



Hawkesbury City Council

hawkesbury  
independent  
hearing and  
assessment  
panel  
business  
paper

date of meeting: 21 June 2018  
location: council chambers  
time: 2:00 p.m.



**HAWKESBURY INDEPENDENT HEARING AND ASSESSMENT PANEL**

**Table of Contents**

**Meeting Date:** 21 June 2018

**TABLE OF CONTENTS**

<b>ITEM</b>	<b>SUBJECT</b>	<b>PAGE</b>
	<b>PROCEDURAL MATTERS</b>	<b>1</b>
	<b>SECTION 2 – Reports for Determination</b>	<b>5</b>
Item: 006	CP - DA0703/17 - Lot 1 DP605179 - 1029 St Albans Road, Lower MacDonald - Function Centre - Construction of a car park and use of the former St Joseph Church as a function centre - (95498, 91795, 115319)	5

**HAWKESBURY INDEPENDENT HEARING AND ASSESSMENT PANEL**

**Table of Contents**

**Meeting Date:** 21 June 2018

**PROCEDURAL MATTERS**

**Welcome**

The Chair will address the meeting, mentioning:

- Acknowledgement of Indigenous Heritage
- Emergency Procedures
- Recording of the Panel Meeting
- Statement regarding people addressing the Meeting
- Mobile phones.

**Attendance**

Attending Panel members will be noted for the purposes of the Minutes.

**Declaration of Interest**

The Chair will ask for any Declaration of Interests from the attending Panel members. These will then be addressed at the relevant item.

**HAWKESBURY INDEPENDENT HEARING AND ASSESSMENT PANEL**

**Table of Contents**

**Meeting Date:** 21 June 2018

hawkesbury  
independent  
hearing and  
assessment  
panel

section 2

reports  
for determination





**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

**SECTION 2 – Reports for Determination**

**Item: 006**                      **CP - DA0703/17 - Lot 1 DP605179 - 1029 St Albans Road, Lower MacDonald - Function Centre - Construction of a car park and use of the former St Joseph Church as a function centre - (95498, 91795, 115319)**

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**DEVELOPMENT INFORMATION**

**File Number:** DA0703/17  
**Property Address:** 1029 St Albans Road LOWER MACDONALD NSW 2775  
(Lot 1 DP 605179)  
**Applicant:** Mr S Kavanagh  
**Owner:** BP & S Pty Limited  
**Proposal Details:** Function Centre – Construction of a car park and the use of the former St Josephs Church as a function centre  
**Estimated Cost:** \$41,000.00  
**Zone:** E4 Environmental Living  
**Date Received:** 8 December 2017  
**Advertising:** 22 December 2017 to 19 January 2018  
**Submissions:** 104

**IHAP Referral:** Contentious Development – More than 10 submissions received

**Key Issues:**

- ◆ Categorisation and Permissibility
- ◆ Heritage
- ◆ Amenity Impacts
- ◆ Parking

**Recommendation:** Conditional Approval

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**REPORT:**

**Executive Summary**

This application seeks Council approval for the extension of a car park and the use of the former St Josephs Catholic Church at 1029 St Albans Road, Lower Macdonald, as a function centre.

The subject property contains a sandstone former church that is identified as a local heritage item. The site also contains a car park and driveway with separate entrance and exit points. A cemetery associated with St Joseph's Catholic Church is located on both the subject property and the adjoining property at 937 St Albans Road.

The building and property have previously been used to hold events and functions without the consent of Council. In particular the property has been used to hold wedding ceremonies and receptions, with the most recent function held at the property on 22 May 2017.

Function centres are typically prohibited within the E4 Environmental Living zone however the application seeks to rely on the 'conservation incentives' clause of the Hawkesbury Local Environmental Plan (LEP) 2012 for permissibility.

The operation of the function centre from the premises was previously considered with Development Application No. DA0642/15. At its Ordinary Meeting of 31 January 2017 Council resolved to approve

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

the tourist and visitor accommodation use only, and not support the function centre use. The Council resolution was as follows:

*That Council not support the function centre component of the development. An Order under Section 121 B of the Environmental Planning and Assessment Act 1979 (as amended) is to be issued requiring the cessation of the unauthorised function centre use by 22 May 2017. That Order is to only permit existing event bookings (as at 31 January 2017) and include operational restrictions on noise, parking, operating hours, etc., so as to have minimal impacts on adjoining properties.*

In response to this resolution a Notice of Intention to Serve an Order was issued by Council's Regulatory Services – Compliance Section on 24 March 2017 to cease the function centre use.

Documentation supplied in support of the current application indicates that the events and functions will cater for up to 100 patrons and will be held between 11:00am and 7:00pm seven days a week, although typically these will be held on weekends only. The supplied documentation further indicates that an onsite manager will be present to manage and oversee events, as well as assist with overflow parking arrangements and the departure of patrons. The use of a minibus has also been nominated to transport function centre guests between the site and local tourist accommodation facilities and the Settlers Arms Inn in St Albans.

The majority of the submissions received regarding the application suggest that the operation of the function centre will generate significant noise, parking and traffic impacts for the locality. There is evidence that the owner of the property has, to this point, operated the function centre in a manner that has adversely impacted on the amenity of the neighbouring properties. The reduced hours now nominated for the function centre are an attempt to address noise concerns.

Subject to a series of amendments the Conservation Management Plan for the premises was endorsed by Council at its Ordinary Meeting of 8 May 2018. The amended Conservation Management Plan was subsequently approved by the General Manager under delegated authority on 12 June 2018. With this endorsement the subject application for a function centre may be considered under the conservation incentives provisions of Clause 5.10(10) of the Hawkesbury LEP 2012. The Applicant has already undertaken significant works to restore the former church building and the operation of a commercial venture will assist in the long-term maintenance of the building.

The application has been reviewed by Council staff and with the imposition of consent conditions to limit and control problems with the previous operation of the function centre (which had operated without any such development controls), the development is seen to be acceptable and is recommended for conditional approval.

The application is being reported to the Hawkesbury Independent Hearing and Assessment Panel (IHAP) for determination based on the receipt of approximately 104 submissions concerning the matter.

**Development Description**

Pursuant to Section 4.12(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's approval to extend an existing car park and use the premises as a function centre. The extension of the existing car park is proposed to provide parking for 20 vehicles whilst an overflow area is to provide for the parking of a further 10 vehicles.

The subject property contains a sandstone former church that is identified as a local heritage item. A cemetery associated with the former church is located on both the subject property and the neighbouring property at 937 St Albans Road.

The building and property has previously been used to hold events and functions. The use of the building to provide tourist and visitor accommodation for up to 10 guests was previously approved

with Development Consent No. DA0642/15 however this consent is yet to be enacted and an Occupation Certificate for this use has not been obtained.

The Plan of Management submitted in support of the development indicates that the function centre will cater for up to 100 guests and, should it be approved, may operate between 11:00am and 7:00pm. The documentation indicates that the function centre may operate, dependent on booking demand, seven days per week. However, the supplied documentation suggests that one event or function will generally be held each week, with such events typically held on Saturdays.

The documentation indicates that caterers will generally be used to prepare and cook meals offsite and bring meals to the site for service. A minibus will be used to transport function centre guests between the site and local tourist accommodation facilities. Portable toilets may also be used in addition to the existing facilities.

The property is zoned E4 Environmental Living and function centres are prohibited within this zone. This application therefore seeks to rely on Council's LEP Conservation Incentives clause (Clause 5.10(10)) to permit the proposed function centre use.

### **Site and Locality Description**

The subject property has frontage to St Albans Road and is located approximately 4.4km north of the Webbs Creek ferry crossing at Wisemans Ferry. The land has an area of approximately 1.77ha and is legally known as Lot 1 in DP 605179.

The property contains the former St Joseph's Catholic Church building, a car park for four vehicles and a cemetery. The building and car park are located on a steep ridge above St Albans Road and the Macdonald River.

