



Ordinary Meeting of Council

LATE REPORTS

Thursday 28 April 2022

4.00pm

Council Chambers

209 Comur Street, Yass

PRAYER:

All Stand:

Mayor:

Let us be still and remember the presence of God. As we commence our meeting let us together pray for guidance and help.

All say together:

Almighty God, we ask your blessing upon this Council.

Direct and prosper our deliberations to the true welfare of Australia and the people of Yass Valley Amen.

FUTURE MEETINGS

May 2022

Thursday 26th

4.00pm

Ordinary Meeting of Council

Ordinary Meeting of Council

LATE AGENDA

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Chris Berry
GENERAL MANAGER

6.17 DEVELOPMENT APPLICATION NO DA200273 - 66 LOT COMMUNITY TITLE SUBDIVISION - 2090 SUTTON ROAD, SUTTON

SUMMARY

To present the assessment of Development Application No DA200273 for a 66 lot community title subdivision of Lot 1 DP 1272209, 2090 Sutton Road, Sutton. The application is presented to Council as it attracted four submissions. Relevant concerns can be addressed by conditions. Approval is recommended.

RECOMMENDATION

That conditional Development Consent be issued for Development Application No DA200273 for a 66 community title subdivision of 2090 Sutton Road, Sutton.

FINANCIAL IMPLICATIONS

Resources for development assessment are provided for in the current Operational Plan.

POLICY & LEGISLATION

- *Environment Protection & Biodiversity Conservation Act 1999 (Cth)*
- *Environmental Planning & Assessment Act 1979*
- *Environmental Planning & Assessment Regulation 2000*
- *Biodiversity Conservation Act 2016*
- *Roads Act 1993*
- *Rural Fires Act 1997*
- *Water Management Act 2000*
- State Environmental Planning Policy 55 Remediation of Land
- State Environmental Planning Policy 64 Advertising and Signage
- State Environmental Planning Policy (Infrastructure) 2007
- Yass Valley Local Environmental Plan 2013
- Sutton Village Master Plan
- Yass Valley Community Engagement Strategy
- Yass Valley Development Contributions Plan 2018
- Building Line Policy – Urban
- Building Line Policy – Rural and Rural Residential
- Non-Urban Fencing Policy
- Provision of Electricity Supply and Telecommunications Service for Subdivisions Policy
- Development Assessment and Decision Making
- Road Naming Policy
- Road Standards Policy
- Water Supply for Rural Areas and Villages Policy

REPORT

1. Application Details

Date Received	-	21 December 2020
Land	-	Lot 1 DP 1272209, 2090 Sutton Road, Sutton (formerly Lot 5 DP 838497)
Area	-	184.64ha
Zoning	-	RU5 Village, R5 Large Lot Residential, C3 Environmental Management (formerly E3 Environmental Management)

2. Site Description and Locality

The development site is approximately 184ha in size and is located on the southern side of Sutton, at the border of the Yass Valley and Queanbeyan-Palerang Local Government Areas. It is approximately 22km north of Canberra and approximately 57km south of Yass.

The development site has frontage to the Federal Highway (classified State Road), Sutton Road (classified 'regional' road) and the Old Federal Highway and Guise Street (both 'local' roads). Surrounding the site is medium density residential lots to the north and low density agricultural lots to the east, south and west. Adjoining the site to the southeast is the 'Tulip Top Gardens', which is a privately-owned garden and nursery that is open periodically to the public.

The development site is un-developed land, which has been used for agricultural purposes for over 150 years, including cropping, pasture improvement and livestock grazing. The site is undulating, generally sloping up toward the centre of the site and down toward Sutton Road and the Yass River, which forms the eastern boundary of the site. The site supports Box-Gum Woodland and habitat for the Superb Parrot, Silky Swainson-pea and the Golden Sun Moth, all of which are listed under Commonwealth and/or State legislation. A number of farm dams have been constructed on the site.

