Smart City.

Objective 6: Community leadership and collaboration.

Strategy 6.5 Be open and fair in our decisions and our dealings with people.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

1. electromagnetic spectrum picture [8.2.10.1 - 1 page]

8.2.11. SMART COMMUNITY STRATEGY 2020 - 2025

File No: 20.00135

RECOMMENDATION:

That Council adopt the draft Smart Community Strategy 2020 - 2025.

REPORT:

Bathurst Regional Council has embraced the Smart Community movement and has been recognised as one of seven innovation centres by the NSW Innovation and Productivity Council, key advisors to the NSW Government.

The Bathurst Smart Community Strategy is a five-year plan that will formalise Council's objective for the LGA to become a Smart Community, one where technology, data and people are used to drive economic activity, improve connectivity, meet the changing needs of the community, accelerate innovation and better manage resources, energy and services. Through Council resolution, the Strategy was placed on public exhibition on 18 September 2019 for 28 days.

The Smart Community Strategy will provide a blueprint to encourage business investment and industry incentives to drive the economy. It will also guide how Council will deliver services in the future and ensure all members of the community are able to participate in the digital age.

Extensive community consultation has been undertaken which has allowed individuals, businesses and organisations to contribute their insights into the potential efficiencies and benefits of smart technologies. From these consultations six core themes have been developed and incorporated into the Bathurst Smart Community Strategy:

- i. Our Sense of Place & Identity
- ii. A Smart & Vibrant Economy
- iii. Environmental Stewardship
- iv. Enabling Sustainable Growth
- v. Community Health, Safety & Wellbeing
- vi. Community Leadership & Collaboration

Council received three submissions during the exhibition period. These are summarised in the following table and attached to this report.

Submission	Key points	Response
Ingrid Pearson <u>Attachment 1</u>	<ol style="list-style-type: none"> 1. Smart technology incorporating indigenous stories (lighting, CCTV, audio) 2. 3D modelling partnership with Spatial Services 3. Partnership with CSU to develop smart technology-based content for Council's heritage assets 4. Community/business education on smart options such as solar panels 5. Inclusion of CSU as a partner to explore emerging technologies 6. Smart water infrastructure and renewable energy– explore emerging technologies 7. A Greening Plan for the city 8. Disability access app for better use of footpaths and public amenity 	<ol style="list-style-type: none"> 1. Addressed in Actions 1.1.1, 1.1.2 and 1.2.2. Will be considered as a specific project in the rollout of these actions. 2. Spatial Services added as a partner 3. CSU added as a partner 4. Action 3.3.4 modified to incorporate the business community more broadly 5. CSU added as a partner 6. Will be explored in the rollout of Action 3.2 7. Suggestion provided to Council's Environment Section 8. Will be explored in the rollout of Action 5.4.1
Vanessa Comiskey <u>Attachment 2</u>	<ol style="list-style-type: none"> 1. Perceived negative health impact of LED Lighting 2. Perceived negative health impacts of public WiFi 	<ol style="list-style-type: none"> 1. Essential Energy are responsible for providing street lighting which must comply with all relevant Australian Standards. 2. ARPANSA, the Australian Government's primary authority on radiation protection and nuclear safety, states there is no established scientific evidence that the low exposure to RF EME from Wi-fi adversely affects the health of children or the general population.
Stuart Pearson <u>Attachment 3</u>	Congratulations to Council on the development of a well-written, cogent and comprehensive Strategy	Noted.

The feedback received during the exhibition period has been taken into consideration to form the final version of the draft Smart Community Strategy provided at **attachment 4**.

CONCLUSION:

The draft Smart Community Strategy aspires for Bathurst to keep pace with technological advances and to ensure equitable access to smart facilities and services into the future. The feedback received during the exhibition period has been considered in presenting the final version of the Strategy.

It is recommended that Council adopt the Smart Community Strategy 2020 – 2025.

FINANCIAL IMPLICATIONS:

Funding for this item is contained within existing budgets

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 2: A smart and vibrant economy.

Strategy 2.3 Develop Bathurst as a Smart City.

COMMUNITY ENGAGEMENT:

04 **Collaborate** - to partner with the public in each aspect of the decision making including the development of alternatives and identification of preferred solutions

ATTACHMENTS:

1. Submission - Ingrid Pearson [8.2.11.1 - 2 pages]
2. Submission - Vanessa Comiskey [8.2.11.2 - 2 pages]
3. Submission - Stuart Pearson [8.2.11.3 - 1 page]
4. Smart Community Strategy 2020 - 2025 [8.2.11.4 - 37 pages]

DIRECTOR CORPORATE SERVICES & FINANCE'S REPORT

The following reports are presented for Council's consideration.

Yours faithfully

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

A Jones
**DIRECTOR
CORPORATE SERVICES AND FINANCE**

8.3.1. STATEMENT OF INVESTMENTS

File No: 16.00001

RECOMMENDATION:

That the information be noted.

REPORT:

\$79,180,000 was invested at 29 November 2019 in accordance with Council's investment policies, the Minister's Investment Order dated 12 January 2011, the Local Government Act 1993 and associated regulations. All investments have been reconciled with Council's general ledger and are listed below:

	<u>Rating</u>	<u>Balance</u>	<u>Average Return</u>
<u>Short Term 1 – 365 Days</u> (comprising Commercial Bills, Term Deposits, Debentures and Certificates of Deposits):			
National Australia Bank Limited	A1+	\$18,000,000.00	2.03%
Bankwest	A1+	\$3,000,000.00	1.94%
CBA	A1+	\$1,500,000.00	1.87%
AMP	A2	\$6,000,000.00	2.30%
Bank of Queensland Limited	A2	\$4,500,000.00	1.95%
IMB	A2	\$1,500,000.00	2.12%
Auswide Bank	A2	\$3,000,000.00	2.08%
Maritime, Mining & Power Credit Union Ltd	ADI	<u>\$9,000,000.00</u>	<u>2.25%</u>
		\$46,500,000.00	2.09%
<u>Long Term > 365 Days</u> (comprising Commercial Bills, Term Deposits, Debentures and Bonds):			
<u>Floating Rate Term Deposits</u>			
CBA Deposit Plus	AA-	\$1,500,000.00	1.81%
CBA Deposit Plus 1	AA-	\$1,500,000.00	1.91%
CBA Deposit Plus 2	AA-	\$1,500,000.00	2.01%
Westpac Coupon Select	AA-	\$2,000,000.00	1.95%
Westpac Coupon Select 1	AA-	\$3,000,000.00	2.21%
Westpac Coupon Select 2	AA-	\$1,500,000.00	2.00%
Westpac Green Tailored Deposit	AA-	\$1,500,000.00	2.06%

