



You are invited to attend the next Wollondilly Shire Local Planning Panel Meeting:

Date: Thursday, 28 May 2020
Time: 5.30pm
Location: Wollondilly Shire Local Planning Panel meeting is to be held remotely using audio visual link and is open to members of the community via webcast

AGENDA

Wollondilly Shire Local Planning Panel Meeting

28 May 2020

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1 OPENING**2 RECORDING OF THE MEETING**

The electronic recording of the Local Planning Panel meeting and the use of electronic media during the proceedings is not permitted. This includes devices such as laptops, mobile phones, tape recorders and video cameras.

3 WEBCAST NOTICE

Members of the public are advised, that Local Planning Panel meetings are recorded and webcast live in line with provisions under the Environmental Planning & Assessment Act 1979 No. 203. This notice is made as required under Section 18 of the Privacy and Personal Information Protection Act 1998 (PPIPA). The webcasts are publicly available for viewing on Council's website.

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4 ACKNOWLEDGEMENT OF COUNTRY

The Chair will acknowledge the traditional Custodians of the Land.

5 APOLOGIES AND LEAVE OF ABSENCE REQUESTS**6 DECLARATION OF INTEREST**

7 LOCAL PLANNING PANEL REPORTS – SUSTAINABLE AND BALANCED GROWTH

7.1 SUPPLEMENTARY REPORT - CONCEPT DEVELOPMENT APPROVAL FOR A CEMETERY, COMPRISING OF 27,784 PLOTS, EARTHWORKS, LANDSCAPING, WATER STORAGE, ROADS AND CAR PARKING AND APPROVAL FOR BUILDING ENVELOPES

File Number: 10621#174

Reason for LPP Referral: Ministerial Direction under section 9.1 of the Environmental Planning and Assessment Act 1979 - Local Planning Panels Direction – Development Applications schedule 1(2)(b)
DA No: DA/2018/780/1

Lot & DP – Subject Site: Lot 2, DP 2503559 – 430-490 Douglas Park Drive, Douglas Park

Proposal: Concept development approval for a Cemetery, comprising 27,784 plots, earthworks, landscaping, water storage, roads and car parking, and approval for building envelopes.

Zoning: RU2 Rural Landscape

Permissibility: Permitted with consent

Cost of Development: \$20,284,000.00

Applicant: Benima Pty Ltd

Notification: Advertised for 28 Days from the 24 January to the 22 February 2019 and re-notified with amended plans on the 4 to the 19 September to adjoining owners and previous submitters.

Submissions: 53 unique submissions

Variations: Nil

Site Inspection: 23 January 2019

Recommendation: Approval subject to conditions of consent.

EXECUTIVE SUMMARY

Approval is sought for concept development approval for a cemetery including earthworks, landscaping, water storage, roads, car parking and approval for building envelopes.

On 13 February 2020 the Wollondilly Local Planning Panel deferred consideration of the application pending submission of additional information. The purpose of this report is to provide an assessment of the submitted information.

It is recommended that the concept development application be approved subject to conditions.

RECOMMENDATION

That Development Application DA/2018/780/1 for concept approval for 430-490 Douglas Park Drive Douglas Park be approved subject to conditions of consent.

REPORT

Background

DA/2018/780/ was lodged with Council on 19 December 2018.

The proposal seeks a concept development approval (Division 4.22 of the EPA Act 1979) for a multi denominational cemetery development. This includes the demolition of the existing dwelling and ancillary structures located on the site. The proposed cemetery will include an administration building, family vaults, a mausoleum, and maintenance, and amenity facilities with a total capacity of 27,784 single depth burial plots. Future development applications will include the following works:

- Construction of 253 parking spaces,
- Internal access roads,
- Stormwater management,
- Earthworks,
- Entry to the site including all road works and
- Landscaping around the boundaries of the property, etc.

Public access to the site is between 9am and 5pm, 7 days a week, with burials to occur between 10am and 4pm (typically one to two burial per day). The principal access to the site is via Douglas Park Drive and a maintenance access is to be provided on Mitchell Place (no public access).

The application was advertised for 28 days from 24 January 2019 to 22 February 2019.

Additional information was submitted during the assessment and as such the amended plans were required to be re-advertised from 4 to 19 September 2019.

Wollondilly Local Planning Panel consideration

The Wollondilly Local Planning Panel considered the application at its meeting of 13 February 2020 and resolved to defer consideration of the application and to request the applicant to lodge additional information

The Panel resolved as follows:

1. *The Preliminary Review Study and Site Assessment (Red Earth Geosciences, 25 September 2018) report has identified that the site has insufficient soil depth over its entire surface to facilitate a conventional cemetery. While the applicant indicated in relation to the earth works concept application that no filling would be imported for burial purposes, further information is required specifying the onsite sources of the filling, the proposed areas to be filled, the depth of filling and the total volume of fill.*
2. *The Traffic Impact Assessment (TRAFFIX Traffic and Transport Planners, December 2018), must be revised to address:*
 - *likely sources of vehicular traffic*
 - *a strategy for managing vehicle movement for mourners attending the cemetery.*
 - *potential queuing on Douglas Park Drive including obstruction of the gorge*
 - *the suitability of the right turn in only option and the impact this will have on unwanted U-turns at the Mitchell Place intersection or in Mitchell Place.*
3. *An Evacuation Strategy is required to be determined in the event of a bushfire or extreme and catastrophic conditions.*
4. *A Staging Plan detailing the scope of works to be completed within each stage of the development is required.*
5. *Confirmation should be provided by the bush fire consultant that the vegetation buffer proposed does not constitute a significant bush fire risk to the proposed cemetery or to the residential properties in Mitchell Place.*

Consultation

Council's health officer and development engineer have been consulted following the Local Planning Panel meeting, and their comments have been incorporated into this report.

Assessment of additional information required by LPP decision:

Earthworks and fill

The applicant has confirmed that no fill will be imported onto the site as part of the development. Council's health officer is satisfied that the soil depth will be achieved by the fine ripping of the weathered rock profile.

It appears that this will be a staged approach, ripping one section at a time. There are 14 sections and it appears from the information supplied that each site will take 2-3 weeks to rip dependent on weather, with the resulting soil being stockpiled upon the next site ready for use. It is assumed that this will occur over the life of the project. Stockpiling will require significant sediment and erosion controls to be in place. This can be conditioned in future consents.

As the ripping of rocks will result on deceased persons literally being laid on top of a rock layer, it is recommended that groundwater wells are placed in strategic locations, and regularly monitored to ensure that there is no migration of body exudates along the rock platform and offsite. This can be conditioned in future consents.

The acoustic report has been amended to include the noise associated with the ripping of rocks. Future development consents will include appropriate conditions to ensure that the ripping only occurs during daylight hours as there may be significant noise impacts to neighbouring residences during this process.

Council's development engineer raised no concerns and commented as follows:

The response from the applicant with regards to the earthworks and traffic components has been reviewed. The response to the earthworks highlights the use of the rip and replace option, as outlined in the geological report, for which the report has outlined a reasonable methodology to achieving the required soil profile.

No further comments on the amended traffic report submitted on 24 March 2020.

It is considered that any potential issues with the proposed earthworks can be satisfactorily addressed through appropriate conditions in subsequent development applications that involve physical works.

Traffic Impact Assessment

The additional work outlined in the March report adequately addresses the planning panel's comments. It highlights that traffic impacts can be largely mitigated with standard treatment measures for the development site entrance. No other treatment measures are likely to be needed. The impacts to the wider road network stands unchanged from the previous assessment.