A Locality Plan is included as **Attachment A**.

The site is subject to three land use zones and four minimum lot sizes under the *Yass Valley Local Plan 2013 (Yass Valley LEP 2013)*. A Zoning and Minimum Lot Size Plan is included as **Attachment B**.

3. Background

Following the adoption of the *Yass Valley Settlement Strategy (YVSS)*, Council resolved to adopt the *Sutton Village Master Plan (Master Plan)* which identified the development site as being capable of accommodating an extension to the Sutton Village. In response to the adoption of the Master Plan, a Planning Proposal prepared by the landowners proposed the re-zoning of the site to facilitate higher density development whilst considering the environmental attributes of the land.

The Planning Proposal was lodged with Council on 6 November 2018 and the Department of Planning & Environment (DPE) subsequently issued a Gateway determination. The Planning Proposal had a number of iterations prior to Council returning it to DPE on 11 September 2019.

The final version of the Planning Proposal sought to:

- Re-zone the land from RU1 Primary Production to part RU5 Village, part R5 Large Lot Residential and part C3 Environmental Management
- Apply minimum lot sizes of 5,000m², 1.5ha, 20ha and 40 ha to each zone respectively
- Include a clause in the *Yass Valley LEP 2013* to enable the subdivision of the R5 Large Lot Residential zone using averaging provisions

The Planning Proposal was approved and the subject application now seeks development consent to develop the land in accordance with the adopted provisions of the *Yass Valley LEP 2013*.

4. Proposal

The subject application seeks consent for a 66 lot community title subdivision consisting of the following:

- 19 lots in the RU5 Village zone ranging in size from 5,005m² to 5,307m².
- 43 lots in the R5 Large Lot Residential zone ranging in size from 8,720m² to 2.2ha and achieving the prescribed average lot size of 1.5ha.
- 4 lots in the C3 Environmental Management zone all of which meet the prescribed minimum lot sizes of 20ha and 40ha.
- Creation of 2,000m² 'building envelopes' on lots in the R5 Large Lot Residential zone (with the exception of lots to the east) and C3 Environmental Management zone. The building envelopes have generally been located to achieve compliance with Council's setback policy. Future development must be located within the prescribed building envelope, unless further environmental assessment is undertaken (refer section 6.1 for further detail).
- Creation of 'building zones' over lots in the RU5 Village zone and lots in the eastern portion of the site zoned R5 Large Lot Residential. The building zones have generally been located to achieve compliance with Council's setback policies.
- Creation of 'special' effluent management zones on lots adjacent to the riparian zone of Yass River, within a 40m buffer from a natural or diverted drainage depression or within a 250m buffer from an existing or proposed bore. On these lots, effluent disposal will be restricted to the prescribed area only and the system installed must be in accordance with the Land Capability Assessment Report which accompanied the Development Application.
- Creation of indicative effluent management zones over all other lots. On these lots effluent disposal can be split across the building envelope and the indicative effluent management zone, and an on-site sewage management report must accompany any application for a dwelling house.
- Creation of Community Association property comprising:
 - Single lot along Yass River comprising the riparian corridor
 - Park including play area, electric BBQ, shade structure, seating, paths and landscaping
 - Pedestrian link from cul-de-sac to park
 - Pedestrian link from park to eastern half of the site
 - Stormwater infrastructure within the park to retard flows to Sutton Road
 - Entry signs (not to be located within road reserve)
 - Lot for existing Telstra pit in proposed lot 'l'
 - 3m wide access handle along Sutton road frontage to enable access to existing Telstra pits
 - Access handle along southern boundary of lot 'bq' allowing access, to the lot containing Telstra infrastructure, for maintenance purposes (i.e. grass slashing)
- Offsetting the biodiversity impacts of the development by retiring credits in accordance with the Order signed by the delegate of the Minister for Environment & Heritage on 1 April 2022, conferring biodiversity certification on the development site.
- Implementation of the Biodiversity Certification Agreement entered into by the proponent and the Minister for the Environment & Heritage. This includes preparation of a Biodiversity Management Plan and the creation of four biodiversity stewardship sites.
- Tree removal.
- Dewatering and filling of dams.
- The establishment of a 10m wide landscaped buffer within the lots with a common boundary to Sutton Road (i.e. lots 'a', 'k', 'j', 'l', 'h', 'o', 'p' and 'q'). This must be in accordance with the requirements of Council, Transport for NSW (TfNSW) and Telstra and will be maintained in