Maritime Mining & Power Credit Union Ltd	ADI	<u>\$1,630,000.00</u>	<u>1.05%</u>
		\$14,130,000.00	1.91%

**Fixed, Negotiable &
Tradeable Certificates of
Deposits**

AMP Fixed Rate	BBB+	\$1,000,000.00	2.99%
Greater Bank Ltd	BBB	<u>\$1,000,000.00</u>	<u>2.36%</u>
		\$2,000,000.00	2.68%

Floating Rate Notes

Commonwealth Bank of Aust.	AA-	\$1,000,000.00	1.76%
CBA Climate Bond	AA-	\$1,000,000.00	1.87%
Commonwealth Bank of Australia 2	AA-	\$500,000.00	1.83%
National Australia Bank	AA-	\$700,000.00	1.89%
HSBC Sydney	AA-	\$1,500,000.00	1.78%
Suncorp Metway	A+	\$1,000,000.00	2.15%
Rabobank	A+	\$1,000,000.00	2.46%
Macquarie Bank	A	\$1,000,000.00	2.06%
Macquarie Bank	A	\$1,000,000.00	1.67%
AMP	BBB+	\$1,000,000.00	2.00%
AMP	BBB+	\$1,000,000.00	2.23%
AMP	BBB+	\$1,100,000.00	2.09%
Bendigo & Adelaide Bank 3	BBB+	\$1,000,000.00	2.00%
Members Equity 3	BBB	\$750,000.00	2.18%
Newcastle Permanent	BBB	\$1,000,000.00	2.19%
Newcastle Permanent 3	BBB	<u>\$1,000,000.00</u>	<u>2.53%</u>
		\$15,550,000.00	2.04%

Total Investments **\$78,180,000.00** **2.09%**

These funds were held as follows:

Reserves Total (includes unexpended loan funds)	\$25,693,500.00
Grants held for specific purposes	\$10,148,172.00
Section 7.11 Funds held for specific purposes	\$41,713,723.00
Unrestricted Investments	\$624,605.00

Total Investments **\$78,180,000.00**

**Total Interest Revenue to 31 October
2019** **\$716,880.80** **2.07%**

FINANCIAL IMPLICATIONS:

Attachment 1 shows Council's year to date performance against the benchmarks contained in Council's Investment Policy. Council has outperformed each of the benchmarks required and complied with the Minister's Investment Order.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

1. Attachment 1 Investments [8.3.1.1 - 2 pages]

8.3.2. MONTHLY REVIEW - 2019/2023 DELIVERY PLAN AND OPERATIONAL PLAN 2019-2020

File No: 16.00167

RECOMMENDATION:

That the information be noted.

REPORT:

Bathurst Regional Council has in place the Bathurst 2040 Community Strategic Plan which aims to inform the community about the major directions and programs Council is undertaking in shaping the future of the Bathurst Region. These directions are summarised as objectives and strategies in the Community Strategic Plan which was adopted by Council on 16 May 2018. The Plan is available for viewing at the council offices at 158 Russell Street or can be downloaded from the Public Documents section of Council's website, www.bathurst.nsw.gov.au/council/general-information/public-documents. A listing of the Objectives and Strategies from the Bathurst 2040 Community Strategic Plan can be found within the Plan commencing from page 22.

At **attachment 1** is an update of Council's progress towards achieving the Strategies and Objectives for the 2019-2023 Delivery Plan and the Annual Operational Plan 2019-2020.

The Local Government (General) Regulation 2005 has been amended by inserting clause 413A to make it the duty of the General Manager to give timely information to Councillors about any fines or penalty notices from agencies such as the Australian Taxation Office, the Roads and Maritime Services or the Environment Protection Authority, or where a court or tribunal makes a costs order against a council.

Fines or penalty notices this month - Refer to attachment 1.

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

1. Operating Plan Review Nov 2019 [8.3.2.1 - 55 pages]

**8.3.3. SUNDRY SECTION 356 DONATIONS, BATHURST
MEMORIAL ENTERTAINMENT CENTRE COMMUNITY
USE SUBSIDY AND MOUNT PANORAMA FEE SUBSIDY**

File No: 18.00004

RECOMMENDATION:

That the information be noted and any additional expenditure be voted.

REPORT:

FINANCIAL IMPLICATIONS:

Council's Sundry Section 356 Donations and Bathurst Memorial Entertainment Centre Community Use Subsidies and Mount Panorama Fee Subsidies are included in the current budget, which currently have a balance as follows:

Section 356:	\$5,247.63
BMEC Community use:	\$Nil
Mount Panorama:	\$Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 5: Community health, safety and well being.

Strategy 5.3 Help build resilient, inclusive communities.

Objective 6: Community leadership and collaboration.

Strategy 6.5 Be open and fair in our decisions and our dealings with people.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

1. Section 356 donations [8.3.3.1 - 2 pages]

8.3.4. POWER OF ATTORNEY

File No: 11.00007

RECOMMENDATION:

That the information be noted.

REPORT:

That the General Manager's action in affixing the Power of Attorney to the following be noted.

- Global Focus.com Pty Ltd – 5 Windsock Way, Raglan – Lot 31, DP1151799 – Lease
- Perdido Pty Ltd – 13 Windsock Way, Raglan – Lot 30, DP1151799 – Lease

General Items

- Nil

Linen Plan Release

- Mr DJ & Mrs LG Radin – Rural Subdivision (road widening) - Lot 172 & Lot 176, DP750354 & Lot 1 DP1190882 – 301 Lagoon Road, Gormans Hill NSW 2795

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

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

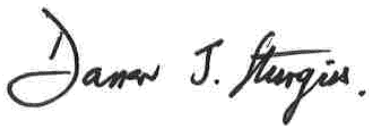
ATTACHMENTS:

Nil

DIRECTOR ENGINEERING SERVICE'S REPORT

The following reports are presented for Council's consideration.

Yours faithfully

A handwritten signature in black ink that reads "Darren J. Sturgiss." The signature is written in a cursive style with a large initial 'D'.

Darren Sturgiss
**DIRECTOR
ENGINEERING SERVICES**

8.4.1. ENHANCEMENT OF CENTENNIAL PARK

File No: 37.00619

RECOMMENDATION:

That Council:

- (a) consider an additional \$250,000 funding when preparing the 2020/21 Operational Plan to enable the installation of an irrigation system at Centennial Park.
- (b) refer in future year's Annual Operating Plans the provision of \$250,000 per annum to be reserved for the purpose of building a sufficient funding resource in order to implement the Centennial Park Landscape Plan that has been adopted by Council.