It is recommend that the concept development for the cemetery be supported based on the December 2018 impact assessment as amended by the March 2020 report. Conditions relating to traffic management measures and specific traffic entry treatments should be included with future development applications for cemetery operations.

The specific issues raised by the Panel in the 13 February meeting are addressed below:

- *likely sources of vehicular traffic*

The March report has included detailed assumptions on source nodes for trip generation analysis, being village and town centres and location of services such as funeral homes and churches, and are tabled in the report. Route assignments from those nodes have been determined using standard traffic routing principles from source nodes to the development. This is based on vehicles traveling along the highest order road to the development site. Routes from Camden have been included that use Douglas Park Drive via the Douglas Park Weir. This route will be discussed with the other responses.

Council's engineers are satisfied that the assumptions and analysis in the report adequately determine the likely sources of traffic. There is no change to the impacts of traffic on the surrounding network and no additional conditions to be considered for the concept DA.

- *a strategy for managing vehicle movement for mourners attending the cemetery.*

Proposed management measures are outlined in item 2 of the March report. These measures largely involve notifying visitors of access arrangements prior to attending the site through website notices, management plans and the like. While this management method can't be considered to control all visitor access to the site, it may offer success in managing hearse access and any vehicles following in a cortege. Further, hearse access along the south bound route from Douglas Park weir would likely be avoided by operators due to the winding and steep geometry of this section of road. Hearse access and routing will ultimately determine any procession access to the site.

Council's engineers recommend the provision of a strategy of managing vehicle access plan remain and be conditioned as part of future development application for cemetery operations.

- *potential queuing on Douglas Park Drive including obstruction of the gorge*

Recent traffic counts performed by Traffix are used to support the historic record counts held by Council. These counts have been modelled to determine the level of service along Douglas Park Drive at the site entrance. The use of a right turn lane treatment has determined a level of service "A" at the proposed entrance. This is considered satisfactory and will not significantly impact on traffic routes along Douglas Park and the Douglas Park weir.

The traffic routing demonstrates that a significant percentage of traffic will attend the site from the south. A worst case scenario of all traffic attending a service via cortege is unlikely to create queuing to the Douglas Park weir.

- *the suitability of the right turn in only option and the impact this will have on unwanted U-turns at the Mitchell Place intersection or in Mitchell Place.*

Given the additional modelling supplied with the March report, Council's engineers are satisfied that removal of the turning restrictions, as proposed in the earlier report, will not result in any significant reduction of levels of service along Douglas Park Drive. This will also alleviate the possible u turn movements at Mitchell Place. Removal of any movement restrictions at the entrance should be supported.

Evacuation Strategy

An amended report has been submitted by Travers bushfire & Ecology which has a DRAFT Bushfire Emergency Management Evacuation Plan. This report addresses the bushfire emergency concerns. It is noted that the neighbourhood safe space for Douglas Park is the St Mary's Tower Retreat which is located across the road from the site and is within 1 kilometre of the site.

Staging Plan

A staging plan and a brief from the planning consultant has been submitted with the additional information. The staging plan will be approved as part of this development application.

Bush fire consultant advice on bush fire risk

The report by Travers Bushfire & Technology dated 1 May 2020 (**Attachment 1**) finds that the bushfire risk to the proposed cemetery and the residential properties in Mitchell Place is either low or moderate and is not significant.

1.2 Draft and/or Planning Agreements Entered or Offered to Enter into

No planning agreement has been entered into with this proposal.

1.3 Impact of the Development

Heads of Consideration	Comment
Natural Environment	Additional native landscaping will be installed on the site and existing significant flora is to be retained.
Built Environment	The built environment will not be detrimentally impacted by the proposal.
Social Impacts	Any social impacts can be managed with the proposed conditions of consent.
Economic development	The proposal will have a positive impact on the local economy.

1.4 Suitability of the Site

The site is suitable for the proposed development.

1.5 Submissions

The submissions were considered as part of the original report that was presented to the Panel on 13 February 2020. The report is included as Attachment 2.

An additional submission was received on 25 February 2020. The concerns raised relate to stormwater impacts and includes a request that the nature strip be planted with native landscaping.

It is anticipated that the quality and quantity of stormwater run-off will be appropriately managed by the significant landscaping proposed as well as the proposed stormwater management infrastructure. Council's Development Engineer has raised no concerns in this regard subject to the recommended conditions. .

Native landscaping is proposed and will be installed in accordance with the Vegetation Management Plan.

1.6 The Public Interest

The proposal has been assessed against the relevant environmental planning instruments and is deemed to be acceptable. The site is zoned to allow Cemeteries and it will provide burial plots for the local and greater community.

On this basis, the proposal is not considered to raise any issues that are contrary to the public interest.

1.7 Conclusion

Having regard to the provisions of section 4.15 of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be satisfactory.

Financial Implications

This proposal will require payment of a contribution based on the cost of works in accordance with the Wollondilly Development Contributions Plan, the cost of which will be determined and payable prior to the commencement of any works on the property.

The current amount payable is: \$202,840.00 (may be subject to change).

These figures are reviewed quarterly and in accordance with the provisions of the Contributions Plan and an updated figure must be obtained from Council at the time of payment.

ATTACHMENTS

1. Report on perceived bushfire risk to Mitchell Place - 1 May 2020 
2. Report from February 2020 
3. Minutes from February 2020 
4. Letter from Transport NSW 
5. Planning Consultant Response 
6. Civil Consultant Response 
7. Bushfire Consultant Response - Evacuation Plan 
8. Traffic Report 
9. Indicative Staging Plan 
10. Acoustic Response - Rock Removal 

RECOMMENDATION

That Development Application DA/2018/780/1 for 430 - 490 Douglas Park Drive, Douglas Park - Concept development approval for a Cemetery including earthworks, landscaping, water storage, roads and car parking and approval for building envelopes be approved subject to the following conditions of concept approval:

1. COMPLIANCE

These conditions are imposed to ensure that the development is carried out in accordance with statutory requirements, the conditions of consent and the approved plans to Council's satisfaction.

- (1) Development Consent is granted for **CONCEPT** development approval for a Cemetery. Including earthworks, landscaping, water storage, roads and car parking and approval for building envelopes at Lot: 2 DP: 250359, No. 430-490 Douglas Park Drive, Douglas Park.

NOTE: The grant of this Concept Approval does not authorise the carrying out of any physical construction works or development on any part of the subject site concerned pursuant to Division 4.4 - clause 4.22 (4) of the EPA Act 1979, unless consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site.

CONDITIONS

- (2) Future Development proposals shall not be inconsistent with the following approved plans

Plan name	Plan no	Author	Issue	Date
Cover Sheet	180911 DA000	Design Cubicle Pty Ltd	B	15.08.2019
Table of Contents	180911 DA100	Design Cubicle Pty Ltd	B	15.08.2019
Introduction to the Subject Site	180911 DA101	Design Cubicle Pty Ltd	B	15.08.2019
Existing Planning controls	180911 DA102	Design Cubicle Pty Ltd	B	15.08.2019
Proposal Summary	180911 DA103	Design Cubicle Pty Ltd	B	15.08.2019
Proposal Summary	180911 DA104	Design Cubicle Pty Ltd	B	15.08.2019
Plan of detail and contours over site	16116DS Sheet 1 of 1	JMD Development Consultants	A	09.11.2017
Site Plan Allocation	180911 DA201	Design Cubicle Pty Ltd	B	15.08.2019
Plan road & Building Setbacks	180911 DA202	Design Cubicle Pty Ltd	B	15.08.2019
Road layout and area location	180911 DA203	Design Cubicle Pty Ltd	B	15.08.2019
Detail access Douglas Park Drive & typical road section	180911 DA300	Design Cubicle Pty Ltd	B	15.08.2019
Site Allocation Layout	180911 DA400	Design Cubicle Pty Ltd	B	15.08.2019
Aerial 3D views	180911 DA401	Design Cubicle Pty Ltd	B	15.08.2019
Aerial 3D views	180911 DA402	Design Cubicle Pty Ltd	B	15.08.2019
On-site 3D views	180911 DA500	Design Cubicle Pty Ltd	B	15.08.2019
On-site 3D views	180911 DA501	Design Cubicle Pty Ltd	B	15.08.2019
On-site 3D views	180911 DA502	Design Cubicle Pty Ltd	B	15.08.2019
Administration building & Chapel	180911 DA600	Design Cubicle Pty Ltd	B	15.08.2019