The former church building was approved as a single dwelling house with Development Consent No. DA0459/09. Significant works were completed under this consent to restore the building from its previous ruinous state. Most recently Development Consent No. DA0642/15 was issued to allow the building to be used as tourist and visitor accommodation catering for a maximum of 10 guests. This consent is yet to be enacted.

Surrounding development generally consists of rural residential and agricultural properties.

### **Legislation, Policies, Procedures and Codes to which the Matter Relates**

- Hawkesbury LEP 2012
- State Environmental Planning Policy No. 44 – Koala Habitat Protection
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan (DCP) 2002

### **Section 4.15 Matters for Consideration**

The development has been considered against the heads of consideration listed under Section 4.15(1) of the EP&A Act 1979.

#### **(a)(i) Environmental Planning Instruments:**

##### ***Hawkesbury Local Environmental Plan 2012***

The subject property is zoned E4 Environmental Living under the Hawkesbury LEP 2012.

The Hawkesbury LEP 2012's Dictionary provides the following definition for a 'function centre' that is relevant to the development:

SECTION 2 – Reports for Determination

Meeting Date: 21 June 2018

***function centre** means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.*

The building and its surrounds have previously been used to hold events and functions for approximately 100 people. Such a use falls under the definition of a function centre.

Function centres are prohibited within the E4 Environmental Living zone.

The property is heritage-listed and contains the former St Josephs Catholic Church. The church building dates from approximately 1843 and is listed as a local heritage item for historical and architectural reasons.

Clause 5.10(10) of the Hawkesbury LEP 2012 outlines Council "**may grant consent to development for any purpose** of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, **even though development for that purpose would otherwise not be allowed by this Plan**, (emphasis added) if the consent authority is satisfied that:

- (a) *the conservation of the heritage item or Aboriginal place of heritage significance 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, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) *the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

Legal advice previously obtained in support of Development Consent No. DA0642/15 outlined that a Conservation Management Plan had to be endorsed or approved by Council to allow for the use of the conservation incentives clause. In response a Conservation Management Plan has been prepared for the former St Josephs Church and was endorsed by Council on 8 May and 12 June 2018.

Prior to the restoration work that was undertaken with Development Consent No. DA0459/09, the subject building appeared to be a ruin and in a state of almost complete disrepair. Indeed, the building is listed as 'ruins' under Schedule 5 of the Hawkesbury LEP 2012. The restoration works that have been undertaken by the applicant have improved its appearance and rendered the building habitable.

The use of the property for a commercial purpose, in this instance a function centre, will not detract from the significance of the site and may allow for the ongoing maintenance and conservation of the heritage item. The approval of the otherwise prohibited function centre use would therefore facilitate the conservation of the heritage item. Significant conservation works to restore and repair the sandstone walls of the building are also proposed as part of this application. It is recommended that conditions are imposed to ensure that these restoration works are completed before the release of any Occupation Certificate for the function centre.

The application is supported by documentation and reports indicating that the activity can be carried out in a manner that would not permanently compromise the character of the locality or result in significant amenity impacts for neighbouring land uses. The application has been reviewed by Council staff and with the imposition of conditions to limit and control the current operation of the function centre, the development is seen to be acceptable.

The Land Use Table of the Hawkesbury LEP 2012 establishes the following zone objectives for the E4 Environmental Living zone:

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To restrict development on land that is inappropriate for development because of its physical characteristics or bushfire risk.*
- *To ensure that land uses are compatible with existing infrastructure, services and facilities and with the environmental capabilities of the land.*
- *To encourage existing sustainable agricultural activities.*
- *To ensure that development does not create or contribute to rural land use conflicts.*
- *To promote the conservation and enhancement of local native vegetation, including the habitat of threatened species, populations and ecological communities by encouraging development to occur in areas already cleared of vegetation.*
- *To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.*

Clause 2.3(2) of Hawkesbury LEP 2012 outlines that Council “*must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone*”. However, there is no requirement for a development to be consistent with all the objectives of a zone, in particular when the development relies on the heritage incentives clause for permissibility.

A number of the objectives are not relevant based on the nature of the proposed use. Accordingly the above objectives relating to amenity impacts, rural landuse conflict and the preservation of scenic and environmental qualities have therefore been given more weight in the consideration of this application.

The proposed function centre use is comparable to the events and functions that were traditionally undertaken at places of public worship and the application is supported by a Heritage Impact Statement, Acoustic Report, Traffic and Parking Report and Effluent Disposal Report that indicate that the development is capable of functioning without generating significant adverse impacts for the locality. The subject building is significantly setback from neighbouring dwellings and with the imposition of conditions restricting events and requiring compliance with the prepared consultancy reports it is considered unlikely that the development will produce significant environmental, social or economic impacts for the locality

Therefore, in summary, it is considered that the development is consistent with the endorsed Conservation Management Plan and satisfies the conservation incentive provisions of the Hawkesbury LEP 2012.

***State Environmental Planning Policy No. 44 – Koala Habitat Protection***

The site exceeds 1ha in area and therefore triggers the requirements of SEPP No. 44. However, the area surrounding the former church building has previously been cleared and minimal clearing would be required to accommodate the required access and sight distance improvement works. Based on the extent and condition of the vegetation the works are not expected to significantly impact on potential or core koala habitat. The development is therefore considered satisfactory having regard to the provisions of this Policy.

***State Environmental Planning Policy No. 55 – Remediation of Land***

Clause 7(1) of SEPP No. 55 outlines a consent authority “must not consent to the carrying out of any development on land unless:

- “(a) *it has considered whether the land is contaminated, and*
- “(b) *if the land is contaminated, 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, and*

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."*

The property has a long history of use for religious purposes. Most recently the building has been used as a residence and an unauthorised function centre and tourist facility. There is no evidence to suggest that the previous uses of the land would have contaminated the land so as to prevent the proposed development. The land is therefore considered suitable for the development having regard to the provisions of SEPP No. 55.

**State Environmental Planning Policy No. 64 – Advertising and Signage**

Not applicable. The installation of signage is not proposed with this application.

The installation of any future signage will require the submission of a separate development application.

**Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River**

The subject property falls within the boundary of SREP No. 20. This policy aims "*to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context*". SREP No. 20 requires an assessment of development applications with regard to the general and specific considerations, policies and strategies set out in the Policy.

The property has a rural setting and the development is unlikely to significantly impact upon the environment of the Hawkesbury-Nepean River in either a local or regional context.

**(a)(ii) Draft Environmental Planning Instruments**

There are no draft environmental planning instruments that apply to the subject land.

**(a)(iii) Development Control Plans**

**Hawkesbury Development Control Plan 2002**

The proposal has been considered against the provisions of the Hawkesbury DCP 2002:

Part A Chapter 3: Notification:

The proposal was notified from 22 December 2017 to 19 January 2018 in accordance with Part A Chapter 3 of the Hawkesbury DCP 2002. Approximately 104 submissions were received in response to the notification of the application and are discussed later in this report.

Part C Chapter 2: Car Parking and Access:

Part C Chapter 2 of the Hawkesbury DCP 2002 outlines that car parking for reception centres and the like is to be provided at a rate of one space per 20m<sup>2</sup> of gross floor area (GFA) or one space per three seats, whichever is greater.

Based on an area – not GFA – of approximately 230m<sup>2</sup> for the building and alfresco area a total of 13 parking spaces would be required for the function centre, whilst based on 100 patrons (seats) a total of 34 parking spaces would be required under Section 2.5.2 of Part C Chapter 2 of the Hawkesbury DCP 2002.

A total of 20 marked parking spaces and overflow parking for an additional 10 spaces are proposed in the application to service the function centre, which would satisfy the numerical requirements of the Hawkesbury DCP 2002 with respect to area but not patron numbers (seats).