REPORT:

At its meeting held 20 February 2019, Council resolved to adopt the landscape design for Centennial Park. This design was developed following extensive community consultation, including ongoing discussions with the Friends of Centennial Park. As part of the community involvement, a scoping study into the future direction of Centennial Park was also undertaken, which steered the outcome of the design brief in respect to the style and inclusions to be provided for within the final landscape design that was presented to Council.

As advised in previous reports, the design for the landscape development of Centennial Park is anticipated to cost in the vicinity of \$4.5M to construct and that such funding will need to be sourced in future budgets to allow the construction works to be undertaken. For information, the proposed landscape design will include the following elements:-

- New children's playground area
- Designated picnic area with double BBQ and shade shelters near the playground
- Formal off street car park
- Small number of fitness equipment along secondary path
- The keeping and formalisation of the major access paths that crosses the park.
- Central Gazebo to enhance the historical nature of this park.
- Additional seating
- Retention of 1 x small open oval area for active recreation needs of the community, including junior cricket needs.
- Additional mixed native and exotic tree planting, including the installation of an avenue planting along the formal paths
- The keeping of existing trees, except for a few trees that have been assessed as being in a dangerous condition.
- Full irrigation to the whole park
- Heritage style LED park lighting for security purposes

A copy of a coloured render of the initial concept design is provided at **attachment 1** to show the general intent of the works.

Council would be aware that in its 2019/20 Operational Plan, funding of \$250,000 has been made available to undertake some works at Centennial Park, due to a request from the Friends of Centennial Park that was submitted during budget deliberations. It is believed that the desires of the community group were to have these funds used to irrigate the park. Unfortunately, the funding amount provided is not sufficient to cover the anticipated cost to install irrigation at Centennial Park. In order to install an automatic irrigation system to the park in its existing state would require redesign costs and a budget in the vicinity of \$500,000 in order to proceed with such works.

On 25 October a meeting was held with Council Officers and representatives of the Friends of Centennial Park to discuss the progress of improvement works at the park this financial year and the overall development of Centennial Park in future years as funding becomes available to implement the adopted landscape design.

The items and issues raised during this meeting related to the ability to undertake irrigation works within the current drought conditions and the water security issues that are currently affecting Bathurst, in addition to the inadequate funding to have an irrigation system installed. Other discussions centered around issues relating to undertaking sections of the landscape design at a time and the constraints that make such actions impractical to implement due to the requirements that levels need to be set, services installed, contours created etc all at the same time. If significant portions of the design are not undertaken at the same time, significant additional costs are incurred to marry existing levels or rework will be necessary on already completed sections.

Recommendation

Concerns were raised by the Friends of Centennial Park that something is needed to be undertaken to the Park in the immediate future, amongst concerns that funding to undertake the landscape construction works as per the adopted design will never eventuate. Following discussions, the group agreed to the following proposal for Council's consideration in respect to short term and long term goals:-

- Roll over the current funding of \$250,000 in the current 2019/20 Operational Plan and provide additional funding of \$250,000 within the 2020/21 Operational Plan in order to have sufficient provision (\$500,000) to install an automatic irrigation system at Centennial Park. Obviously such works would only be undertaken subject to current water security issues easing.
- Provide annual funding of \$250,000 per annum to be placed in reserve to build towards the future construction of the adopted Centennial Park landscape design plan, estimated to cost in the vicinity of \$4.5M. Such funding is to be reserved until such time as sufficient funds exist to implement the landscape project. The commencement of the reserve funding amount would be proposed for Council's 2021/22 Budget. Council will obviously continue to look for suitable grant opportunities in addition to setting aside the reserve.

It should be noted that once irrigation has been installed and becomes operational at Centennial Park, Council's maintenance requirement will significantly increase. It will be necessary for Centennial Park to be placed from a Level 3 un-irrigated local park to a Level 2 irrigated local park. This will place additional resource constraints in respect to staff and cost increases due to placing this park into a higher maintenance category. For example, level 3 un-irrigated parks are generally maintained on a 4-6 weekly basis under Council's adopted Maintenance Service Level Plan. A level 2 park that has irrigation will require a weekly maintenance regime. Additional funding requests will be made in future

parks maintenance budgets when irrigation has been installed at Centennial Park.

FINANCIAL IMPLICATIONS:

It is proposed that the existing allocation of \$250,000 be rolled over to the 2020/21 Operational Plan with an additional \$250,000 being provided in order to have a total of \$500,000 to install an irrigation system at Centennial Park.

It is further proposed that Council provide \$250,000 per annum from the 2021/22 Budget onwards to be placed in a special reserve in order to fund the future landscape upgrade of Centennial Park as per the adopted landscape design.

An increase in the annual maintenance budget for Centennial Park will need to be considered in future Annual Operational Plans, once irrigation works have been completed.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 4: Enabling sustainable growth.

Strategy 4.1 Facilitate development in the region that considers the current and future needs of our community.

Strategy 4.3 Ensure services, facilities and infrastructure meet the changing needs of our region.

Objective 5: Community health, safety and well being.

Strategy 5.1 Provide opportunities for our community to be healthy and active.

COMMUNITY ENGAGEMENT:

02 **Consult** - to obtain public feedback on alternatives and/or decisions

ATTACHMENTS:

1. Concept Design [8.4.1.1 - 3 pages]

8.4.2. COUNCIL SPORTING ASSOCIATION GRANTS PROGRAM YEAR ENDING 30 JUNE 2020

File No: 18.00279-05

RECOMMENDATION:

That Council approve the following sporting grants totalling \$12,721.50 for the 2019/2020 financial year, in accordance with the recommendations of this report.

REPORT:

Council would be aware this grant scheme has been developed to assist local sporting organisations in undertaking specific works or purchasing equipment for the advancement of sport in the Bathurst Region. A total of \$20,000.00 is allocated annually to fund this program, with sporting organisations that are affiliated with the Bathurst District Sport and Recreation Council being eligible to apply.

Notices for Council's 2019/20 sporting grant program were advertised in the Western Advocate in August and September 2019, as well as on Council's Website. In addition, the Bathurst Sport and Recreation Council were also advised during the advertising period.