Vaults. Urns & Ashes	180911 DA601	Design Cubicle Pty Ltd	B	15.08.2019
Family Vaults & Mausoleum	180911 DA602	Design Cubicle Pty Ltd	B	15.08.2019
Staging Plan	180911 DA 201	Design Cubicle Pty Ltd	C	03.03.2020

Except where varied by the following conditions:

(3) Future Development shall take place in accordance with the recommendations of the following reports:

- *Statement of Environmental Effects, Hogan Planning Pty Ltd, December 2018*
- *Geotechnical Investigation, Geotechnique Pty Ltd, 5 October 2019.*
- *Ground Water Report, red earth geosciences, 25 September 2018.*
- *Traffic Impact Assessment, traffix traffic & transport planners, December 2018.*
- *Waste water report, JMD Development Consultants, 16 August 2019.*
- *Flora and Fauna assessment, Travers bushfire & ecology, August 2019*
- *Vegetation Management Plan, Travers bushfire & ecology, July 2019.*
- *Heritage Due Diligence Assessment, Extent Heritage Advisors, 22 March 2019,*
- *Acoustic Assessment, Acoustic Logic, 30 November 2018,*
- *Bushfire protection assessment, Travers bushfire & ecology, July 2019*
- *Estimate Cost, Rider Levett Bucknall, December 2018.*
- *Planning letter, Hogan Planning Town Planning Consultants, 6 March 2020*
- *Civil response, JMD Development Consultants, 25 February 2020*
- *Bushfire Evacuation Plan, Travers bushfire and ecology, March 2020*
- *Acoustic Letter, Acoustic Logic, 17 March 2020*
- *Traffic Report, TRAFFIX Traffic and Transport Planners, 24 March 2020*

(4) Works shall not commence on the site, including the placement of temporary buildings, site excavation, filling, removal of trees or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Accredited Certifier.

(5) *Future development shall comply with the requirements of 'Planning for Bush fire Protection 2006'.*

- (6) The applicant shall liaise with Transport for NSW prior to the lodgement of any further development application with this site. Evidence is to be provided as part of any future DA lodgement.

3. INTEGRATED DEVELOPMENT

These conditions have been imposed to ensure that the development is carried out in accordance with the requirements of other Approval Authorities:

- (1) The attached General Terms of Approval issued by the Department of Primary Industries - Water are included as conditions of this Consent.
- (2) A copy of the Controlled Activity Approval issued by the Department of Primary Industries - Water is to be provided to Council or the nominated Accredited Certifier prior to the commencement of any works on the property.

ADVISORY CONDITIONS TO INFORM FUTURE DEVELOPMENT APPLICATIONS

4. VEGETATION MANAGEMENT/TREE REMOVAL

These conditions have been imposed to protect significant vegetation that has been identified on the subject land.

Establishment of the Asset Protection Zone

- (1) Provision shall be made for Asset Protection Zones based on the Bushfire Assessment Report prepared by Bushfire Consultancy Australia (dated November 2018) and correspondence dated 13th March 2019 from the NSW Rural Fire Service for both earth works by the benefiter of this Determination as well as the benefiter of any subsequent Determination for structures on the site.

Managing impacts associated with vegetation clearance

- (2) Pre-clearance surveys for threatened species identified as having the potential to exist on the site which are to occur not more than 7 days prior to the commencement of any works on the site. These surveys must include *Pterostylis saxicola*, the Cumberland Land Snail and Koalas. The surveys for koalas must involve the use of spotlighting and identification of scratch marks on trees. All surveys must be undertaken by an appropriately qualified ecologist
- (3) All trees identified for removal shall be inspected for tree hollows and any trees with hollows marked not more than 7 days prior to the commencement of any vegetation clearance. Hollows of high quality or with fauna recorded residing within should be sectionally dismantled.
- (4) If a threatened species is found to be occupying the hollow then the hollow section is to be reattached to a recipient tree within the nearby conservation area as selected and directed by the fauna ecologist.
- (5) Future removal of trees on the site is to occur in accordance with the following procedure:

- Stage 1 is to involve the removal of understory vegetation and non-hollow vegetation.
- Stage 2 is to involve the removal of any identified trees containing hollows that cannot be retained.
- Upper limbs of trees must be removed initially to minimise harm to any ground-bearing fauna species.
- There is to be a minimum of 24 to 48 hours between Stages one and two.

Retention of vegetation within the footprint of the cemetery proposal

- (6) Burial sites should be located a minimum of three metres from the base of all trees where practical to ensure there are no impacts to the structural root zone.
- (7) Native trees in excess of 10 metres in height in the natural section of the cemetery within natural part of and areas of native understory are to be retained without constraining the operation of the cemetery unless otherwise approved by Council.
- (8) An Arboricultural Impact Assessment Report be prepared by an appropriate qualified AQF Level 5 Arborists and submitted to Council's Tree Officer for review prior to any physical works commencing on the site that contains the following features:
 - Identification of trees that require removal for the operation of the cemetery.
 - Likely impacts to trees identified for retention as a result of the cemetery proposal.
 - Measures that need to be adopted by contractors when working around the nominated retained trees to ensure their long-term survival.
- (9) Future proposed landscaping work is to be carried out in full accordance with the Design Objective Concept Plans dated August 2019 unless otherwise approved by Council. Landscaping must be installed prior to the commencement of any vegetation clearance associated with the cemetery proposal.

Management of weeds present within the footprint of the cemetery proposal

- (10) An inventory of any trees or any other vegetation that is listed as a priority weed in the Greater Sydney Region Strategic Weed Management Plan, under the Local Land Services Act 2013; or is subject to an approved biosecurity undertaking or direction under the Biosecurity Act 2015 occurring in the approved building envelope.
- (11) A treatment schedule in tabulated form, specifying for each species:

- The method of treatment (mechanical, herbicide use or cultural such as pasture improvement or grazing).
- The rates of application methods of all herbicide treatments.
- The primary control treatment to achieve a minimum 70% kill and a secondary control treatment to achieve a minimum 90% kill.
- The timing of treatments.

(12) Details of any methods of disposal of weed material;

NOTE: If the suitably qualified and experienced person provides evidence to the satisfaction of Principal Certifying Authority that the site is free of any trees or any other vegetation that is listed as a priority weed in the Greater Sydney Region Strategic Weed Management Plan, under the Local Land Services Act 2013; or is subject to an approved biosecurity undertaking or direction under the Biosecurity Act 2015, that evidence will be taken to satisfy this condition.

Management of the retained offsetting site

(i) Implementation of the Offsetting Strategy detailed below.

(13) A report detailing the intended specific measures for the implementation of the Offsetting Strategy documented in Section 5.4 of the updated Flora and Fauna Report by the Vegetation Management Plan shall be provided to Council for approval with the first formal development application.