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

The car parking numbers onsite are limited due to the topography and heritage values of the site. The provision of further parking areas may detract from the aesthetic qualities of the site. Numerical parking requirements must therefore be assessed practically and due consideration is to be given to the benefits of the development on local businesses and the community.

Documentation supplied by the Applicant indicates that a minibus will be used to transport guests between the venue and local places of accommodation. Such buses may accommodate up to 12 people and, with appropriate management, will help to reduce traffic and parking demand. Overflow parking on a grassed area to the north of the building may also provide parking for an additional ten vehicles onsite.

St Albans Road has a narrow width and the parking of vehicles within the road reserve may result in safety issues. The provision of 18 defined spaces, overflow parking for an additional 10 vehicles and the use of a minibus is seen to be sufficient based on the numerical parking controls of the Part C Chapter 2 of the Hawkesbury DCP 2002.

The site's driveways currently have inadequate sight distance and do not comply with the relevant Austroads' Standards. The speed limit in the area is 80km/hour however on the tight bends it is more likely that vehicles will be travelling around 60km/hour. The current site distance is somewhere between 10m to 20m. The absolute minimum distance for a design speed of 60km/hour is 56m. The submitted Traffic and Parking Report suggests that the existing exit driveway and sight distances will be acceptable with the installation of a convex mirror.

Council's engineering assessment disagrees with these findings and has advised that works within the road reserve will be required (including batter modification and vegetation removal) to increase sight distances to at least 56m. A site meeting with the Applicant has been undertaken and guidance has been provided on what Council believes would be adequate to achieve the required sight distances.

The obtainment of a Construction Certificate will be required for the earthworks, car park and road reserve works.

With the upgrading of onsite parking and sight lines to St Albans Road, it is considered that the development is unlikely to result in unreasonable traffic, parking or access impacts upon the surrounding road network.

Part C Chapter 3: Signs:

Not applicable. The installation of signage is not proposed with this application.

The installation of any future signage will require the submission of a separate development application.

Part C Chapter 10: Heritage Conservation:

The adaptation of the building to allow for the approved tourist accommodation and proposed function centre uses will have a minimal impact on the heritage significance of the property. The development will not materially affect views to or from the former St Joseph's Catholic Church.

The operation of the function centre is consistent with the provisions of Part C Chapter 10 of the Hawkesbury DCP 2002 and the endorsed Conservation Management Plan.

**(a)(iv) Regulations**

These matters have been considered in the assessment of this application.

The Environmental Planning & Assessment Regulation 2000 outlines that the development is to comply with the National Construction Code / Building Code of Australia (BCA). Suitable conditions of

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

consent may be imposed to ensure compliance with this requirement should the application be approved.

**(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)**

These matters have been considered in the assessment of this application.

The function centre is to cater for up to 100 guests and is to operate between 11:00am and 7:00pm seven days a week.

An Acoustic Report has been submitted in support of the application and has been assessed by relevant Council staff. The report indicates that the function centre can operate in compliance with the relevant noise criteria provided a number of operational measures are employed. These measures include:

- Power to all audio or audio-visual equipment shall be controlled by a noise limiting device that is set to 85dB(A) (internal). The noise limiter device must only be accessible by management and must not be used by third parties.
- All outdoor activities/congregations/events/functions shall be conducted on the western side of the building only.
- No personal stereos and/or public address (PA) systems are to be used onsite.
- Musicians are to consist of a maximum two piece band (acoustic string instruments only) or a disc jockey (DJ). No amplified or percussion instruments are allowed to perform. Musicians are only allowed to perform within the ground floor of the building; they must not perform outside the building.
- Patrons and guests must be instructed to not cause unnecessary noise and to be mindful of neighbours. Signs are to be placed on the balcony area to advise patrons to keep noise to a minimum.

These measures are generally reflected in the prepared Plan of Management for the development.

From the complaints received from neighbours it is clear that the function centre did not previously operate in accordance with their own nominated operational controls. Whilst the findings of the Acoustic Report demonstrate that the activities could potentially be undertaken without unreasonably impacting on neighbours, the Applicant's conduct up to this point does not provide confidence that the recommendations of the Acoustic Report and Plan of Management will be satisfied. On this basis it is recommended that more restrictive limitations on the number of functions and events that may be held each week are imposed.

The subject building is significantly setback from neighbouring dwellings and with the imposition of conditions restricting events and requiring compliance with the prepared consultancy reports it is considered unlikely that the development will produce significant environmental, social or economic impacts for the locality.

**(c) Suitability of the Site for Development**

These matters have been considered as part of the assessment of the application.

The property is located in close proximity to the Macdonald River and the adopted 100 year Average Recurrence Interval (ARI) flood level for the area is 10.3m AHD. The subject building and car park are located on a steep ridge above St Albans Road that has height in excess of 31m AHD. On this basis the majority of the property is not subject to Council's flood planning controls however a portion of the site's western driveway and the roads within the vicinity may be subject to flooding.

Concerns were raised with the Applicant in relation to the possibility of visitors becoming stranded during even minor events with little shelter and the possibility of limited food supplies. This matter has



SECTION 2 – Reports for Determination

Meeting Date: 21 June 2018

since been addressed by the Applicant providing clarification that flood events in this area are typically long duration events and there is significant warning prior to access being blocked or ferries ceasing operation. It was also explained that limited people will stay on the site itself and the majority of visitors will stay at other accommodation within St Albans and other areas.

Functions and accommodation bookings may be cancelled in the event of flood warnings.

The proposed uses are commercial in nature and the building would be unoccupied for extended periods of time. It is therefore considered that the site is suitable for the development.

**(d) Any Submissions**

The development was notified from 22 December 2017 to 19 January 2018 in accordance with Part A Chapter 3 of the Hawkesbury DCP 2002. As detailed previously in this report approximately 104 submissions were received in response to the notification of the application.

The matters raised in the submissions are summarised below in italics, followed by a response by the assessing officer.

*Comment: The property is already being used to hold functions and events.*

Officer's response: The use of the building and property as both a function centre and tourist and visitor accommodation is currently being undertaken without appropriate approvals from Council. In this regard it is noted that the tourist and visitor accommodation use has been approved with Development Consent No. DA0642/15 however the consent is yet to be enacted.

The current application seeks approval to operate as a function centre.

Complaints regarding these unauthorised uses have been referred to Council's Environment and Regulatory Services – Compliance Section. However, it is understood that they have deferred any compliance action until such time that this application is determined due to the different action required to cease operations due to no consent or to enforce consent conditions.

*Comment: The Conservation Management Plan refers to a cemetery that is partially located on 937 St Albans Road.*

Officer's response: A cemetery associated with St Joseph's Catholic Church is located on both the subject property and the adjoining property at 937 St Albans Road. The Conservation Management Plan endorsed by Council only applies to the subject property 1029 St Albans Road and Council's approval of the Conservation Management Plan will not have cost implications for the owner of 937 St Albans Road.

*Comment: Functions and events being held onsite generate unreasonable noise impacts for neighbours.*

Officer's response: It is evident that in the past the function centre has been operated with little consideration for neighbours, the local community or Council. However, as a part of this application, the applicant has had to review the operation of the function centre and consultants have been engaged to address noise, traffic and parking issues.

Most significantly operating hours of 11:00am to 7:00pm are now proposed to reduce noise impacts in comparison to previous operations and applications.

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

With the imposition of conditions requiring the installation of noise limiting devices and a reduction in the number and frequency of events, it is considered that the function centre can be operated without unreasonably impacting upon the amenity of neighbours and the local community.

An Acoustic Report has been prepared in support of the development which indicates that the function centre use may operate within the relevant noise criteria provided appropriate measures are implemented.

*Comment: The property does not provide adequate parking for the function centre. This results in vehicles being parked dangerously on St Albans Road which is a narrow and winding rural road.*

**Officer's response:** Numerical parking requirements have been discussed previously in this report. In addition to all-weather parking for 18 vehicles, informal overflow parking arrangements and the use of a mini-bus have been nominated to address parking demand.