At the close of advertising, a total of four (4) applications from local sporting groups were received with a total combined amount requested of \$12,721.50. Applications received were submitted by the following organisations:

Bathurst Bushrangers ARFC Inc
Bathurst Carillon City Tennis Club
Panorama Motorcycle Club
Central Tablelands Working Equitation Club

The applications from the above organisations were forwarded on to the Bathurst District Sport and Recreation Council (BDSRC) for their comment and consideration. The BDSRC have reviewed the applications and have made recommendations for the allocation of funding. A copy of their letter is shown at **attachment 1**.

It is therefore recommended that Council approve the following sporting grants for the 2019/2020 financial year totalling \$12,721.50.

Sporting group	Project description	Amount requested from applicants	BDSRC proposed grant amount	Recommended Grant Amount
Bathurst Bushrangers ARFC Inc	Audio Visual System	\$4,141.50	\$4,141.50	\$4,141.50
Bathurst Carillon City Tennis Club	Purchase Tennis Nets	\$1,830.00	\$1,830.00	\$1,830.00

Panorama Motorcycle Club	Installation of Cupboards in Control Room	\$2,500.00	\$2,500.00	\$2,500.00
Central Tablelands Working Equitation Club	Expand the Horse Yards at Brian Booth Oval	\$4,250.00	\$4,250.00	\$4,250.00
TOTALS		\$12,721.50	\$12,721.50	\$12,721.50

FINANCIAL IMPLICATIONS:

Council has included \$20,000.00 in its 2019/2020 Operational Plan for the Sporting Grants Program.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 4: Enabling sustainable growth.

Strategy 4.1 Facilitate development in the region that considers the current and future needs of our community.

Strategy 4.3 Ensure services, facilities and infrastructure meet the changing needs of our region.

Objective 5: Community health, safety and well being.

Strategy 5.1 Provide opportunities for our community to be healthy and active.

Strategy 5.2 Help make the Bathurst CBD, neighbourhoods and the region's villages attractive and full of life.

Objective 6: Community leadership and collaboration.

Strategy 6.7 Invest in our people.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

1. Letter from BDSRC [8.4.2.1 - 1 page]

8.4.3. PROPOSED ROAD WIDENING OF MCDIARMID STREET AND EASEMENT AFFECTING LOTS 1000, 1012 AND 1013 IN DP1256577 - BRADWARDINE ROAD AND CORPORATION AVENUE, ROBIN HILL

File No: 25.00164

RECOMMENDATION:

That Council:

- (a) approve the proposed road widening of McDiarmid Street affecting Lots 1000, 1012 and 1013 in DP1256577 at Bradwardine Road and Corporation Avenue, Robin Hill and dedicate to the public as public road.
 - (b) authorise the General Manager to act in accordance with the report.
-

REPORT:

Council recently completed a subdivision of Lot 806 in DP1169443 under development application number 2017/303 to create 15 additional commercial allotments within the Bathurst Trade Centre at Robin Hill.

Essential Energy has an easement for overhead powerlines 30 wide for the protection of a 66kV powerline that burdens Council owned Lots 1000, 1012 and 1013 as shown in DP1256577 (**attachment 1**).

The removal or reduction in size of this easement will allow greater use of the land within Lots 1012 and 1013, making them more attractive to potential purchasers.

Widening of McDiarmid Street as indicated in the preliminary plan (**attachment 2**) would negate the need for Essential Energy's easement over Lots 1012 and 1013, as easements are not required over a road reserve. It should be noted that the final outcome of this process will be subject to Essential Energy approval, and may result in further changes, modifications, removal or creation of easements as required by this approval.

It is therefore recommended that Council:

- (a) approve the proposed road widening of McDiarmid Street affecting Lots 1000, 1012 and 1013 in DP1256577 on Bradwardine Road and Corporation Avenue, Robin Hill and dedicate to the public as public road.
- (b) authorise the General Manager to sign any documentation necessary for the creation or release of easements for overhead powerlines.

FINANCIAL IMPLICATIONS:

Funding for this item is contained within existing budgets.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 2: A smart and vibrant economy.

Strategy 2.1 Support local business and industry.

Objective 4: Enabling sustainable growth.

Strategy 4.1 Facilitate development in the region that considers the current and future needs of our community.

Objective 6: Community leadership and collaboration.

Strategy 6.4 Meet legislative and compliance requirements.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

1. Attachment 1_ D P 1256577 [8.4.3.1 - 2 pages]
2. Attachment 2 Preliminary Plan [8.4.3.2 - 1 page]

**8.4.4. PROPOSED COMPULSORY ACQUISITION - LOT 33
DP1259483 THE BRIDLE TRACK, BRUINBUN, FOR THE
PURPOSE OF ROAD WIDENING**

File No: 25.00283

RECOMMENDATION:

That Council:

- (a) proceed with the compulsory acquisition of Lot 33 in DP1259483 on The Bridle Track at Bruinbun for the purpose of road widening in accordance with the provisions of the Roads Act 1993 and the Land Acquisition (Just Terms Compensation) Act 1991; and
- (b) make application to the Minister and/or Governor for approval to acquire Lot 33 in DP1259483 by compulsory process under section 177(1) of the Roads Act 1993,
- (c) apply for a reduction in the minimum period to 60 days for the acquisition to take place
- (d) Not seek transfer of mineral rights.

REPORT:

Council would be aware of the proposal to reinstate 4-wheel drive access to Hill End via The Bridle Track by realigning the road around Monaghan's Bluff, with the State Government providing funding for this purpose. Following a resolution of Council at its meeting of 17 April 2019 (see **attachment 1**), a registered surveyor was engaged to prepare a plan of acquisition of part of Lot 3 in DP252350 for road widening purposes. The plan has been prepared and is included as **attachment 2**.

The owner of Lot 3 in DP252350 passed away intestate, meaning that no will was in place. Following twelve months of consultation with the solicitor dealing with the estate, Council has been unable to achieve any agreement from potential beneficiaries or parties related to the estate, and the timeframe for likely settlement is still unknown. Advice to Council indicates that the matter is likely to be best resolved through the compulsory acquisition process.

It is therefore recommended that Council:

- 1. Proceed with the compulsory acquisition of Lot 33 in DP1259483 on The Bridle Track at Bruinbun for the purpose of road widening in accordance with the provisions of the Roads Act 1993 and the Land Acquisition (Just Terms Compensation) Act 1991; and
- 2. Make application to the Minister and/or Governor for approval to acquire Lot 33 in DP1259483 by compulsory process under section 177(1) of the Roads Act 1993.

The application to include:

- (i) A reduction in the minimum period to 60 days for the acquisition to take place.

- (ii) No transfer of mineral rights.

FINANCIAL IMPLICATIONS:

Funding for this item is contained within existing budgets.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 4: Enabling sustainable growth.