(14) Appropriate documentation that provides demonstration achievement of the offsetting measures is to be provided to Council at the conclusion of the two year maintenance period by the Project ecologist in accordance with the monitoring and reporting schedule detailed in Section 4.2 of the Vegetation Management Plan

(ii) Framework for the ongoing management of retained vegetation

(15) The submitted Vegetation Management plan dated July 2019 shall be implemented in full accordance with Section 3 Restoration Strategy, Section 4 Management and Monitoring and Section 5 Program of Works of the document. The Plan is to apply to the area as depicted on mapping within the document and the Offsetting Strategy in the updated Flora and Fauna Report. The implementation of the Vegetation Management Plan must commence prior to the commencement of any vegetation clearance or earthworks on the site.

Treatment of weeds within the Development Footprint

(16) A Weed Eradication and Management Plan shall be prepared by a suitable qualified and experienced person(s) and shall be submitted to the Council or a nominated accredited certifier for approval prior to the release of any Construction Certificate and shall include:

- An inventory of all state level priority weed, regional Priority weeds or other weed of regional concern in the Greater Sydney Regional Strategic Weed Management Plan,

approved under the Local Land Services Act 2016.

- A site plan indicating the weed infestations with reference to the species and degree of infestation (i.e., low, medium, high).
- A treatment schedule in tabulated form for primary, secondary weeding and ongoing maintenance.
- Measures to be undertaken during site clearing, earthworks and storage of topsoil to prevent dispersal of weed propagules.
- Details of methods of disposal of weed material.

NOTE: If the suitably qualified and experienced person provides evidence to the satisfaction of Principal Certifying Authority that the site is free of state level priority weed, regional Priority weeds or other weed of regional concern in the Greater Sydney Regional Strategic Weed Management Plan, approved under the Local Land Services Act 2016, that evidence will be taken to satisfy this condition.

5. ENGINEERING & CONSTRUCTION SPECIFICATIONS

These conditions have been imposed to ensure that developments within the Shire are of a standard which is both safe and acceptable to Council and members of the public:-

- (1) All works are to be designed and carried out in accordance with Wollondilly Shire Council's adopted design and Construction Specifications.
- (2) Prior to commencement of any civil works associated with this development, Engineering Design Plans shall be approved by Council as the consent authority and as the road authority.
- (3) Engineering Design Plans shall include public road and footway works including the Douglas Park Drive intersection and all internal earthworks, roads, parking, service vehicle access, basins and stormwater drainage. All levels are to be reduced to Australian Height Datum. Design parameters shall comply with the requirements of Council's Design Specifications.
- (4) A "Soil and Water Management Plan" (SWMP) that outlines the measures that will be taken to limit and contain sediment laden runoff during construction shall be submitted to Council with the Engineering Design Plans. The measures shall be in accordance with Council's Construction Specification and the Department of Housing's "Blue Book".
- (5) Prior to the approval of any subsequent development application associated with this development or the use as a cemetery, written certification from a suitably qualified and experienced Civil Engineer, or similar to the satisfaction of Council, shall be submitted to Council stating that all internal civil works have been carried out and constructed in accordance with the approved Engineering Design Plans and the Wollondilly Shire Council Design and Construction Specification.

- (6) Prior to the approval of any subsequent development application associated with this development or the use as a cemetery, a Certificate of Practical Completion for all public roadworks works carried out under a section 138 permit shall be obtained from Council, as the road authority.
- (7) A defects liability period of twelve (12) months will apply from the date of issue of the Certificate of Practical Completion, by Council, for all public roadworks.
- (8) Prior to the issue of a Certificate of Practical Completion, a 10% maintenance bond, or a minimum of \$3,000 whichever is greater, is to be lodged with Council for all public roadworks.
- (9) A certified "Works as Executed" plan from a Chartered Professional Engineer or Registered Surveyor is to be submitted to Council before the final inspection for the Certificate of Practical Completion. The "Works as Executed" plan must certify that the works have been constructed in accordance with the approved drawings and to the levels specified.
- (10) Prior to commencement of any roadworks associated with the Douglas Park Drive intersection, a Section 138 under the Roads Act shall be issued by Council, as the road authority. Engineering plan checking and inspection fees will be advised for payment prior to the issue of the approved plans and 138 Consent.

6. DRAINAGE/STORMWATER

These conditions have been imposed to ensure drainage/stormwater is appropriately managed.

- (1) Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events.
- (2) Stormwater runoff from all impervious surfaces on the property shall be collected and conveyed to a point suitable for integration with either the natural or constructed stormwater drainage system. A piped drainage system shall be provided to convey runoff from storms up to the 20% AEP. Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP. A detailed drainage design shall be provided on the Engineering design plans.
- (3) The applicant shall provide drainage generally as shown on the submitted plans by JMD Development Consultants Plan No. 16116E I sheets 1 and 2 dated 19/11/19, and Stormwater Concept Plan report by JMD dated 19/11/19. Details shall be included on the engineering plans for approval by Council or the nominated Accredited Certifier prior to issue of the Building Construction Certificate.
- (4) All stormwater discharge from the proposed drainage system shall be contained within the site by the use of the proposed basins for storage and stormwater re-use over the site. Details shall be included on the engineering plans for approval.
- (5) The stormwater plans shall include detail for connection of any stormwater overflow from the north basin to the road drainage in Mitchell Place.

7. CARPARKING/ACCESS

These conditions have been imposed to:

- (a) Ensure that adequate provision is made for off street parking, appropriate to the volume and turnover of traffic generated by the development.**
 - (b) Ensure that adequate manoeuvring space is provided for parking areas, loading bays and entry to facilities.**
- (1) Provision shall be made for vehicles to access and leave the site in a forward direction. A suitable manoeuvring area(s) within the site shall be provided. Details, including turning paths for vehicles, shall be shown on the Engineering Design Plans for approval prior to any work.
 - (2) The development is to be provided with access roads and car parking including staff and service vehicle parking as generally shown in the plans by design cubicle plan Job No. 180911 page 8 dated 15/08/19 of the submitted DA plans. Such spaces are to be constructed and marked in accordance with Wollondilly Shire Council's adopted Design and Construction Specification.
 - (3) Car parking spaces shall be reserved for people with mobility impairment in accordance with Australian Standard AS/NZS 2890.6. – Parking facilities – Off-street parking for people with disabilities. These spaces shall have dimensions as required by AS/NZS 2890.1 – Parking facilities. Car parking design details including pavement and line marking shall be provided on the Engineering design plans.
 - (4) The internal access road and parking/manoeuvring area shall be constructed in accordance with Council Design and Construction Specifications which includes a minimum 40mm asphaltic concrete surface. Details shall be included with the Engineering Design Plans for approval.

8. PUBLIC ROADS

These conditions have been imposed to ensure all public road works required by the development are provided to an adequate standard.

- (1) The Applicant shall provide a new intersection at Douglas Park Drive generally as shown on JMD Plan No.16116E1 dated 25/02/19. Intersection works shall be designed to include dedicated right turn lane for west bound vehicles on Douglas Park Road, no entry restriction for eastbound vehicles on Douglas Park Road and left turn only restriction exiting the site to Douglas Park Road. All work shall be in accordance with Council's Design and Construction Specification and Austroads Standards and be operational prior to commencement of the Cemetery. Details shall be shown on the Engineering Design Plans for approval.