*Comment: Guests have been parking their vehicles and camping on the neighbouring property at 937 St Albans Road.*

**Officer's response:** Photographs supplied in a submission indicate that guests have previously camped on both the subject property and the neighbouring property at 937 St Albans Road. There have also been complaints that guests have parked their vehicles on this neighbouring property.

The documentation supplied in support of the application does not address camping and insufficient facilities are available onsite to cater for such a use. It is also likely that such activities have contributed to amenity impacts that the neighbours have experienced.

It is therefore recommended that a condition is imposed prohibiting any camping or caravans on the property unless otherwise allowed under Section 77 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

A further condition requiring the installation of a rural fence, as a minimum standard, to define the boundaries of the property will also deter guests from entering and parking vehicles on the neighbouring property. The relevant property owners can agree to a fence of a greater standard if they desire.

*Comment: The plans do not appear to be accurate and there is a concern that the works will extend within the adjoining property at 937 St Albans Road.*

**Officer's response:** The imposition of a condition requiring the obtainment of a boundary survey is recommended to ensure that any works are located wholly within the subject property. If works extend beyond the property boundary it would be a breach of development consent (if granted) and then appropriate Orders can be used to ensure compliance with that consent.

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

**(e) Public Interest**

With the imposition of conditions, and the appropriate management of the function centre use, the development is not expected to adversely impact upon the character of the locality, the surrounding environment or the heritage significance of the site. The approval of the application may assist in the conservation of the heritage item and is therefore seen to be in the public interest.

**Internal Referrals**

Heritage

In the assessment of the application, Council's Heritage Advisor outlined that in order for the conservation incentives clause to be used there needed to be sufficient information provided to Council regarding the ongoing maintenance of the heritage item. In response, Council received a Schedule of Conservation Works and maintenance costings for the former St Josephs Catholic Church that were included as attachments to the Conservation Management Plan.

The Conservation Management Plan for the development was endorsed by Council at its Ordinary Meeting of 28 May 2018.

Building

The Building Coordinator has raised no objection to the proposal subject to the imposition of conditions. Structural certification of the mezzanine level and external deck, the upgrading of fire safety measures and the upgrading of exit doors will be required prior to the issue of an Occupation Certificate.

Environmental Health

The Sewer Management Facility (SMF) Officer has reviewed the supplied Effluent Disposal Report and has imposed conditions requiring the submission of 'Sewer Management Facility System' Application for the upgrading of the existing system. Whilst portable toilets may be used for functions, the Effluent Disposal Report indicates that the land can accommodate the use of an Aerated Wastewater Treatment System (AWTS), balancing/metering tank and low-pressure effluent irrigation system designed to cater for up to 100 patrons. The installation of the balancing/metering tank will be required based on the demand generated by the function centre use and will allow for the proportional application of treated effluent.

Council's Environmental Health Officer has reviewed the supplied Acoustic Report and recommends the imposition of conditions to ensure the recommendations of this report are complied with.

**External Referrals**

Not applicable. The proposed function centre use is not defined as a 'special fire protection purpose' under the Rural Fire Services Act 1997. On this basis there was no requirement to refer the application to the Rural Fire Service (RFS) as 'integrated development'.

**Financial Implications**

The re-construction and fitout of the building was approved with Development Consent No. DA0459/09 and accordingly the subject application primarily involves the extension of the existing car park. Based on the supplied value-of-works of \$41,000 the payments of Section 94A Development Contributions are not required.

It should also be noted that the adaptive re-use of a heritage item is not subject to the payment of Section 94A Development Contributions under Section 25J(3)(m) of the EP&A Regulation.

## HAWKESBURY INDEPENDENT HEARING AND ASSESSMENT PANEL

### SECTION 2 – Reports for Determination

Meeting Date: 21 June 2018

#### Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act 1979 with all matters specified under Section 4.15(1) having been taken into consideration. The development may be considered under the Conservation Incentives Clause of the Hawkesbury LEP 2012 and Council's environmental health assessment supports the conclusions of the prepared Acoustic Report.

With the imposition of conditions to manage and control the operation of the function centre, the development is recommended for conditional approval.

#### RECOMMENDATION:

That the Hawkesbury Independent Hearing and Assessment Panel as the consent authority pursuant to Clause 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) approve Development Application No. DA0703/17 for a function centre on Lot 1 in DP 605179, known as 1029 St Albans Road, Lower Macdonald, subject to the conditions below:

#### REASONS FOR RECOMMENDATION:

That there was merit to the proposal to operate as a function centre for the reasons listed below:

1. A Conservation Management Plan has been endorsed by Council and the use of the conservation incentives clause of the Hawkesbury Local Environmental Plan 2012 will facilitate the ongoing conservation and maintenance of the heritage item; and
2. Conditions have been imposed to restrict operating hours and the frequency of events to minimise amenity impacts for neighbours.

#### CONDITIONS:

**Development Description:** Function Centre – Construction of a car park and the use of the former St Josephs Church as a function centre

#### General Conditions

#### Approved Plans and Supporting Documentation

The development shall take place generally in accordance with the following stamped approved plans and documentation:

Drawing or Document	Prepared By	Dated
Drawing No. DA-01 '1029 St Albans Road'	John Potts Architect	October 2015
Drawing No. 0925 Sheet 1 'Survey Plan'	RW Martin and Associates	12 April 2018
'Plan of Management – St Josephs Catholic Church (Former) – 1029 St Albans Road'	Edwards Planning	June 2018
'Heritage Impact Statement – St Josephs Catholic Church (Former) – 1029 St Albans Road'	Edwards Planning	April 2017
Drawing No. DA-01 'Figure 1'	Blue Mountains Geological and Environmental Services Pty Ltd	13 November 2015
'Structural Engineer's Report'	Pratt Engineers Pty Ltd	26 February 2018

## HAWKESBURY INDEPENDENT HEARING AND ASSESSMENT PANEL

### SECTION 2 – Reports for Determination

Meeting Date: 21 June 2018

Drawing or Document	Prepared By	Dated
'Noise Impact Assessment – Function Room – 1029 St Albans Road, Lower Macdonald' (Reference No. R160399R1 Rev '2')	Rodney Stevens Acoustics	18 January 2017
'Investigation and Assessment for On-site Effluent Management at St Josephs Guesthouse – Lot 1, DP 605179, No. 1029 St Albans Road, Central MacDonald' Report (Reference No. 151201)	Blue Mountains Geological and Environmental Services Pty Ltd	December 2015

except as modified by the conditions of this consent.

#### Works Shall Not Commence Until A Construction Certificate Is Issued

No work shall commence until:

- a) a Construction Certificate is obtained from either Council or an Accredited Certifier;
- b) a Principal Certifying Authority is appointed; and
- c) a Notice of Commencement is lodged with Council.

Note: If the Construction Certificate is issued by an Accredited Certifier that is not Council it will be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval (a registration fee is payable upon lodgement).

#### Obtainment of a Construction Certificate

A Construction Certificate must be submitted to the Certifying Authority within three months from the determination date of this consent.

#### Occupation Certificate Required Prior to The Use Of The Building

The building shall not be occupied or used as a function centre prior to the issuing of an Interim or Final Occupation Certificate by the Principal Certifying Authority. Where an Interim Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

A copy of the Occupation Certificate shall be submitted to Council within two days of its issue.

#### Section 6.16(1) Certificates Required

The accredited certifier shall provide copies of all Section 6.16(1) Certificates issued under the *Environmental Planning and Assessment Act 1979* relevant to this development to Council within seven days of issuing the certificate.

Note: A registration fee applies.

#### Prescribed Conditions – Compliance with National Construction Code

All building works must be carried out in accordance with the requirements of the National Construction Code (Building Code of Australia).