Strategy 4.2 Provide safe and efficient road, cycleway and pathway networks to improve accessibility.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

1. Report to the Council Meeting of 17 April 2019 and Minute thereof [8.4.4.1 - 3 pages]
2. Proposed Plan of Acquisition [8.4.4.2 - 2 pages]

DIRECTOR CULTURAL AND COMMUNITY SERVICE'S REPORT

The following reports are presented for Council's consideration.

Yours faithfully



A Cattermole
**DIRECTOR
CULTURAL AND COMMUNITY SERVICE'S**

**8.5.1. BATHURST REGIONAL YOUTH COUNCIL - FOOD & FLIX,
15 NOVEMBER 2019**

File No: 11.00020

RECOMMENDATION:

That the information be noted.

REPORT:

Bathurst Regional Youth Council held "Food & Flix" at the Bathurst Adventure Playground on Friday 15 November 2019 from 6.30pm - 9.45pm. This was a community event that featured an outdoor cinema with a free screening of "Willy Wonka and the Chocolate Factory" from 8pm - 9.45pm. Free activities were provided, including a jumping castle and face painting.

The Youth Council set up a stall selling reusable coffee cups and straws. The Youth Council also engaged with the community giving away water-saving shower timers and reusable shopping bags. A variety of local food vendors were in attendance, with many families also choosing to bring along their own picnic dinner. Youth Councillors received great experience with event planning, promotion and delivery.

Food & Flix was highly successful with approximately 700 people attending.

FINANCIAL IMPLICATIONS:

Funding for this item is contained within existing budgets

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 1: Our sense of place and identity.

Strategy 1.3 Enhance the cultural vitality of the region.

Objective 5: Community health, safety and well being.

Strategy 5.2 Help make the Bathurst CBD, neighbourhoods and the region's villages attractive and full of life.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

Nil

8.5.2. BATHURST REGION DESTINATION MANAGEMENT PLAN 2019-2024

File No: 20.00299

RECOMMENDATION:

That Council:

- (a) Adopt the Bathurst Region Destination Management Plan 2019-2024.
- (b) Use the Bathurst Region Destination Management Plan to prioritise resources and actions.
- (c) Note that it currently reviews the Bathurst Destination Brand Implementation quarterly which will now include monitoring progress of the Destination Management Plan.

REPORT:

Council, at its meeting of 16 October 2019, resolved that the draft Bathurst Region Destination Management Plan 2019-2024 be placed on public exhibition for a period of 28 days. A copy of the draft Bathurst Region Destination Management Plan was provided at the meeting held 16 October 2019 (DCCS Report #4).

The draft Bathurst Region Destination Management Plan was placed on public exhibition from Thursday 17 October 2019 until Thursday 14 November 2019. The draft plan was made available to members of the public at the following locations during the 28-day public exhibition period encouraging review and comment:

- Council website www.bathurst.nsw.gov.au
- Bathurst region tourism website www.bathurstregion.com.au
- Bathurst Visitor Information Centre
- Council's Civic Centre (Ground Floor and First Floor)
- Council's Cultural Facilities (Art Gallery, Bathurst Library, BMEC, Australian Fossil & Mineral Museum, National Motor Racing Museum, Chifley Home & Education Centre)
- Copies were provided to all those who participated in the consultation process (email or mail out).

A notice was placed in the Council Notices in the Western Advocate Newspaper, to further advise of the public display of the document.

At the closing date for submissions, four responses had been received with one additional response received on Friday 15 November. These responses raised the following issues:

Submission	Council Response	Action
NPWS Hill End business plan will link to many key areas identified in the DMP	Council will work in partnership with NPWS through BVIC and other	No change to Plan

Submission	Council Response	Action
and offer a partnership opportunity	sections with consultation regarding the draft Hill End business plan	
Section 1.4 – add Abercrombie Caves to NPWS stakeholder areas	Abercrombie Caves had been identified in other sections but were an omission at 1.4	Reference added to section 1.4 of DMP. No material changes.
Hill End identified as offering potential to actions 1.14, 1.29, 1.30, 2.13-17, 2.1, 2.6, 2.7, 3.21 and NPWS key stakeholder	NPSW are identified as key stakeholder (section 1.4) and specifically at action 2.14. Successful implementation of the DMP relies on ongoing stakeholder engagement and product development in which NPWS will work in partnership with Council through BVIC and other sections	No change to Plan
Improved signage – both directional and at event facilities – offer an opportunity for supporting and improving the Bathurst region	Signage is identified at section 6.3 of the DMP and the need for review, development and improvement at action items 1.2, 4.6, 4.7 & 4.8. Specific outcomes will be developed to implement these action items	No change to Plan
Education and Sports tourism should be a strong focus of the DMP	Educational tourism is identified at sections 4.3 and 6.5.6 of the DMP and at action item 1.12. Sports tourism is identified at sections 4.3 and 6.5.1 of the DMP and at action item 1.13. These areas are specifically identified as important and will also be included in the updated tourism marketing plan. Both areas also overlap to the broader strategic objectives of the DMP.	No change to Plan
Mount Panorama activities could be expanded outside of race periods	This issue is discussed extensively throughout the DMP including in sections 2.5, 2.6, 4.3, 6.5.4 and 8.5 as well as at action items 1.11, 1.18, 1.19, 1.20, 1.21, 1.22, 1.23 & 1.24.	No change to Plan
The Town Square offers an opportunity for enhanced tourism and festival	The DMP recognises the importance of the Town Square in the context of	No change to Plan

Submission	Council Response	Action
opportunities	cultural heritage (section 6.5.4 and appendix 3) and in the Action items at 2.6-2.12, 2.23, 2.24. These actions will be further informed by the Town Centre Master Plan when completed.	
No mention of Bathurst Greyhound Club in product audit (Appendix 3)	Sporting clubs and facilities were broadly identified throughout the DMP.	Reference added to appropriate section of Plan. No material changes.
'Tent Town' not listed as an accommodation provider in section 3.2.		Reference added to appropriate section of Plan. No material changes.
All Key Performance Indicators in Appendix 1 should have numeric goals.	The KPIs specified are noted as a mixture of hard and soft indicators and are to be specifically linked to programs, initiatives and to the annual Operating Plan of Council which sets hard numeric targets against all KPIs on an annual basis.	No change to Plan
Commending the inclusion of Accessible Tourism within the Plan	Addressed at Sections 4.3 and 6.6 and Action Item 3.17	No change to Plan
Develop the Bathurst Visitor Information Centre to develop an immersive way to tell the stories of Bathurst	This is discussed at section 6.5 and at Action Plan item 4.18. Heritage activation is repeatedly referenced, and a number of programs and initiatives are to be developed in order to achieve the strategic objectives of the DMP	No change to Plan

All items raised in submissions that may constitute future actions, product development or marketing activity aligned to the strategic objectives of the Plan have been noted for inclusion in BVIC's three-year Marketing Plan and annual Operating Plan. A small number of grammatical and typing errors were also identified in submissions and amended with no material alteration to the Plan. There are no other changes required to be made to the Plan.