perpetuity by future landowners under the provisions of an appropriate legal mechanism registered on the title of each lot.

- Landscaping in the road reserve of Sutton Road in accordance with the *Sutton Village Master Plan*. This is to be established at full cost to the developer and maintained by Council.
- Rehabilitation of the Yass river riparian corridor in accordance with the Vegetation Management (VMP), to be approved by Natural Resources Access Regulator (NRAR). The VMP must be registered on the title of the community association lot to ensure the ongoing management of the riparian corridor.
- Upgrade of Sutton Road and Guise Street intersection in accordance with requirements of TfNSW.
- Upgrade of Guise Street in accordance with requirements of Council.
- Construction of new roads including driveways to each lot and roadside landscaping.
- Construction of footpaths providing pedestrian access from Sutton Road and Guise Street intersection, through proposed park and along pedestrian link.
- Construction of an equestrian route from the eastern intersection with Guise Street, along Road 02 to the Yass River riparian corridor lot.
- Construction of a fire trail in accordance with Rural Fire Service (RFS) requirements, between the cul-de-sac of Road 02 to Old Federal Highway. This is to be gated (unlocked) and restricted to access for authorised emergency purposes only.
- Stormwater infrastructure comprising a central retarding and bio-retention basin within the community park and grassed swale drains on road shoulders and within lots 'a'- 'd'.
- Fencing of each lot boundary.
- Installation of underground electricity and telecommunications infrastructure.

Subdivision plans indicating the layout of the proposal are included as **Attachment C** and a subdivision plan indicating lot sizes is included as **Attachment D**.

5. Public Exhibition

Public exhibition included notice to 26 adjoining and nearby landowners, the Sutton and District Community Association and Telstra. Four submissions were received. Notes from a meeting of the Community Association, at which the landowners were present, were also provided to Council.

Concerns have been raised in relation to the following:

- Yass Valley Settlement Strategy
- Sutton Village Master Plan
- Environmental impacts
- Community title scheme
- Entry signs
- Existing and proposed road networks
- Stormwater and flooding
- Lot sizes and layout
- Dual occupancy
- Bore water supply
- Telecommunications

A copy of the submissions and notes from the Community Association meeting are included as **Attachment E** and the Applicant's response to submissions is included as **Attachment F**.

A submission was received from Telstra and the issues raised have been resolved. Detail is provided in section 6.6 below.

6. Referrals

Internal referrals have been completed by building, planning, engineering, environmental health and strategic planning. No objections were raised subject to the inclusion of conditions of any consent.

The application was referred externally to:

- Biodiversity and Conservation Division of DPE (BCD)
- Essential Energy
- NRAR
- RFS
- TfNSW
- WaterNSW

A copy of the Recommendation Report prepared by the BCD is included as **Attachment G**.

A copy of all other referral responses are included in **Attachment H**.

Details of each referral and the resolution of issues identified are outlined below.