#### Civil Works Specification Compliance

All civil construction works required by this consent shall be undertaken in accordance with Hawkesbury Development Control Plan 2002 – Appendix E 'Civil Works Specification'. Inspections

shall be carried out and compliance certificates issued by Council or an Accredited Certifier.

**Roads Act 1993 – Approval Required**

A separate approval is required from Council (for local roads) under Section 138 of the Roads Act 1993 to undertake any of the following:

- a) carry out a work within a public road; or
- b) dig up or disturb the surface of a public road; or
- c) remove or interfere with a structure, work or tree on a public road; or
- d) pump water into a public road from any land adjoining the road; or
- e) connect a road (whether public or private) to a public road.

**Works on Public Land – Not Permitted Without Approval**

No work can be undertaken within adjoining public lands (i.e. roads, parks or reserves etc.) without the prior written consent of Council or other relevant authority. In this regard the person having benefit of the consent is to contact Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

The developer must bear the cost of all works associated with the development that occurs on public land, including the restoration of damaged areas.

**Sewer Authority – Hawkesbury City Council**

This development falls within the Sewerage Scheme controlled by Hawkesbury City Council. Therefore Hawkesbury City Council is the approving authority for all sewer works.

A 'Sewer Management Facility System' Application shall be submitted to and approved by Council.

***Prior to the Issue of a Construction Certificate***

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate (Civil) relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained for the construction of a car park and the sight distance improvement works within the road reserve:

**Construction Certificate Required**

A Construction Certificate shall be obtained for this development covering:

- a) Construction of the car park;
- b) Civil works for sight distance improvement within the road reserve;
- c) Construction of any retaining walls; and
- d) Civil drainage.

Prior to the issue of a Construction Certificate, plans showing finished levels, any associated drainage, any structural details, batter grades and finished surfaces must be submitted to the Certifying Authority.

The applicant shall pay a Design Compliance Certificate Fee in accordance with Council's adopted fees and charges when submitting Civil Engineering Plans for approval.

### **Long Service Levy**

The payment of a long service levy is required under Part 5 of the *Building and Construction Industry Long Service Payments Act 1986* in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Design Compliance Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.

### **Car Parking and Allocation of Spaces**

An all-weather car park providing a minimum of 18 spaces (including one accessible space) shall be constructed to service the development. The car parking spaces shall be provided in accordance with AS2890.1 'Parking facilities: Off-street parking' and AS2890.6 'Parking facilities: Off-street parking for people with disabilities'. The car parking spaces are to be identified onsite by line-marking.

Overflow parking for a minimum of 10 vehicles shall also be provided to the north of the former church building. No overflow parking is to be provided to the east of the church building as indicated in Drawing No. 0925 Sheet 1 'Survey Plan' prepared by RW Martin and Associates and dated 12 April 2018.

Details of compliance with these requirements are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

### **Sight Distance Works**

Earthworks, vegetation removal and traffic measures are to be undertaken within the road reserve of St Albans Road to ensure that sight distances for vehicles leaving the site are a minimum of 56m (in accordance with AUSTROAD Absolute Minimum for 60km/hr) in both directions. Details demonstrating compliance with this requirement, such as the installation of additional measures such as convex mirrors, are to be included on the plans submitted to Council prior to issue of the Construction Certificate.

### **Earthworks – Cut, Fill and Grading**

All earthworks on the site must comply with the following:

- a) Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping
- b) All disturbed areas are to be stabilised/revegetated, using a minimum 300mm surface layer of topsoil, as soon as practicable after the completion of the filling works
- c) Once the topsoil has been removed the natural batter shall be suitably stepped, scarified or roughened to prevent slipping and the fill is to be keyed in to hold the top of the fill batter in place
- d) Where batters exceed a ratio of three horizontal to one vertical, retaining walls, stone flagging or terracing shall be constructed
- e) All fill within the site shall be placed in layers not exceeding 300mm thickness and compacted to achieve a minimum dry density ratio of 95% when tested in accordance with Australian Standard AS1289 'Methods of testing soils for engineering purposes' unless otherwise specified
- f) Filling shall comprise only uncontaminated Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM). Contamination certificates for all source material shall be provided to the Principal Certifying Authority prior to placing any fill on site.

Details satisfying the above requirements are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

**Retaining Wall Requirements**

Any retaining walls having a height exceeding 600mm are required to be designed by a practicing structural engineer. The design must be submitted to the Certifying Authority prior to issue of the Construction Certificate.

**Overland Flow**

The development shall not create adverse impacts to neighbouring properties in relation to overland flow of stormwater and must meet the following requirements:

- a) water flowing from the property must not be redirected or concentrated to adjoining properties
- b) water flowing into the property from adjoining lots shall not be impeded or diverted
- c) water flow shall follow the natural flow directions without increasing velocity.

Details are to be provided on the plans submitted to the Certifying Authority prior to issue of a Construction Certificate.

**Onsite Sewage Management – Approval Required**

A 'Sewer Management Facility System' Application shall be submitted to and approved by Council. The application shall be submitted to Council with design details, site assessment report and payment of the prescribed fee.

Evidence of Council's approval of the 'Sewer Management Facility System' Application must be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

***Prior to the Commencement of Works***

**Principal Certifying Authority – Details**

The applicant shall advise Council of the name, address and contact number of the Principal certifier, in accordance with Section 66(2)(a) of the *Environmental Planning and Assessment Act 1979*.

**Notice of Commencement**

No work shall commence until a notice of commencement has been provided to Council. This notice is to be provided not less than two days from the date on which it is proposed to commence work associated with this Development Consent. The notice must also contain:

- a) details of the appointment of a Principal Certifying Authority (PCA) providing name, address and telephone number; and
- b) details of the name, address and licence details of the contractor.

**Principal Certifying Authority (PCA) Site Sign**

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a) showing the name, address and telephone number of the Principal Certifying Authority for the work;
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c) stating that unauthorised entry to the work site is prohibited.

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.



### **Toilet Facilities**

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

### **Erosion and Sediment Controls**

Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with Landcom's publication 'Managing Urban Stormwater – Soils and Construction (2004)'.

### **Traffic Management Plan**

A Traffic Management Plan prepared in accordance with the Roads and Maritime Services' (formerly the Roads and Traffic Authority) publication 'Traffic Control at Worksites' is to be prepared by an appropriately qualified person and submitted to Council for approval prior to commencement of any works.

### **Survey Certificates**

The works shall be set out by a Registered Surveyor to ensure that no work is undertaken on adjoining properties as part of this consent. A Survey Certificate for the site showing the location of the car park, fencing and other structures under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority during an early stage of construction. Any easements must be shown on the Survey Certificate.

### ***During Construction***

#### **Construction Hours**

Clearing of land, running of machinery, excavation, and/or earthworks, civil works and the delivery of building materials shall be carried out between the following hours:

- a) between 7am and 6pm, Mondays to Fridays inclusive;
- b) between 8am and 4pm, Saturdays;
- c) no work on Sundays and public holidays; and
- d) works may be undertaken outside these hours where:
  - (i) the delivery of vehicles, plant or materials is required outside these hours by the Police or other authorities;
  - (ii) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; and
  - (iii) a variation is approved in advance in writing by Council.

#### **Site Management During Construction**

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Copies of receipts stating the following must be given to the Principal Certifying Authority:
  - (i) the place to which waste materials were transported;
  - (ii) the name of the contractor transporting the materials; and
  - (iii) the quantity of materials transported off-site and recycled or disposed of.
- d) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

systems, waterways, adjoining properties and roads.

e) During construction:

- (i) all vehicles entering or leaving the site must have their loads covered;
- (ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads; and
- (iii) any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to the public.

f) At the completion of the works, the work site must be left clear of waste and debris.

**Implementation of Traffic Management Plan**

A Traffic Management Plan must be implemented and all devices maintained for the duration of the proposed works in compliance with the approved Traffic Management Plan.

1. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
  - a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
  - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
  - c) builders waste must not be burnt or buried on site
  - d) all waste (including felled trees) must be contained and removed to a Waste Disposal Depot.

**Conservation Management Plan – Conservation Works**

The conservation works must be undertaken in accordance with the recommendations of Section 11.2 of the 'Heritage Impact Statement – St Josephs Catholic Church (Former) – 1029 St Albans Road' prepared by Edwards Planning and dated April 2017.

Any works undertaken in accordance with this development must be specified, supervised and carried out by people with knowledge, skills and experience appropriate to the work.

The conservation works shall be undertaken under the supervision of a suitably qualified heritage specialist to provide on-site conservation/technical/management advice as necessary.

The general methodology for undertaking the conservation works to the stone blocks shall be as follows:

- a) Repointing of the building internally and externally shall be undertaken with high quality shell lime mortar similar in its compressive strength to the original mortar compound. As a general conservation approach, the 5mm mortar joints should be raked out to at least 1cm and repointed. Loose mortar should be raked out and missing mortar should be packed and filled.
- b) Pinning of failed stone blocks from lateral or vertical cracking as the preferred conservation approach to removal and replacement with like-for-like stone.
- c) New stone cut and dressed to be a like-for-like replacement for stone blocks which are beyond a salvageable/repairable condition.

**Disposal of Cleared Vegetation**

Vegetation waste resulting from the approved clearing of the site shall be salvaged for re-use either in log form or as woodchip mulch for erosion control and/or site rehabilitation. Non-salvageable material

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

such as roots, stumps or declared weed species shall be disposed of to an appropriate waste facility.

No vegetative material is to be disposed of by burning onsite other than in an approved heating or cooking device.

**Food Premises – Design and Fitout**

All works associated with the storage, preparation and cooking of food shall be undertaken in accordance with the requirements of:

- Food Act 2003 and Regulations thereunder
- Australian Standard AS4674:2004 'Design, construction and fit-out of food premises'
- Australian Standard AS1668.2:2002 'The use of ventilation and air conditioning in buildings – Ventilation design for indoor air contaminant control'
- Hawkesbury Council's 'Food Premises Fit Out Code'.

Any food premises must comply with the following requirements:

- a) finishes, fittings and appliances must be fit for purpose, and should generally be smooth and impervious to moisture
- b) all gaps inside and outside the premises that may allow the entrance of vermin and insects to the kitchen shall be eliminated
- c) hand washing facilities, with hot and cold running water mixed through a common spout, hand wash soap and hand drying facilities must be provided in the kitchen. A constant supply of soap and paper towel delivered through a dispenser must be located next to the hand washing facilities
- d) where fittings are butt joined together they must be sealed to eliminate any cavities or crevices. Alternatively, a clear space of at least 75mm is to be provided between fittings. The following requirements apply to clearances and supports of equipment:
  - (i) all refrigerators, freestanding cupboards and similar fittings must have metal legs made of non-corrosive metal or moulded plastic at a minimum height of 150mm above the floor. If placed flush on solid plinths the solid plinth is to be a minimum of 75 mm high
  - (ii) where the above fittings do not comply with these clearances, the fittings shall be provided with wheels to enable easy cleaning, and eliminate inaccessible cavity.

**Construction and Compliance Certificates – Sewer Works**

Inspections and Compliance Certificates for sewer works can only be conducted and issued by Council. In the case of internal and external drainage, the inspection must be conducted by Council's Environment and Regulatory Services/Environmental Health Department. Please phone (02) 4560 4444 to arrange inspections and make payment of the required fees.

In all cases inspections must be conducted on the exposed pipes prior to any backfilling (including poured concrete or concrete encasement).

**Civil Construction Requirements**

All civil construction works required by this consent shall be undertaken in accordance with Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification. Inspections shall be carried out and Compliance Certificates issued by Council or an accredited certifier.

***Prior to the Issue of an Occupation Certificate***

**On-site Sewage Management – Approval to Operate**

An Approval to Operate the onsite sewage management system shall be obtained prior to the issue of

any Occupation Certificate.

**Compliance Certificate – Connection to Onsite Waste Facility**

A written clearance from Council (as the local sewer authority) that the development is suitably connected to the onsite sewerage management system is required to be submitted to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate.

**Structural Rectification to Sandstone Elements**

The temporary securing recommendations for the sandstone walls as identified in the 'Structural Engineer's Report' prepared by Pratt Engineers Pty Ltd and dated 26 February 2018 are to be carried out and completed prior to the issue of an Occupation Certificate.

**Structural Certification of Mezzanine Level and External Deck**

A structural engineer shall inspect and certify the mezzanine level and the external deck as being capable of withstanding the loads likely to be imposed upon them by a large gathering of people.

In the event the structural engineer wishes to restrict the load imposed upon either structure, a maximum load limit (expressed as a maximum number of people) shall be specified. A sign or plate shall be affixed to the building in a prominent location indicating the maximum number persons the mezzanine or deck can accommodate.

The Structural Engineer's Certificate (and where required the load limit sign) shall be provided prior to the issue of an Occupation Certificate.

**Fire Safety Upgrading**

The function centre shall be provided with fire extinguishers, illuminated exit signage and emergency lighting in accordance with the attached Fire Safety Schedule. Certificates of Compliance and a Final Fire Safety Certificate are required to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

**Upgrading to Exit Doors**

Compliant door hardware (such as lever type door handles) are required to be provided to all exit doors where the installation will not unduly destroy the heritage fabric.

**Function Centre – Plan of Management**

A consolidated Plan of Management shall be prepared for the function centre. This Plan of Management must be provided to Council for approval prior to the release of an Interim or Final Occupation Certificate.

The Plan of Management must be prepared to address but not be limited to the following:

- a) Hours of operation for the function centre are to be limited to 11am to 7pm Friday to Sunday. The operation of the function centre is prohibited Monday to Thursday and on public holidays;
- b) The departure of patrons from the function centre (exclusive of any guests of the tourist and visitor accommodation) must commence at 7pm, with all function centre patrons removed from the site by 7:30pm. The onsite manager and any event staff may remain on the site until 8pm to allow for the cleaning of the site and the removal of equipment;
- c) The function centre may be used for a maximum of one function or event per calendar week, with no functions or events permitted to be held on consecutive days;

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

- d) A maximum of 100 patrons (including any guests of the tourist and visitor accommodation component of the development) may be accommodated within the function centre and the property at any one time;
- e) An onsite manager must be present to oversee and manage the operation of the function centre during all functions and events;
- f) The recommendations of the 'Noise Impact Assessment – Function Room – 1029 St Albans Road, Lower Macdonald' Report (Reference No. R160399R1 Rev '2') prepared by Rodney Stevens Acoustics and dated 18 January 2017 are to be incorporated into the Plan of Management;
- g) The onsite manager or a warden shall be used direct vehicles to the overflow parking areas;
- h) Flood evacuation procedures (including vehicular routes along public roads to the nearest place of refuge) and emergency telephone numbers are to be incorporated into the Plan of Management;
- i) Details of any 'house rules' and complaints handling procedures are to be incorporated into the Plan of Management; and
- j) No tents, caravans or campervans are to be installed or used onsite in association with the function centre use or the tourist and visitor accommodation use.

**Function Centre – Flood Emergency Evacuation and Management Plan**

A Flood Emergency Evacuation and Management Plan is to be prepared for the development. The plan shall advise occupants of flood evacuation procedures (including vehicular routes along public roads to the nearest place of refuge) and emergency telephone numbers. The evacuation procedures shall be permanently fixed to the building in a prominent location and maintained at all times.

The plan must outline that any functions, bookings and/or events are to be cancelled upon the issue by any appropriate Authority of a flood warning for the locality.

A copy of this plan shall be provided to Council prior to the release of the Occupation Certificate.

The plan shall also be incorporated in the Plan of Management for the function centre and tourist and visitor accommodation development.