Note: Any adjustment to services shall be at the expense of the applicant

- (2) Prior to approval of Engineering Design Plans, plans for the proposed intersection works which includes additional lanes, line marking and signage shall be endorsed by the Local Traffic Committee.
- (3) A service vehicle access shall be constructed from Mitchell Place in the location shown on JMD Plan No. 16116E2 dated 25/02/19 by the construction of pipe culvert crossing. The access shall be of adequate width for the turning of service vehicles with a concrete or asphaltic concrete surface. Details including turning paths shall be included on the Engineering Design Plans for approval.
- (4) Prior to the approval of any subsequent development application associated with this development or the use as a cemetery, the applicant shall dedicate the section of Mitchell Place cul-de-sac that encroaches onto the subject property to Council as public road, at no cost to Council.
- (5) Details of a strategy for people attending the cemetery to be informed that no access is available via Douglas Park or from north of the site shall be provided with the Engineering Design Plans.
- (6) The person having the benefit of this consent shall undertake all reasonable efforts to protect the public road pavement from damage during the course of construction work. Restoration of any damaged road or footway shall be at the applicant's expense.
- (7) Prior to commencing any construction works on site, a Section 138 approval under the Roads Act shall be obtained from Council for the construction and management of the site access during construction works. Fees will be advised for payment prior to the issue of the approved plans and 138 Consent.

9. EROSION AND SEDIMENT CONTROL

These conditions have been imposed to minimise the impact of the Development on the environment and on adjoining properties.

- (1) All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.
- (2) Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.
- (3) Erosion and sediment control devices are to be installed prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary.
- (4) Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.

10. INSPECTIONS

These conditions have been imposed to ensure that construction works are undertaken to an approved standard.

- (1) The engineering works shall be inspected by the Principal Certifying Authority at the following stages of construction to ensure they comply with Council's Construction

Specification and associated approvals:

- Prior to commencement of any construction work on the site, after erosion and sediment control and traffic control measures are implemented.
- When drainage lines have been laid, jointed and bedded, prior to backfilling.
- Prior to pouring of the drainage pits, when the formwork and steel is in place.
- A completion of pavement shaping, prior to priming.
- At sealing (minimum 24 hours required after priming).
- At completion of the preparation of kerb and guttering subgrade.
- At completion of the preparation of all concrete layback gutter crossing subgrade.
- Prior to pouring concrete for concrete footpath/cycleway, when formwork and steel is in place.
- Prior to pouring vehicle crossing slabs, when formwork and steel is in place.
- Prior to pouring concrete to driveway/car park slabs, when formwork and steel is in place.
- At practical completion of works.
- At final completion of works (minimum of 12 months after date of issue of practical completion certificate).

Note: It is the responsibility of the applicant or contractor to notify the Principal Certifying Authority when inspections are required. Failure to notify may lead to additional work being required prior to issue of inspection certificates. A minimum of 24 hours' notice is required for inspections where Council is the Certifying Authority.

11. SIGNS

These conditions have been imposed to ensure that signs are properly designed, located and maintained so as not to impact upon the existing streetscape.

- (1) An application under the provisions of the Environmental Planning & Assessment Act, shall be submitted to and approved by Council prior to the erection and/or display of any advertising signs unless the sign is exempt development as defined by that Act and in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or Schedule 2 of Wollondilly Local Environmental Plan 2011.

12. HERITAGE

These conditions have been imposed to ensure that development is carried out in a manner sensitive to the heritage values in the locality.

- (1) Should any Aboriginal relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service (NPWS) should be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.
- (2) Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 146 of the Heritage Act 1977.

13. FENCING

These conditions are imposed to ensure that any fencing has a minimal effect on the landscape/streetscape/environment of the locality.

- (1) All fencing is to be installed in accordance with the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

14. SERVICES

These conditions have been imposed to ensure that an adequate level of services and infrastructure are provided for this development.

- (1) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of the first Occupation Certificate for the development.

- (2) Prior to issue of any Construction Certificate the applicant shall provide Council or a nominated Accredited Certifier with plans approved by Sydney Water via 'Tap in™' (www.sydneywater.com.au) or an accredited Water Service Co-ordinator.
- (3) All power and services provided to the development within the site shall be underground.
- (4) Wastewater generated by the development shall be disposed of via an onsite sewage management system. This system will be subject to an Approval to Install and an Approval to Operate under Section 68 of the Local Government Act, 1993. The system shall be designed, installed and operated in accordance with the endorsed wastewater management plan submitted in respect of this development application. No Occupation Certificate shall be issued in respect of this development prior to the Principal Certifying Authority being

satisfied that this system has been installed.

15. OCCUPATION & USE

These conditions have been imposed to ensure the development and associated activities/operation are acceptable in terms of the amenity of the neighbourhood and the public interest whilst maintaining its functional operation.

- (1) The site shall have a maximum of two (2) funeral services per day.
- (2) No Crematorium shall be permitted on this site.
- (3) The effluent disposal areas shall be located in accordance with “Plan detailing effluent disposal area and proposed site entry, Effluent Area amended for buffer to ecology bdy,” Ref 16116E2, Issue E, dated 26 November 2019.
- (4) All wastewater generated on the site is to be managed and disposed of in accordance with the “Geotechnical Investigation Report for Proposed Cemetery Development 430-490 Douglas Park Drive Douglas Park”, provided by Geotechnique Pty Ltd and dated 5 October 2019
- (5) The visiting hours shall be conducted between the hours of 9am to 5pm Monday to Sunday inclusive. This is in accordance with the Acoustic report prepared by Acoustic Logic, dated the 30 November 2018.
- (6) The services and burials shall be conducted between the hours of 10am to 4pm Monday to Sunday inclusive. This is in accordance with the Acoustic report prepared by Acoustic Logic, dated the 30 November 2018.
- (7) All grave digging shall be conducted within 9.00am to 5.00pm. The applicant is advised that Council reserves the right to restrict the days and hours of operation if considered necessary to prevent the emission of “offensive noise” as defined in the Protection of the Environment Operations Act, 1997.

Offensive noise means noise:

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

16. PRESCRIBED CONDITIONS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979.

These conditions are imposed as they are mandatory under the Act.

- (1) ERECTION OF SIGNS

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

Note: Principal Certifiers and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A of the *Environmental Planning and Assessment Regulation 2000* which currently imposes a maximum penalty of \$1,100).

17. ADVICES

- (1) At all times work is being undertaken within the public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site with a minimum of disruption.
- (2) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc., which require alterations shall be altered at the applicants expense and to the satisfaction of Council and the authority concerned.
- (3) The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this approval on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:
 - Motor Vehicle Insurance (comprehensive or property damage) for all self-propelled plant, as well as valid registration or RMS permit (Including CTP insurance). Primary producer's registration is not registration for use on Public Road construction work.
 - Workers Compensation Insurance.

- Twenty Million Dollar Public Liability Insurance.
- (4) The following service providers should be contacted before commencement of construction to establish their requirements:
- Dial before you dig (various services) 1100
 - Telstra (telephone) 1 800 810 443
 - Endeavour Energy (electricity) 131 081
 - AGL (gas) 131 245
 - Sydney Water (water & sewer) 132 092
- (5) The applicant is advised that Council reserves the right to restrict the days and hours of operation if considered necessary to prevent the emission of “offensive noise” as defined in the Protection of the Environment Operations Act, 1997.