It is recommended that Council adopt the Bathurst Region Destination Management Plan 2019-2024 and use it to prioritise resources and actions. Council currently reviews the Bathurst Destination Brand Implementation quarterly, which will now include monitoring progress of the Destination Management Plan.

FINANCIAL IMPLICATIONS:

Funding for this item is contained within existing budgets. Ongoing implementation of the Action Plan will be included in future draft budgets for consideration by Council.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

- Objective 1: Our sense of place and identity**
Strategy 1.1 Respect, protect and promote the region’s Aboriginal heritage assets
Strategy 1.2 Protect, enhance and promote the region’s European heritage assets and character
Strategy 1.3 Enhance the cultural vitality of the region
- Objective 2: A smart and vibrant economy**
Strategy 2.1 Support local business and industry
Strategy 2.2 Grow local employment, investment and attract new businesses by nurturing and supporting entrepreneurs, partnerships and local skill development
Strategy 2.3 Develop Bathurst as a Smart City
Strategy 2.5 Support Mount Panorama as a premier motor sport and event precinct
Strategy 2.6 Promote our City and Villages as a tourist destination
- Objective 4: Enabling sustainable growth**
Strategy 4.3 Ensure services, facilities and infrastructure meet the changing needs of our region
- Objective 5: Community health, safety and well being**
Strategy 5.2 Help make the Bathurst CBD, neighbourhoods and the region’s villages attractive and full of life
Strategy 5.4 Make our public places safe and welcoming
- Objective 6: Community leadership and collaboration**
Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region
Strategy 6.2 Work with our partners and neighbouring councils to share skills, knowledge and resources and find ways to deliver services more efficiently
Strategy 6.6 Manage our money and our assets to be sustainable now and into the future
Strategy 6.8 Implement opportunities for organisational improvement

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

Attachment 1: Bathurst Region Destination Management Plan 2019-2024

8.5.3. BATHURST LIBRARY - NSW PUBLIC LIBRARY FUNDING

File No: 21.00054, 16.00059

RECOMMENDATION:

That Council provide support to the campaign mounted by NSW Public Libraries Association, *Renew Our Libraries Phase Two*, to develop a sustainable funding model for NSW libraries.

REPORT:

At the ordinary meeting of Council held on 15 August 2018, Council resolved to provide support to the campaign mounted by the NSW Public Library Association, *Renew Our Libraries*, for increased State funding to Local Government for public libraries.

The NSW Public Libraries Association (NSWPLA) have advised that the 2018/2019 *Renew Our Libraries* campaign was a success, delivering an increase of \$60million in state funding for NSW public libraries over the quadrennial period 2019/2020 to 2022/2023.

NSWPLA has recently launched *Renew Our Libraries Phase Two*, focusing on the future sustainability of library funding through cost of living indexation and protection via inclusion of the new funding arrangements in library legislation. This step is to ensure councils will receive the increased level of library funding in perpetuity, and in step with future cost of living increases.

NSWPLA has requested the support of all NSW Councils in its advocacy to State Government to develop a sustainable funding model for NSW libraries. The objectives of the campaign are to:

- Index the total increased state funding contribution to the Consumer Price Index (CPI) in perpetuity.
- Protect the new funding commitment by including all elements of the new state funding model in legislation through the Library Act and/or the Library Regulation.

NSWPLA have recommended that Council:

- Write to the Hon. Don Harwin, Minister for the Arts and the Hon. Walt Secord, Shadow Minister for the Arts, calling for bi-partisan support for Consumer Price Index (CPI) indexation of state funding for NSW public libraries, as well as legislation of all elements of the 2019/2020 to 2022/2023 NSW state funding model.
- Endorse the distribution of the NSW Public Libraries Association NSW library sustainable funding advocacy information in Council libraries, as well as involvement in any actions proposed by the Association.

FINANCIAL IMPLICATIONS:

Funding for this item is contained within existing budgets

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 1: Our sense of place and identity.

Strategy 1.3 Enhance the cultural vitality of the region.

Objective 5: Community health, safety and well being.

Strategy 5.2 Help make the Bathurst CBD, neighbourhoods and the region's villages attractive and full of life.

Strategy 5.3 Help build resilient, inclusive communities.

Strategy 5.5 Plan and respond to demographic changes in the community.

Objective 6: Community leadership and collaboration.

Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

Nil

8.5.4. HILL END ARTISTS IN RESIDENCE PROGRAM CELEBRATES 20 YEARS

File No: 21.00092

RECOMMENDATION:

That the information be noted.

SUMMARY:

The Hill End Artists in Residence Program (Hill End AIR) celebrates 20 years since its formal inception in 1999. The Hill End AIR Program aims to provide an opportunity for creative development in all areas of the visual arts and at the same time to contribute to the long-term cultural and economic development and sustainability of Hill End.

Officially launched in 1999, 370 residencies have been undertaken by 325 artists working in a variety of mediums including painting, drawing, photography, ceramics, textiles, new media, film, performance, creative writing, composition, sound and sculpture.

REPORT:

BACKGROUND

The historic former gold-mining village of Hill End has played a significant role in the canon of Australian art dating back to the 1940s. The Hill End AIR Program continues this tradition, giving contemporary Australian artists the chance to experience and respond to the historically charged landscape of Hill End.

The program operates out of two historic cottages located within the Hill End Historic site. These cottages are owned by NSW National Parks & Wildlife Service (NPWS) and leased by Council on a five-year basis.

Haefligers Cottage

Haefligers Cottage and studio belonged to artist Jean Bellette and her husband, art critic and painter Paul Haefliger, who purchased the cottage in the early 1950s. In 1991, Bellette bequeathed the cottage to NPWS on condition it become an artists' retreat. The Cottage has been home to noted Australian artists John Olsen and Brett Whiteley in the 1960s and 70s.

Murrays Cottage

Murrays Cottage was added to the Hill End AIR program in 2002. The cottage was formerly the Hill End residence of artist Donald Friend from 1947 – 1957 and was visited by many famous Australian artists including Russell Drysdale, Margaret Olley and Jeffrey Smart.