6.1 Biodiversity and Conservation Division of Department of Planning & Environment

The entry requirements for the Biodiversity Offsets Scheme (BOS) pursuant to the *Biodiversity Conservation Act 2013 (BC Act 2013)* are triggered as outlined below:

- The proposed development will clear greater than the threshold level of native vegetation
- The proposed development has the potential to *significantly* impact BC Act listed entities, being Box-Gum Woodland, Golden Sun Moth, Superb Parrot and Silky-swainson Pea.
- The proposed development will impact *Serious and Irreversible Impacts (SAIL)* entities, being Box-Gum Woodland and Golden Sun Moth. With typical applications for consent under Part 4 of the *Environmental Planning & Assessment Act 1979 (EP&A Act 1979)*, the consent authority must refuse to grant consent to a proposal that is likely to have a serious and irreversible impact on biodiversity values. Biodiversity certification (explained below) grants the decision maker (the Minister for Environment & Heritage) additional scope to take SAIL into consideration, including additional measures to minimise impacts. The biodiversity certification pathway, therefore, allows the development to proceed which would otherwise be instantly refused.

Accordingly, a *Biodiversity Certification Assessment Report (BCAR)* was prepared which identifies the following:

- The assessment area is 187ha and includes the development site and the road reserve of Guise Street.
- 54ha (29%) of the assessment area will be impacted by the proposed development, which includes the entirety of the land zoned RU5 Village .
- 100ha (53%) of the assessment area will be protected and managed through the establishment of four Biodiversity Stewardship Sites (lots 'ca'-'cd') and
- 33ha (18%) of the assessment area will be protected and managed through the retention of vegetation in the rural residential lots.

To address the biodiversity impacts of the proposed development, an application was made to the BCD for *Biodiversity Certification*. Certification was granted via the Order and a Biodiversity Certification Agreement, which are explained in more detail below.

6.1.1 The Order

The Order, signed by the delegate of the Minister for Environment & Heritage on 1 April 2022, confers Biodiversity Certification on the 'Certified Land'. Put simply, the entirety of the land shown as red and the understorey of the land shown as purple/blue in **Attachment I** can be impacted by the proposed and future development, without the need for further consideration or assessment of the likely impacts on biodiversity (i.e. the land is 'certified' for development).

The Order also requires the retirement of 653 credits to offset the impacts of the development, as identified by the BCAR. This can be done by establishing a Biodiversity Stewardship Site and retiring credits generated, purchasing credits, making payment to the Biodiversity Conservation Fund; or a combination of these three methods. The credit obligation is as follows:

- Ecosystem Credits for the Southern Tableland Dry Sclerophyll Forests - 37
- Ecosystem Credits for the White Box - Yellow Box – Blakely’s Red Gum Grassy Woodland and Derived Native Grassland – 98
- Species credits for Superb Parrot – 87
- Species credits for Silky Swainson-pea – 12
- Species credits for Golden Sun Moth – 419

Consent conditions will require compliance with the Order, including that credits must be retired upon issue of the Subdivision Certificate.

6.1.2 Biodiversity Certification Agreement

On 6 April 2022, the Biodiversity Certification Agreement (the Agreement) was signed by the delegate of the Minister for Environment & Heritage. The Agreement implements the conservation measures identified by the BCAR and must be registered on the title of all lots created by the proposed subdivision.

The Agreement requires the following:

- (i) Preparation of a **Biodiversity Management Plan (BMP)** for approval by BCD, which is applicable to: (refer **Attachment I**)
 - **‘Avoided Land’** – no impact is permitted by the proposed or future development and must be managed in accordance with specific conservation-focused management measures.
 - **‘Certified Land’ shown as blue** – only impact to the understorey of this land is permitted by the proposed or future development.

The implementation of the BMP will be required via Section 88E instrument, pursuant to *Conveyancing Act 1919* and via by-laws contained within the Community Management Statement.

It is important to note that once Biodiversity Stewardship Sites are established, the individual management plans for each site takes precedent over the BMP.

- (ii) The proponent (in good faith) applies to establish the four **Biodiversity Stewardship Sites** in the C3 Environmental Management zone (i.e. lots ‘ca’-‘cd’) via **Biodiversity Stewardship Agreements (BSA)** entered into with the Biodiversity Conservation Trust.