Offensive noise means noise:

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

7.2 CONTINUED USE OF A PARTIALLY CONSTRUCTED ANCILLARY STRUCTURE (SHED)

File Number: 10621#176

Reason for LPP Referral: Ministerial Direction under section 9.1 of the Environmental Planning and Assessment Act 1979 - Local Planning Panels Direction – Development Applications' schedule 1(1)(b)
DA No: DA/2020/38/1

Lot & DP – Subject Site: Lot 731 DP 811421 240 Montpelier Drive THE OAKS

Proposal: For the continued use of a partially constructed ancillary structure (shed) and approval for the remaining works to completion

Zoning: RU2 Rural Landscape

Permissibility: Permitted with consent

Cost of Development: \$23,840.00

Applicant: Mr Simon Landow

Notification: 10 February to 24 February 2020

Submissions: No submissions have been received in relation to this proposal

Variations: Yes – Variation required to DCP controls

Site Inspection: 18 February 2020

Recommendation: Approval, subject to conditions of consent

EXECUTIVE SUMMARY

The purpose of this report is to provide an assessment of a development application for the continued use of a partially built shed and approval for the remaining works to enable completion of the structure. The application is generally in accordance with the provisions of Wollondilly Local Environmental Plan 2011 and DCP 2016. It is recommended that the application be approved subject to conditions.

The structure comprises a slab on ground, with brick and timber walls and a zincalume roof and is designed to match the existing dwelling on the property.

RECOMMENDATION

That development application DA/2020/38/1 for the continued use of a partially constructed ancillary structure (shed) and approval for the remaining works to completion at 240 Montpelier Drive, The Oaks be approved subject to conditions.

REPORT

Background

Council investigated alleged unauthorised works on the property and on 8 January 2020 contacted the owner and advised that a DA was required for the works to remain. The unauthorised structure was investigated by Council's Compliance team and a Warning Notice was issued on 28 January 2020 to cease construction works. The owners were advised that compliance action would be on hold pending the outcome of a development application.

Council received a development application for the continued use of the ancillary structure on 24 January 2020. The proposal was notified in accordance with Council's Community Participation Plan 2019 and no objections were received.

Consultation

Building Surveyor

The applicant has provided a satisfactory report from a structural Engineer for the reinforced concrete slab.

The applicant will need to provide a report from a practising structural engineer for the remainder of the building (walls and roof frame) prior to the issue of a Building Information Certificate.

The applicant will be required to obtain a construction certificate prior to completing the works.

Standard Conditions have been recommended including the following condition:

Prior to the issue of a Building Information Certificate a report from a practising structural Engineer shall be provided to Council certifying the structural adequacy of the wall and roof frame of the partially constructed ancillary structure.

Comment: Conditions of consent are included in the recommendation of this report.

1.1 Description of Site and Surrounding Area

The subject site is legally known as Lot 731, DP 811421, 240 Montpelier Drive, The Oaks. The site has an area of 2ha and is located within the RU2 Rural Landscape zone. A dwelling house, pool, water tank and waste water irrigation area is located on the site. It has a frontage of 108.715 metres to Montpelier Drive.

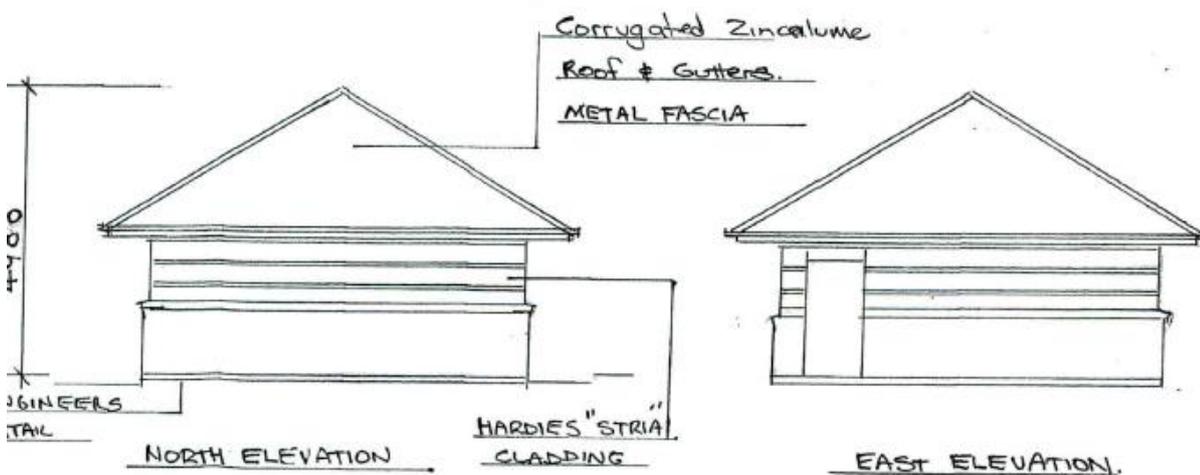
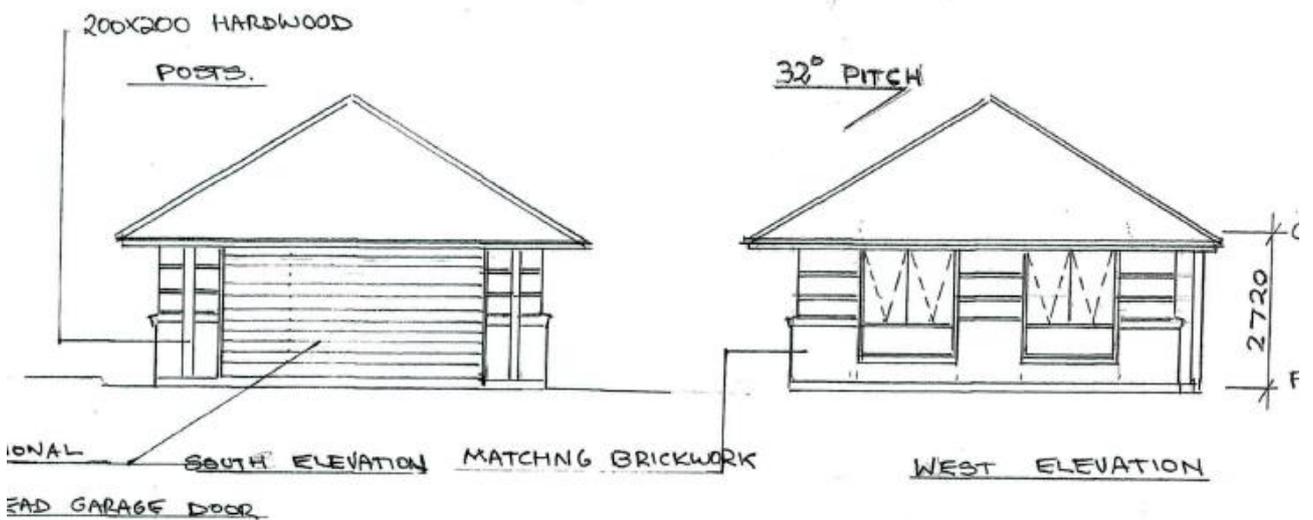
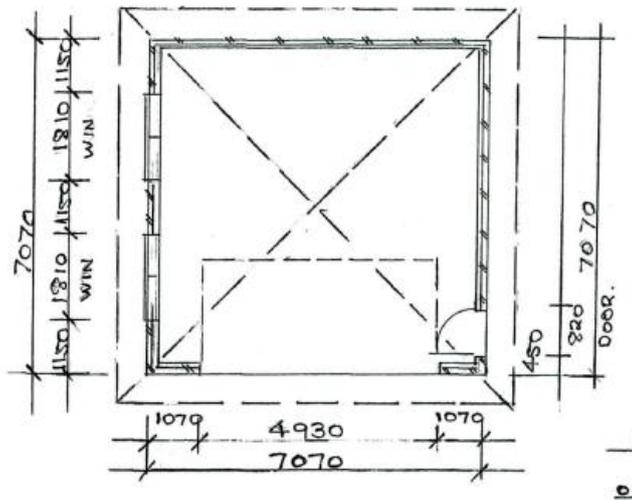
The site falls away from the road and continues to fall towards the rear of the site. The location of the existing dwelling and partially constructed shed are located on the only relatively level part of the site.