PROGRAM MANAGEMENT

Bathurst Regional Art Gallery (BRAG) manages the Hill End AIR Program with on-site support from the NPWS. Administration of the program, including applications, scheduling, web maintenance, media and advertising, public and curatorial program development, and cottage and garden maintenance is overseen by BRAG.

Selection

Artists are selected through a competitive application process overseen by the Hill End AIR selection panel. This panel comprises BRAG staff, the NPWS staff and independents with specialist industry experience (artists, curators, arts administrators).

International Artists

The Hill End AIR Program attracts artists from across the country, and increasingly from around the world. To date, artists from England, Ireland, USA, Finland, Switzerland, Cambodia, France, and Germany have participated. In 2017, BRAG embarked on a partnership with the French Consulate in Sydney to extend the French Artist in Residence (FAR) program to Hill End.

ARTISTIC PROGRAM

From 1999 to date, BRAG has presented 88 solo and group exhibitions featuring the work of the artists of Hill End, including two the development of two Hill End AIR touring exhibitions. From 2006 to 2016 BRAG also curated 65 exhibitions at the Jean Bellette Gallery, located in the former Hill End Visitor Centre. In addition, BRAG co-ordinates a range of public programs in Hill End, including school visits, artist talks, performances, installations, workshops, open days, and curatorial content for The End Festival.

COLLECTION

A focus of BRAG's Collection Policy is to identify and purchase works, both historic and contemporary, that reflect artistic engagement with the Hill End experience. BRAG's collection of Hill End works currently numbers 510 works, representing one quarter of the collection to the value of \$1,750,000.

FINANCIAL IMPLICATIONS:

Funding for this item is contained within existing budgets.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 1: Our sense of place and identity.

Strategy 1.3 Enhance the cultural vitality of the region.

Objective 2: A smart and vibrant economy.

Strategy 2.6 Promote our City and Villages as a tourist destination.

Objective 5: Community health, safety and well being.

Strategy 5.3 Help build resilient, inclusive communities.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

Nil

8.5.5. DESTINATION BRAND IMPLEMENTATION QUARTERLY REPORT - DECEMBER 2019

File No: 20.00299

RECOMMENDATION:

That the information be noted.

Council, at its meeting held 13 December 2017, resolved to receive Quarterly destination brand strategy implementation progress reports, outlining the performance monitoring data as described in the report.

The following information is provided as an update on the implementation of the Bathurst Destination Brand as at December 2019:

Destination Brand Implementation	Action
Destination Website	<p>The new Visit Bathurst destination website is continuing to perform above expectations with a comparison of the new site usage in the current financial year against the corresponding period in the previous year being:</p> <p>USERS = 42,807 (+130%) PAGEVIEWS = 105,323 (+70.91%) BOUNCE RATE = 68.48% (+26.78%)</p> <p>These figures demonstrate that more visitors continue to utilise the site. The rise in the bounce rate (or single page visits to the site) reflects the targeted digital marketing undertake from July-August 2019 which directed visitors to a single page.</p> <p>A quotation to create a new 'Members Area' of the website to provide enhanced access to statistics, updates and training to BVIC's partners in the regional tourism industry has been accepted. Development commences 2 January 2020.</p>
Online Booking Platform	<p>The new booking engine continues to deliver sales and to be particularly effective in assisting smaller operators and events increase sales. Gross sales of \$15,823 generated 18/19 YTD.</p>
Curated Online Content	<p>BVIC is responsible for ongoing content creation with an overarching content strategy completed. A new photo shoot captured still imagery and video including drone footage of the region's villages in</p>

Destination Brand Implementation	Action
	November 2019.
Graphic Design of Branded Collateral	All primary elements identified in the Brand style guide have been created by a local graphic designer, with a range of collateral. The latest additions to this collateral were the design and installation of new graphics for the BVIC windows facing the Great Western Highway in November/December 2019.
Signage	The re-skinning of four highway billboards (located on Mitchell Highway, Orange Road, Blayney Road and Marangaroo) will occur in 2020.
Touring Trail App	The Bathurst 'Step Beyond' app was officially launched by the Mayor and local celebrity Grant Denyer on 14 November 2019. There have been 4,117 uses of the app to date. Additional content will be developed in 2020.
Brand Awareness Campaign	A new consumer eDM (electronic direct mail) commenced in November 2019 to provide a monthly newsletter to 3500+ subscribers. A digital campaign to raise awareness of the events and offerings of the Bathurst region's villages commenced in November 2019.
BVIC	Exterior window displays were installed in November/December 2019 to promote Bathurst events calendar. External pillars were painted to accompany this. New lighting was installed in the reception area and designs and quotations are being sought on the reception counter and workstation area with works to occur February/March 2020. The 'Cotswolds Store' was launched at BVIC on 25 October. The Mayoral Welcome Wagon was held at BVIC on 19 November 2019 with 28 attendees.
Public Relations	A tourism media event held at 'Tramsheds' in Sydney was coordinated between BVIC and Sydney based firm Res Publica on 27 November 2019 and attended by Council's Manager Tourism & Visitor Services, Tourism Marketing Coordinator and Manager BMEC. 14 journalists attended this event which was to raise awareness of the Bathurst region's events and cultural calendars particularly Inland Sea of Sound and the opening of the Rail Museum whilst also promoting regional produce and the destination to the short stays market

Destination Brand Implementation	Action
Visitor Guide/Destination Planner	The 2020 Bathurst region Destination Planner is being finalised, with quotations received for printing and delivery. The Planner will be expanded from 2019 with additional editorial and increased advertising being taken up by local businesses. It will be available in January 2020.
Destination Management Plan	The draft Destination Management Plan 2019-2024 was placed on public exhibition from 17 October to 14 November with five responses received. No material changes to the draft Plan were required by these public submissions.

Further reports will be provided quarterly to Council on the implementation of the Bathurst Destination Brand.

FINANCIAL IMPLICATIONS:

Funding for this item is contained within existing budgets

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 1: Our sense of place and identity.

Strategy 1.2 Protect, enhance and promote the region's European heritage assets and character.

Strategy 1.3 Enhance the cultural vitality of the region.

Objective 2: A smart and vibrant economy.

Strategy 2.1 Support local business and industry.

Strategy 2.6 Promote our City and Villages as a tourist destination.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

Nil

9. REPORTS OF OTHER COMMITTEES

10. NOTICES OF MOTION

11. RESCISSION MOTIONS

12. COUNCILLORS / DELEGATES REPORTS

12.1. Councillors Meeting with Community Groups/Representatives - 13 November 2019

File No: 11.00019

RECOMMENDATION:

That the information be noted.