This establishment of the four Biodiversity Stewardship Sites requires the preparation of a further assessment report which identifies management actions (e.g. revegetation, weed control and fencing) to improve the biodiversity values of each site, and the credits created as a result of these management actions. The credits generated by the BSA can be used to meet the majority credit obligation generated by the impacts of the proposed development.

The proponent is required by the Order to retire the entire credit obligation, irrespective of the source of credits.

Once established, the BSA must be registered on the title of the land ensuring each site is managed in perpetuity and at no cost to Council or the wider community.

- (iii) **Tree Monitoring** - five trees identified in the BCAR as superb parrot nest trees must be monitored and information shared with BCD.

A condition of consent will require that all aspects of the Agreement are implemented.

6.2 Commonwealth Department of Agriculture, Water & Environment

The BCAR identified that the proposed development will impact Box-Gum Woodland, Golden Sun Moth habitat and Superb Parrot breeding habitat, all of which are listed as Matters of National Environmental Significance (MNES) pursuant to the Commonwealth *Environment Protection & Biodiversity Conservation Act 1999 (EPBC Act 1999)*. On this basis, the Applicant referred the proposed development to the Commonwealth Department of Agriculture, Water and the Environment (DAWE) and it was determined that the proposed development is a 'controlled action' requiring approval of the Commonwealth Government Environment Minister.

Legal advice provided by the Applicant indicates that the requirements of the *EPBC Act 1999* are not matters for Council to consider when assessing the application, and Council is not required to receive a copy of any controlled action approval prior to approving the application.

6.3 Essential Energy

The application was referred to Essential Energy as it proposes the placement of power lines underground. Essential Energy did not raise any objections to the proposed development. Standard consent conditions will require the creation of easements over electricity infrastructure (existing and new) and that a suitable standard of electricity is supplied to the subdivision in accordance with Council's *Provision of Electricity Supply and Telecommunications Service for Subdivisions Policy*.

6.4 NRAR

Land directly adjacent to the Yass River has been incorporated into a single lot in accordance with the requirements of clause 6.13 *Yass Valley LEP 2013*. This lot forms part of the community association property and will be utilised as an informal communal open space corridor.

It is proposed to rehabilitate and manage the Yass River riparian corridor, including the removal of noxious weed species, bank stabilisation and revegetation with appropriate native species. As the proposed works are within 'waterfront' land (i.e. within 40m of the top of a bank of a river) a Controlled Activity Approval (CAA) is to be obtained from NRAR prior to works commencing, pursuant to the *Water Management Act 2000 (WM Act 2000)*. On this basis, consent conditions will require the following:

- A CAA approval is obtained from NRAR prior to works commencing in the Yass River corridor.
- An 'exclusion zone' and associated Restriction to User is to be created over the lots fronting the river corridor which prohibits development within the 40m buffer area.
- The VMP approved with the CAA must be registered on the title of the community association lot to ensure the ongoing management of the Yass River corridor.

6.5 RFS

The subject land was not mapped as bushfire prone at the time of lodgement of the application. Notwithstanding this, Council and the applicant were aware that the RFS were updating Yass Valley Bushfire Prone Land Map, which was likely to identify the subject site as bushfire prone. On this basis, the application was referred to the RFS pursuant to s100B *Rural Fires Act 1997*, in order to obtain a bushfire safety authority.

The RFS do not raise any objection to the proposal subject to the inclusion of conditions of consent in relation to the following matters:

- Restrictions are created over nominated lots to ensure future development complies with *Planning for Bushfire Protection 2019*, including construction requirements and the implementation and management of asset protection zones.

- Roads and fire trail construction standards
- Water, electricity and gas installation standards.