To the North, West and South are rural residential lots, similarly developed as the subject site. The lot located to the east of the site is heavily vegetated and appears to have no identified use. An aerial image of the site is shown below.



1.2 Description of Development

The development application seeks consent for the continued use of a partially constructed shed that has been erected without approval.



1.3 Section 4.15 Evaluation

1.3.1 Provisions of Relevant Environmental Planning Instruments

Section 4.14 - Environmental Planning & Assessment Act 1979

Planning for Bush Fire Protection 2006

The determined bushfire attack level (BAL) is BAL12.5. The ancillary structure is located within 10 metres of the principal dwelling and a condition of consent has been recommended to ensure that, prior to occupation or use, the development is constructed in accordance with Australian Standard AS3959 - Construction of Buildings in Bushfire Prone Areas.

State Environmental Planning Policy No. 55 – Remediation of Land

A review of the property file and a site inspection has not identified any potential for contamination with the proposal.

Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River

The Proposal will meet the aims of the SREP 20 and is not considered to affect the Water quality and water quantity of the area. In addition the total catchment management of the area is not considered to be affected by the proposal.

Wollondilly Local Environmental Plan, 2011

The application meets the objectives of the LEP contained in Clause 1.2 as follows:

- a) The proposal will not affect the natural resources and or the protection of the natural landscape character.
- b) The site is not listed as a heritage item.
- c) The proposal is not considered to affect the water supply catchment.
- d) The proposal will not impact on the infrastructure system and adequate facilities or service provision for future growth.
- e) The existing rural resource land will not be impacted by the proposal.
- f) The separation between towns and or villages will not be altered by the proposal.

The proposal will not require any alterations to covenants, agreements and or instruments in accordance with Clause 1.9A.

Zone of land: RU2 Rural Landscape

Permissibility: The proposal is ancillary to the existing dwelling and is permitted with consent

The application meets the zone objectives as follows:

- The proposal will not impact upon sustainable primary industry in the immediate area.
- The rural landscape character of the area will be maintained.
- The existing use of the site is compatible with the extensive agriculture in the area.
- The density of the area will not be impacted by the proposal.

Other relevant LEP Clauses

	Clause	Comment

	Clause	Comment
Part 4 Principal development standards		
4.3	Height of buildings	The site has no mapped height limit.
Part 7 Additional local provisions		
7.1	Essential services	Essential services exist on site.
7.2	Biodiversity protection	The site has no mapped biodiversity.
7.3	Water protection	The site has no mapped water protection.
7.4	Flood planning	The site is not mapped as flood prone.
7.5	Earthworks	Minimal earthworks occurred as part of the slab preparation and no concerns were identified.

1.3.2 Provisions of Relevant Development Control Plans

Wollondilly Development Control Plan 2016	
Volume 1 – General	
Relevant Provisions	Comment
Part 11 – Landscaping	
No landscaping has been proposed but additional landscaping will be required via a condition (Condition 7).	

Volume 4 – Residential Development	
Part 2 – General Requirements for All Developments	
2.10 Stormwater	
Stormwater will be piped to the existing rainwater tank.	

PART 3 –General Requirements for all Developments (see tables below)		
	Control	Comment
Building Design		
1	Filling of land shall not increase the natural ground level by more than 1.0m.	No filling of land has occurred for this proposal.
2	Cut shall be limited to 2.0 metres below natural ground level.	Minimal cut has occurred for this proposal.
3	Any façade visible from any public road must have no stretch of blank wall greater than 10.0 metres in length.	The largest stretch of visible elevation from a public road is 7 metres and complies.
4	The height of any ancillary building shall not exceed 5.0m in the case of a Rural Lifestyle Lot and 7.0m in the case of a Rural Lot. In this control building height is measured from the highest point on the building to the natural ground level immediately below.	The height of the existing structure is 4.9 metres and complies.

6	The roof area of any ancillary building shall not exceed 240m ² .	The roof area of the existing structure is 70.8 metres squared and complies.
Setbacks		
7	Ancillary buildings shall be located no less than 1.0m behind the front building line of the dwelling on primary road frontages.	The ancillary structure is located in front of the principal dwelling and does not comply with this control. This is discussed below this table.
9	Ancillary buildings shall be set back no less than 5.0m from side and rear boundaries. A side setback of 2.5m will be considered for narrow lots which are 25.0m or less in width.	Setbacks exceed 5 metres to all boundaries.
Environmental Protection		
10	Ancillary buildings and their relevant asset protection zones must be located to result in no clearing of significant stands of native vegetation.	No vegetation was required to be removed for this proposal.

Variation to front setback control

The shed does not comply with the setback control as it is located 3 metres forward of the dwelling.

The shed is set back more than 19 metres from Montpelier Drive. It is appropriately scaled and has been designed to complement the existing principal dwelling. To limit the streetscape impact, the garage door is orientated so that it does not face the street and two windows are provided to the street elevation.

It is considered that the proposal meets the objective of the control which is to enhance the landscape and streetscape character through considerate and attractive design. The variation can therefore be supported subject to a condition requiring additional landscaping to screen the proposal from Montpelier Drive (**Condition 7**).

1.4 Impact of the Development

Head of Consideration	Comment
Natural Environment	The natural environment will not be significantly affected by the proposal.
Built Environment	The built environment will not be unduly compromised by the proposal.
Social Impacts	There are no anticipated social impacts with the proposal.
Economic Impacts	There are no economic impacts anticipated with the proposal.

1.5 Suitability of the Site

The site is considered to be suitable for the proposed development.

1.6 Submissions

No submissions have been received in relation to this application.

1.7 The Public Interest

The proposal has been assessed against the relevant environmental planning instruments and is deemed to be acceptable. On this basis, the proposal is not considered to raise any issues that are contrary to the public interest.

Financial Implications

This matter has no financial impact on Council's adopted budget or forward estimates.

CONCLUSION

Having regard to the provisions of section 4.15 of the Environmental Planning and Assessment Act 1979, the proposal is considered to be satisfactory.

ATTACHMENTS

1. Final Fee quote 
2. Quote 240 Montpelier Drive The Oaks 2 
3. Site Plan - 240 Montpelier Drive The Oaks 
4. Elevations & Floor Plan - 240 Montpelier Drive The Oaks 
5. Bushfire Report - 240 Montpelier Drive The Oaks 
6. Engineering Assessment - 240 Montpelier Drive The Oaks 
7. Statement of Environmental Effects - 240 Montpelier Drive The Oaks 

RECOMMENDATION

That Development Application DA/2020/38/1 for the continued use of a partially constructed ancillary structure (shed) and approval for the remaining works to completion at 240 Montpelier Drive, The Oaks, be approved subject to the following conditions:

1. COMPLIANCE

These conditions are imposed to ensure that the development is carried out in accordance with the conditions of consent and the approved plans to Council's satisfaction.