REPORT:

Present: Councillors Bourke (Chair), Christian, Hanger, Morse, North

Apologies: Councillors Aubin, Fry, Jennings, Rudge

1. Stephen Birrell – Tremains Mill (22.01124)

Stephen Birrell, Glenda Birrell

Discussions included:

- Development of site – intention is to create something that is a credit for Bathurst.
- Spoke about history of the site.
- Machinery in old mill, most of which is still functional.
- Developing Australian Milling Museum, unique.

Council Assistance:

- Provision of bins in public area for waste including collection.
- Extend Winter Festival footprint to include lower Keppel Street.
- Allow them to keep the grassed areas alive (15 minutes watering at 1.00am).
- Provide strong support for Australian Milling Museum grant application for building of the museum.
- Support request for angled parking to be extended in lower Keppel Street.
- Come and support the businesses on the site.

2. Charles Sturt University (11.00019)

Vice Chancellor Andrew Vann

Discussions included:

- Gave an update on the changes in the University education area.
- Students are looking for different styles of education to previous years.
- Potential for greater integration within city of Bathurst.
- Provided an update on the enrolments at CSU.

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 4: Enabling sustainable growth.

Strategy 4.3 Ensure services, facilities and infrastructure meet the changing needs of our region.

Objective 6: Community leadership and collaboration.

Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region.

COMMUNITY ENGAGEMENT:

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

ATTACHMENTS:

Nil

13. RESOLVE INTO CONFIDENTIAL COMMITTEE OF THE WHOLE TO DEAL WITH CONFIDENTIAL REPORTS

13.0. RESOLVE INTO CONFIDENTIAL COMMITTEE OF THE WHOLE

Recommendation: That:

- (a) Council resolve into closed Council to consider business identified, together with any late reports tabled at the meeting.
- (b) Pursuant to section 10A(1)-(3) of the Local Government Act 1993, the media and public be excluded from the meeting on the basis that the business to be considered is classified confidential under the provisions of section 10A(2) as outlined above.
- (c) Correspondence and reports relevant to the subject business be withheld from access.

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005:

- 1. In accordance with Section 9(2A) of the Local Government Act 1993, it is the opinion of the General Manager that the following business is of a kind as referred to in section 10A(2) of the Act and should be dealt with in a part of the meeting closed to the media and public.
- 2. In accordance with Section 10B(1) it is considered that discussion of the matter in open meeting, would on balance, be contrary to the public interest.
- 3. In accordance with Section 10A(4) members of the public are invited to make representations to the Council as to whether the matters should or should not be dealt with in Confidential Committee.

13.1. DIRECTOR ENVIRONMENTAL PLANNING AND BUILDING SERVICE'S REPORT

13.1.1. TENDER - BATHURST TOWN CENTRE MASTER PLAN

Reason: 10A (2) (c) Contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business, and Commercial information of a confidential nature that would, if disclosed, (i) prejudice the commercial position of the person who supplied it, (ii) confer a commercial advantage on a competitor of the Council.

This item relates to the proposal to prepare a Master Plan for the Bathurst Town Centre.

13.2. DIRECTOR CORPORATE SERVICES AND FINANCE'S REPORT

13.2.1. AGREEMENT - ELTON JOHN CONCERT

Reason: 10A (2) (c) Contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business, and Commercial information of a confidential nature that would, if disclosed, (i) prejudice the commercial position of the person who supplied it, (ii) confer a commercial advantage on a competitor of the Council.

This item relates to the proposal to enter into a Right of Use Agreement with the promoters of the Elton John Concert.

13.2.2. PROPOSED NEW COMMERCIAL LEASE - LOT 14 DP1089964 KNOWN AS 13 PJ MOODIE DRIVE, BATHURST AERODROME

Reason: 10A (2) (d) (i) Contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. Discussion of the matter in open council would, on balance, be contrary to the public interest as it would prejudice the commercial position of the person who supplied it.

This item relates to the proposal to enter into a new commercial lease agreement for Lot 14 DP1089964 known as 13 PJ Moodie Dive, Bathurst Aerodrome.

13.2.3. RENEWAL OF LICENCE AGREEMENT - PART LOT 1 SEC 6 DP 758065 - MACHATTIE PARK COTTAGE - MITCHELL CONSERVATORIUM INC

Reason: 10A (2) (d) (i) Contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. Discussion of the matter in open council would, on balance, be contrary to the public interest as it would prejudice the commercial position of the person who supplied it.

This item relates to the proposal to enter into a lease agreement for Part Lot 1 Sec 6 DP 758065 - Machattie Park Cottage with Mitchell Conservatorium Inc.

13.2.4. REQUEST TO PURCHASE 169 COLLEGE ROAD, SOUTH BATHURST

Reason: 10A (2) (d) (i) Contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. Discussion of the matter in open council would, on balance, be contrary to the public interest as it would prejudice the commercial position of the person who supplied it.

This item relates to the proposal to purchase property located at 169 College Road, South Bathurst.

13.3. DIRECTOR ENGINEERING SERVICE'S REPORT

13.3.1. WATER SECURITY PROJECT PROCUREMENT

Reason: 10A (2) (c) Contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business, and Commercial information of a confidential nature that would, if disclosed, (i) prejudice the commercial position of the person who supplied it, (ii) confer a commercial advantage on a competitor of the Council.

This item relates to the proposed tender for water security construction projects.

13.3.2. TENDER FOR CONSTRUCTION OF BATHURST CENTRAL BUSINESS DISTRICT CCTV STAGE 2 - CONDUIT NETWORK

Reason: 10A (2) (c) Contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business, and Commercial information of a confidential nature that would, if disclosed, (i) prejudice the commercial position of the person who supplied it, (ii) confer a commercial advantage on a competitor of the Council.

This item relates to the proposed tender for the construction of the Bathurst Central Business District CCTV Stage 2 Conduit Network.

13.3.3. CONSTRUCTION OF MULTI USE SPORTS COURTS - WATTLE FLAT AND PERTHVILLE VILLAGE SQUARE

Reason: 10A (2) (d) (i) Contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. Discussion of the matter in open council would, on balance, be contrary to the public interest as it would prejudice the commercial position of the person who supplied it.

This item relates to the tender for construction of multi-purpose courts at Wattle Flat and Perthville Village Square.

14. RESOLVE INTO OPEN COUNCIL

15. ADOPT REPORT OF THE COMMITTEE OF THE WHOLE

16. MEETING CLOSE