**Installation of Fencing**

Rural fencing (post and rail or post and wire) shall be installed to define the property's eastern and southern boundaries with 937 St Albans Road. The fencing shall be installed wholly within the subject property and clear of any headstones and monuments.

The installation of the fencing shall be completed prior to the release of an Occupation Certificate.

Note: Building work in close proximity to the boundary may be a sensitive matter for each property owner and can often end in an unsatisfactory relationship between neighbours. You are advised that the consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary.

**Provision of Potable Water**

Potable water shall be provided to the function centre in accordance with the NSW Health Private Water Supply Guidelines. A Water Supply Management Plan is to be developed and implemented in accordance with this Guideline.

A copy of the Water Supply Management Plan shall be submitted to Council prior to the release of the Occupation Certificate.

**Occupation Certificate – Development Consent No. DA0642/15**

Evidence of the obtainment of an Occupation Certificate for the tourist and visitor accommodation

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

approved with Development Consent No. DA0642/15 shall be provided to the Principal Certifying Authority prior to the release of an Occupation Certificate for the subject development.

**Function Centre – Installation of Flood Warning Signs**

Flood warning signs are to be installed to advise patrons and occupants that public roads used to access the site may be subject to inundation during times of flood. The signs shall be constructed of durable material and installed in prominent locations within the building and property.

***Operational Conditions***

**Function Centre – Hours of Operation**

Hours of operation for the function centre are to be limited to the following:

Friday to Sunday:	11:00am to 7:00pm
Monday to Thursday:	Closed
Public Holidays:	Closed

The orderly departure of patrons from the function centre (exclusive of any guests of the tourist and visitor accommodation) must commence at 7:00pm, with all function centre patrons removed from the site by 7:30pm.

The onsite manager and any event staff may remain on the site until 8:00pm to allow for the cleaning of the site and the removal of equipment.

**Function Centre – Event Frequency**

The function centre may be used for a maximum of one function or event per calendar week. Functions and events are not permitted to be held on consecutive days.

**Function Centre – Maximum Number of Patrons**

A maximum of 100 patrons (including any guests of the tourist and visitor accommodation component of the development) may be accommodated within the function centre and the property at any time.

**Function Centre – Maximum Capacity Signage**

The maximum number of persons permitted in the function centre shall be limited to 100.

A sign must be displayed in a prominent position within the building stating the maximum number of persons that are permitted in the building.

**Function Centre – Onsite Manager**

An onsite manager must be present to oversee and manage the operation of the function centre at all times during all functions and events.

**Function Centre – Plan of Management**

The operation of the function centre must be undertaken in accordance with the approved Plan of Management, except where modified by the conditions of this consent or the requirements of the Police and/or Department of Liquor and Gaming.

A copy of the Plan of Management must be kept and maintained in a register and made available for inspection by the Police, Department of Liquor and Gaming and/or authorised Council inspectors/officers upon request.

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

The Plan of Management may be altered with the consultation and consent of Local Licensing Police, Department of Liquor and Gaming and/or Council.

**Function Centre – Flood Warning Periods**

Functions, bookings and events shall not occur during flood warning periods or when access roads are inundated by water after rain events. Staff and patrons shall be given advanced warning to not access the site during these periods.

**Function Centre – Management of Vehicles**

Functions and events shall be managed to ensure that adequate parking is available to accommodate all patron, guest and staff/caterer vehicles within the subject property. No loading, unloading or parking of vehicles is permitted on the public road.

All vehicles being loaded or unloaded shall stand entirely within the property.

**Function Centre – Register of Functions and Events**

The operator shall keep a register detailing the date and times of when the premises is being used for a function and the number of guests attending. This register must be made available to Council officers on request and a copy is to be forwarded to Council at six monthly periods (January and July each year).

**Noise Generating Premises – Acoustic Management**

The operation of the development shall incorporate the recommendations of the 'Noise Impact Assessment – Function Room – 1029 St Albans Road, Lower Macdonald' Report (Reference No. R160399R1 Rev '2') prepared by Rodney Stevens Acoustics and dated 18 January 2017. All recommendations contained within the Acoustic Report are to be implemented, including but not limited to the following:

- a) All activities on the site shall comply with the submitted Acoustic Management Plan.
- b) Power to all audio or audio-visual equipment shall be controlled by a noise limiting device that is set to 85dB(A) (internal). The noise limiter device must only be accessible by management and must not be used by third parties.
- c) All outdoor activities/congregations/events/functions shall be conducted on the western side of the building only.
- d) No personal stereos and/or public address (PA) systems are to be used onsite.
- e) Musicians are to consist of a maximum two piece band (acoustic string instruments only) or a disc jockey (DJ). No amplified or percussion instruments are allowed to perform. Musicians are only allowed to perform within the ground floor of the building; they must not perform outside the building.
- f) Patrons and guests must be instructed to not cause unnecessary noise and to be mindful of neighbours. Signs are to be placed on the balcony area and within the vicinity of the building to advise patrons to keep noise to a minimum.

**Noise Generating Premises – Noise Monitoring**

Where requested certification and/or evidence must be provided to demonstrate that the development is operating in accordance with 'Noise Impact Assessment – Function Room – 1029 St Albans Road, Lower Macdonald' Report (Reference No. R160399R1 Rev '2') prepared by Rodney Stevens Acoustics and dated 18 January 2017 and the conditions of this consent.

If, during the on-going use of the premises, substantiated complaints of breaches of noise occur, the applicant must arrange for further acoustic testing to be undertaken by a suitably qualified acoustic consultant. Any recommendations made by the consultant to ensure the premises complies with the noise criteria specified in the Noise Impact Assessment Report must be immediately implemented.

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

**Noise Generating Premises – Noise Monitoring**

Noise generated as a result of the mechanical plant or equipment during hours of operation shall be managed so that the LAeq noise levels, measured at any point in accordance with the NSW DEC's Industrial Noise Source Policy, does not exceed 5dB(A) (LAeq) above background levels (LA90) with respect to noise amenity of other residential properties and associated outdoor areas. Outside of the hours of operation, the noise from any mechanical plant or equipment should not be significantly audible at any residence.

**Neighbourhood Amenity – Signs**

Signs must be placed in clearly visible positions within the building and in the car park area requesting that patrons leaving the premises are to do so quickly and quietly, having regard to maintaining the amenity of the area.

**Prohibition of Tents, Caravans and Campervans**

No tents, caravans or campervans shall be installed or used onsite unless otherwise allowed under Section 77 of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*.

**Annual Fire Safety Statement**

The owner of the building is responsible for the lodgement with Council of an Annual Fire Safety Statement from a competent person so as to confirm the essential fire safety measures required to be provided in the building exist and are being maintained. The Annual Fire Safety Statement shall be issued within 12 months of the issue of the Final Safety Certificate, and then on an annual basis thereafter.

A copy of the Fire Safety Statement obtained and the Fire Safety Schedule shall also be:

- a) Forwarded to the Commissioner of Fire and Rescue New South Wales by email to [afss@fire.nsw.gov.au](mailto:afss@fire.nsw.gov.au); and
- b) Prominently displayed in the building.

**Private Water Supplier – Registration with Council**

The development must be registered with Council as a private water supplier prior to the operation of the function centre.

**Food Premises – Registration of Food Premises**

Any part of the building used for food preparation shall be registered with Council as a Food Premises and have inspections conducted by Council officers as necessary/required.

**Food Premises – Operation and Maintenance Requirements**

The food premises shall be maintained in accordance with the requirements of:

- *Food Act 2003* and Regulations there under.
- Australian Standard 4674:2004 'Design, construction and fit-out of food premises'.

Hand washing facilities, with hot and cold running water mixed through a common spout, hand wash soap and hand drying facilities must be provided in the kitchen. A constant supply of soap and paper towel delivered through a dispenser must be located next to the hand washing facilities.