6.6 Telstra

Telstra was notified of the proposed development as its infrastructure is located within the development site, along the Sutton Road frontage. Telstra raised concerns regarding ongoing and unrestricted access to the infrastructure. After discussions involving Telstra, TfNSW and Council, it was determined to:

- Include a 3m wide access handle (easement) from the existing Sutton Road access gate and driveway, at the southern extent of proposed lot 'bq', to the existing Telstra pit in proposed lot 'am'. The individual pits are not to be accessed directly from Sutton Road.
- The creation of a suitably sized lot around the Telstra pit in lot 'i', which can be accessed directly from Sutton Road.

Both of the above areas will form part of the community association lot.

6.7 TfNSW

The application was referred to TfNSW as the development site has frontage to the Federal Highway which is a classified State Road and Sutton Road which is a classified Regional Road. TfNSW do not raise any objection to the proposal subject to the inclusion of conditions in relation to the following matters:

- Approval is sought from TfNSW prior to works commencing in a classified road
- Direct vehicular and pedestrian access to the Federal Highway and Sutton Road is denied
- The establishment and maintenance of a 10m wide landscaped buffer within the development site for its frontage to Sutton Road. This is to provide a visual screen between the development and the carriageway of Sutton Road
- The upgrade of the Guise Street and Sutton Road intersection to accommodate additional traffic generation
- The restriction of use on the proposed emergency access to the Old Federal Highway to emergency vehicles only
- Minimum distance required between a proposed driveway and Sutton Road
- Removal of existing gates/access ways providing access to Sutton Road or the Federal Highway

6.8 WaterNSW

The application was referred to WaterNSW as the Applicant indicated the proposal will involve a new bore, which would require a Water Access Licence (WAL) pursuant to the *WM Act 2000*. Discussion with the Applicant identified that this aspect of the development was a 'concept' only and would be subject to further investigation upon approval of the development. On this basis, approval from WaterNSW was not obtained. Notwithstanding, Consent conditions can require evidence to be submitted of a water supply approval and WAL prior to the issue of any Subdivision Works Certificate.

It should be noted that a restriction will be placed over all proposed lots requiring the installation of suitably sized rainwater tanks, in accordance with Council's *Water Supply for Rural Areas and Villages Policy*, and therefore the bore water supply is not a necessity to service the subdivision.

7. Assessment

The proposed development has been assessed against the requirements of s4.15 *EP&A Act 1979*. It is considered that the proposed development can be supported for the reasons outlined in the Assessment Report (refer **Attachment J**).

The following planning issues have been identified including the response to the issues raised in submissions.

7.1 Yass Valley Settlement Strategy

The YVSS provides direction for long-term growth and development for each town and village. Specifically, the YVSS recognises 'challenges on development', which for the Sutton Village includes the 'need to retain the recto-linear street grid if future expansion occurs' and the 'integration of new development and the existing village'. Submissions raise concerns that the development is inconsistent with these identified challenges.

In this regard, the following comments are provided for consideration:

- The existing north-west road connections with Guise Street are unformed
- The proposed design is in response to ecological surveys, which have determined that retaining a grid pattern would not be desirable for environmental outcomes. In this regard, the YVSS recommends that future development 'has regard to other site characteristics such as flood prone land and biodiversity values' and on this basis, the development is consistent with YVSS
- Earlier versions of the proposed development included a road extending north-south connecting into Moorong Street, however in response to ecological surveys, this was moved to the west of Moorong Street
- Earlier versions of the proposed development also included road connections to Sutton Road and Old Federal Highway, however these were required to be removed by TfNSW, resulting in all access to the development being from Guise Street. This will allow for and promote integration of the development with the existing village, by both vehicles and pedestrians
- In addition to the above, six of the 10 lots fronting Guise Street have direct access to Guise Street, promoting integration with the existing village

7.2 Sutton Village Master Plan

The Master Plan was adopted to provide greater certainty and structure to the future development of Sutton village and surrounds. The submissions highlight potential inconsistencies between the development and the design standards specified in the Master Plan.