- (1) Development Consent is granted for Continued use of a shed at Lot: 731 DP: 811421, **240 Montpelier Drive, The Oaks.**
- (2) Development shall take place in accordance with the submitted plans listed below and submitted in respect of Development Applications No. DA/2020/38/1, except where varied by the following conditions:

Plan / Document	Author	Revision	Date
Floor Plan and Elevations	Simon Landow	Revision A Sheet 1	Submitted 29.01.2020
Site plan and Section	Simon Landow	Revision B Sheet 2	Submitted 04.02.2020

- (3) Unless permitted by another condition of this consent, there shall be no tree clearing unless the vegetation is:
 - (a) Within the footprint of an approved building, access driveway or other structure; or

- (b) Within three (3) metres of the footprint of an approved building; or
 - (c) Preventing the achievement of the minimum asset protection zone requirements under the relevant planning for bushfire protection guidelines.
- (4) Where any work associated with this consent has the potential to disturb neighbours through the generation of noise, dust, odour, vibration or through deliveries to the site the person with control over the works shall advise the occupants of all adjoining and potentially affected properties of the timing and duration of such works. The land owner has the ultimate responsibility for ensuring that anybody undertaking works under this development consent on their behalf is aware of this requirement and completes the task required by this condition.
 - (5) Prior to the issue of a Building Information Certificate a report from a practising structural Engineer shall be provided to Council certifying the structural adequacy of the wall and roof frame of the partially constructed garage.
 - (6) All building work must be carried out in accordance with the provisions of the Building Code of Australia. This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning & Assessment Regulations, 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4).
 - (7) Works shall not commence on the site, including the placement of temporary buildings, site excavation, filling, removal of trees or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Accredited Certifier.
 - (8) A Building Information Certificate issued under Section 6.24 of the Environmental Planning & Assessment Act 1979 shall be provided to Council **within four (4) weeks** of the date of this consent for the shed the subject of this consent.
 - (9) A Construction Certificate is required to be issued by Council or an accredited Certifier for the remaining works to complete the building prior to the commencement of those works.
 - (9) Prior to occupation or use, all development shall be constructed in accordance with Australian Standard AS3959 - Construction of Buildings in Bushfire Prone Areas to Bush Fire Attack Level BAL12.5 construction in accordance with the provisions of Planning for Bushfire Protection, 2006.

2. BUILDING DESIGN

These conditions have been imposed to ensure that the appearance/construction of building works complies with the aims and objectives of Council's relevant Development Control Plans, Policies and relevant Statutory Regulations.

- (1) All materials and colours to be used in the external construction of the proposed shed shall match those of the existing development.

3. CONSTRUCTION GENERAL

These conditions have been imposed to ensure that all construction work is undertaken to an approved standard and related approvals.

- (1) Construction shall not commence on the site, including the placement of temporary buildings, site sheds, earthworks, site excavation, filling or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Accredited Certifier.
- (2) All construction and building work shall be restricted to between 7:00am and 6:00pm Mondays to Fridays (inclusive), 8.00am and 1.00pm Saturdays and prohibited on Sundays and Public Holidays unless written approval to vary the hours of work is granted by Council.
- (3) Excavated area/s adjacent to the building shall be retained and drained to prevent the subsidence of the excavation and/or entry of surface water to the building. Where the retaining wall exceeds 600mm in height, plans and specifications of the retaining wall shall be submitted to Council or a nominated Accredited Certifier and approved before the issue of the Construction Certificate. Where the height exceeds 1m in height, a certificate prepared by a suitably qualified Structural Engineer shall be submitted with the plans and specifications.
- (4) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. These facilities are to be provided prior to the commencement of any works and:
 - (a) Must be a standard flushing toilet; and
 - (b) Must be connected:
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

In this condition:

Accredited sewage management facility means a sewage management facility to which Division 4 of Part 2 of the *Local Government (General) Regulation 2005* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 41 of the Regulation.

Approved by the Council means the subject of an approval in force under Division 4 of Part 2 of the *Local Government (General) Regulation 2005*.

Sewage Management Facility has the same meaning as it has in the *Local Government (General) Regulation 2005*.

4. DRAINAGE/STORMWATER

These conditions have been imposed to ensure drainage/stormwater is appropriately managed.

- (1) Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events.
- (2) The stormwater shall be discharged to the existing system, and where applicable shall be in accordance with Australian Standard AS/NZS 3500.3.2 – Stormwater Drainage.

5. EROSION AND SEDIMENT CONTROL

These conditions have been imposed to minimise the impact of the Development on the environment and on adjoining properties.

- (1) Erosion and sediment control devices are to be installed prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary.
- (2) Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.

6. INSPECTIONS

These conditions have been imposed to ensure that construction works are undertaken to an approved standard.

- (1) Building works shall be inspected by the Principal Certifying Authority at critical stages of construction to ensure they comply with the Building Code of Australia and associated approvals. If the Principal Certifying Authority notifies the site manager or other contractor that a work or works are unsatisfactory for any reason all works on the site shall cease until the matter is resolved to the satisfaction of the PCA.

7. OCCUPATION & USE

These conditions have been imposed to ensure the development and associated activities/operation are acceptable in terms of the amenity of the neighbourhood and the public interest whilst maintaining its functional operation:

- (1) The shed shall not be used for commercial or industrial purposes.
- (2) The shed shall not be occupied as a residence or domicile.
- (3) The disturbed areas surrounding the building work shall be reinstated to the satisfaction of the Principal Certifying Authority upon completion of the work.
- (4) The shed shall not be occupied or used until an Occupation Certificate is issued by the Principal Certifying Authority.
- (5) To minimise the streetscape impact and screen the shed from the street, a continuous row of shrubs shall be installed along its western elevation. The selected species shall be capable of attaining a height of at least 3 meters at maturity and a minimum of 8 plants with

a pot size of at least 50cm/52L shall be used. This landscaping shall be in accordance with the *Wollondilly Development Control Plan Volume 1, Part 11 Landscaping, 11.2 Recommended Species, Table 2: Recommended Shrub Species (1 to 5 metres)* for the Shire. This landscaping shall be installed prior to the issue of any **Occupation Certificate** and shall be maintained in perpetuity.

Reason: To enhance the existing streetscape by providing a scale and density of landscaping that reduces the visual impact of the building.

8. PRESCRIBED CONDITIONS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979.

These conditions are imposed as they are mandatory under the Act.

(1) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA AND INSURANCE REQUIREMENTS UNDER THE HOME BUILDING ACT 1989

(a) For the purposes of section 4.17 of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- (i) that the work must be carried out in accordance with the requirements of the *Building Code of Australia*,
- (ii) in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

(b) For the purposes of section 4.17 of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the *Building Code of Australia*.

(c) This clause does not apply:

- (i) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- (ii) to the erection of a temporary building, other than a temporary structure to which subclause (b) applies.

(d) In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant:

- (i) development consent, in the case of a temporary structure that is an entertainment venue, or
- (ii) construction certificate, in every other case.

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

(2) ERECTION OF SIGNS

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

Note. Principal Certifying Authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A of the *Environmental Planning and Assessment Regulation 2000* which currently imposes a maximum penalty of \$1,100).

(3) NOTIFICATION OF HOME BUILDING ACT 1989 REQUIRMENTS

- (a) For the purposes of Section 4.17 of the Act, the requirements of this condition are prescribed as conditions of a Development Consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- (b) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:

- (aa) the name and licence number of the principal contractor; and
 - (ab) the name of the insurer by which the work is insured under Part 6 of that Act.
- (ii) in the case of work to be done by an owner-builder:
- (aa) the name of the owner-builder; and
 - (ab) if the owner-builder is required to hold an owner-builder permit under the Act, the number of the owner-builder permit.
- (c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under sub-condition (b) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.

ADVICE

- (1) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc., which require alterations shall be altered at the applicants expense and to the satisfaction of Council and the authority concerned.
- (2) The following service providers should be contacted before commencement of construction to establish their requirements:
- Dial before you dig (various services) 1100
 - Telstra (telephone) 1 800 810 443
 - Endeavour Energy (electricity) 131 081
 - AGL (gas) 131 245
 - Sydney Water (water & sewer) 132 092