Any refrigeration used to store potentially hazardous food must have a capacity to keep food colder



than 5°C and be provided with a thermometer, accurate to  $\pm 1^{\circ}\text{C}$ .

All food is to be transported, stored and displayed in a manner that protects the food from likely contamination in accordance with the provisions of Standard 3.2.2 of the Food Standards Code under the *Food Act 2003*.

### **Waste Management**

All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the *Protection of the Environment Operations Act 1997*.

All waste materials are to be stored in covered vermin proof waste storage bins and regularly removed from the property. Waste is to be separated where appropriate for re-use and recycling purposes. Waste is to be contained in such a manner to prevent it from being blown, moved or located around the property or surrounding properties.

### **Reporting of Pollution Incidents**

In accordance with the requirements of Part 5.7 of the *Protection of the Environment Operations Act 1997*, Council is to be informed of any pollution incident that occurs in the course of carrying out the approved activity where material harm to the environment is caused or threatened.

### **Lighting**

Any lighting from the development is to be directed away from surrounding properties, at an angle of 45 degrees towards the ground and shielded if needed, to prevent any light spillage and nuisance onto adjoining properties.

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The reasons for the imposition of these conditions are those matters listed under Section 4.17 of the *Environmental Planning and Assessment Act 1979* as are relevant to the development subject to this consent. Unrestricted consent may affect the environmental amenity of the area and would not be in the public interest.

### **Advisory Notes**

- This consent operates from the determination date shown on the top of this notice and will lapse unless the development is commenced within five years from the date endorsed on this consent.
- Private Accredited Certifiers do not have any authority to issue Engineering Approvals or carry out inspections for works on Public Roads under the *Roads Act 1993*.
- Any activity carried out in accordance with this approval shall not give rise to offensive noise, air pollution (including odour) or pollution of land and/or water as defined by the *Protection of the Environment Operations Act 1997*.
- Building work in close proximity to the boundary may be a sensitive matter for each property owner and can often end in an unsatisfactory relationship between neighbours. You are advised that the consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary.

Your attention is directed to the provisions of the *Dividing Fences Act 1991* that gives certain rights to adjoining owners, including use of the common boundary. In the absence of any structure standing well clear of the common boundary you need to make yourself aware of your legal position, which may involve a survey to identify allotment boundaries.

**SECTION 2 – Reports for Determination**

**Meeting Date:** 21 June 2018

Note: This consent does not override your obligations under the *Dividing Fences Act 1991*.

- This development falls within the Sewerage Scheme controlled by Hawkesbury City Council and accordingly Council is the approval authority for all sewer works.

The sewage management facility must be operated in accordance with the relevant operating specifications and procedures for the component facilities, and so as to allow disposal of treated sewage in an environmentally safe and sanitary manner (*Local Government [General] Regulation 2005*).

- The installed system will be the subject of an approval to operate a system of sewage management in accordance with the provisions of Subdivision 6 and 7 of Division 4 of Part 2 of the *Local Government (General) Regulation 2005* and for this purpose will be subject to inspection at annual frequency by Council's Environmental Health Officer or at such other frequency as may be determined according to the future operation or risk of the system.
- The Applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.
- Non-compliance with any condition of this development consent may result in a penalty notice being issued by Council.
- The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this development. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- The applicant is advised to consult with the relevant:
  - a) sewer provider;
  - b) electricity provider; and
  - c) telecommunications carrier

regarding their requirements for the provision of services to the development and the location of existing services that may be affected by the works, either onsite or on the adjacent public roads.

**ATTACHMENTS:**

- AT - 1** Locality Plan
- AT - 2** Aerial View of Property
- AT - 3** Plans of the Proposal

**Meeting Date:** 21 June 2018

## AT - 1 Locality Plan



SECTION 2 – Reports for Determination

Meeting Date: 21 June 2018

AT - 2 Aerial View of Property

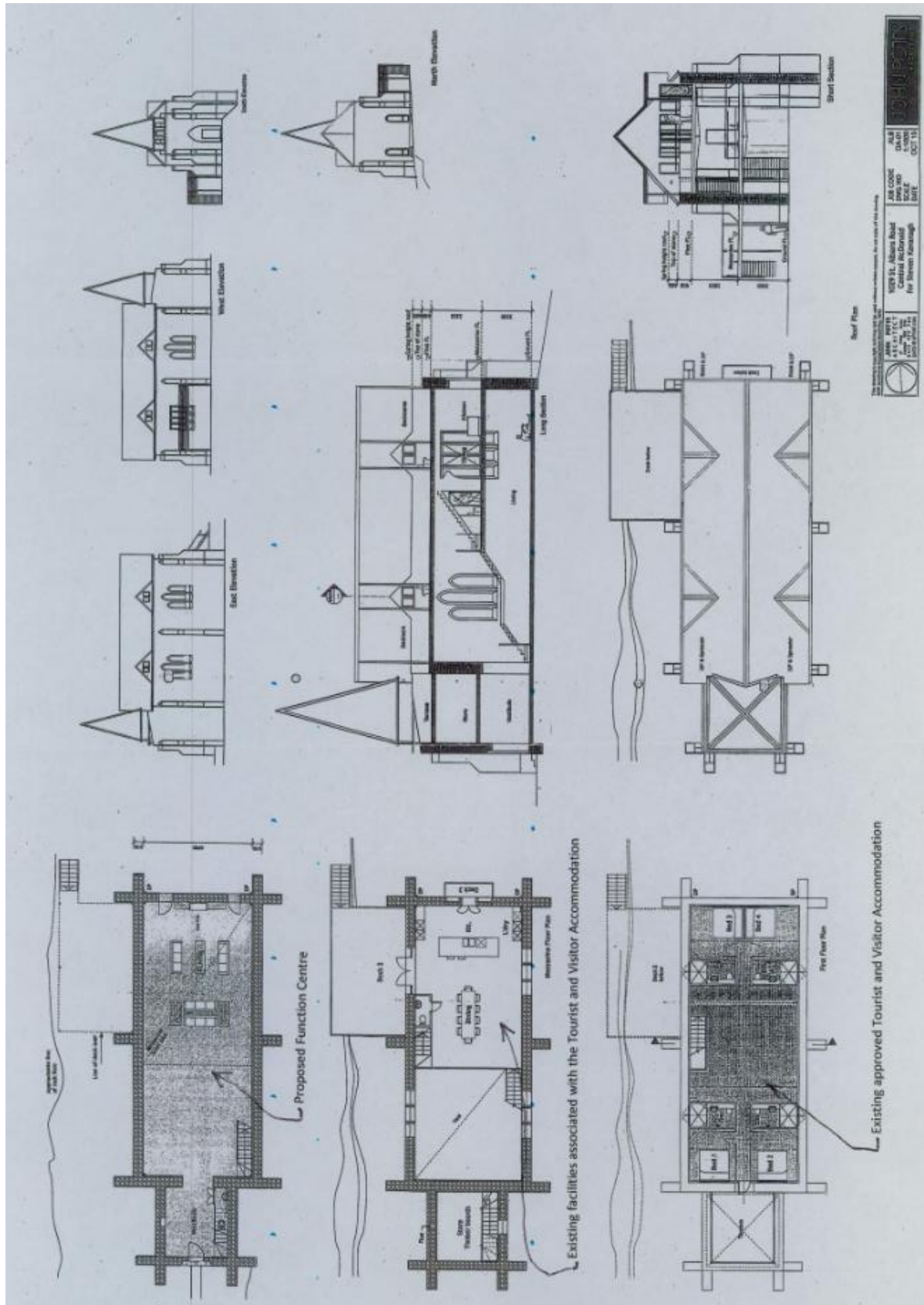




SECTION 2 – Reports for Determination

Meeting Date: 21 June 2018

AT - 3 Plans of the Proposal



**Meeting Date:** 21 June 2018





hawkesbury  
independent  
hearing and  
assessment  
panel

end of  
business  
paper

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