The submissions raise concerns that the entrance to the village along Sutton Road will be spoilt by the view of backyards. It is suggested that the proposed landscaped buffer should be undertaken in the road reserve, as opposed to within each lot, to ensure long-term maintenance by Council. It is also suggested that landscaping should be undertaken for the entire length of the Sutton Road frontage of the development site.

7.2.1 Sutton Road Landscaping

The Master Plan requires the inclusion of a 10m wide landscape 'easement' within lots whose side or rear boundary abut Sutton Road. As indicated on the submitted Landscaping Plan (refer **Attachment K**), this is proposed within lots 'a' to 'q', along the Sutton Road frontage of the development site, to be undertaken at full cost to the developer. The Landscaping Plan proposes shrubs ranging in height from 1m to 8m, which will provide an adequate visual screen from the carriageway of Sutton Road. The landscaping is only proposed within the higher density, 'village' lots.

A condition can be included in any approval that may issue to require a landscaping plan to be submitted for approval to ensure compliance with the requirements of Council, Telstra and TfNSW. A condition can also be included to require that a legal mechanism is implemented requiring the long-term maintenance of the landscaping by the future owners of lots 'a' to 'q'.

It is also worth noting that the Master Plan requires the planting of a 5m wide avenue of canopy trees within the road reserve of Sutton Road. An appropriate condition can be

included in any Consent to require this to be undertaken at full cost to the developer and details to be submitted for approval by Council and TfNSW.

7.2.2 Road Layout and Connections

The Master Plan requires that 'new roads reflect the form and design of existing village grid taking into account site characteristics'. As outlined in section 7.1, the proposed road layout is responsive to ecological characteristics of the site and hence the continuation of a grid pattern street layout, including providing direct connections with existing road reserves, is not conducive to environmental outcomes.

It is suggested that proposed road reserves are created to allow future connection to Sutton Road, once no longer a classified road due to the delivery of a bypass. Whilst this can be useful in some circumstances, no roads are proposed to connect with Sutton Road due to the requirements of clause 6.13(3(d) *Yass Valley LEP. 2013*

7.2.3 Pedestrian Network

The submissions make suggestions as to the location of pedestrian and cycle paths and that these should be extended into the RU5 zone and along the river corridor, fire trail, Sutton Road and any equestrian link to the river. Comments are also made as to pedestrian connections between the development site and the primary school.

Footpaths are proposed from Sutton Road to the proposed park, as well as along the 'walkway link', which provides access to the eastern section of the site. An equestrian path is proposed from the northern connection with Guise Street, to the river corridor. The level of formal connectivity proposed is supported as it is appropriate for the village setting and, as it provides linkages between the site and existing village, including facilitating access to the Sutton Primary School.

Pedestrian access along the fire trail is not proposed, nor is it supported by the RFS, as this is for emergency purposes only.

The suggestion that a pedestrian/cycle pathway is provided along Sutton Road is noted, however this has not been identified in Council's Bike Plan and Pedestrian Access Mobility Plan (PAMP) or the Contributions Plan schedule for Sutton.

7.2.4 River Corridor

Submissions make suggestions in relation to the proposed 'rehabilitation management area' along the river corridor, including:

- (i) The lot is too narrow to allow for appropriate rehabilitation
- (ii) A path should be included to allow pedestrian access, including along the fire trail.
- (iii) Landcare should be involved in the rehabilitation
- (iv) The potential archaeological deposit (PADs), currently located within lots 'bi', 'bj' and 'bk', should be located within the community association lot, to ensure ongoing protection.

In response to the above suggestions, the following comments are provided for consideration:

- The lot ranges in width from 9m to 28m, with an average width of 16m. NRAR raised no objections to the width of the lot and as such, this is considered to be adequate to allow for the rehabilitation of the riparian corridor.
- Whilst the lot forms part of the Community Association property, the intent is not to create a scenic or landscaped area for recreation, but rather to improve the stability and environmental integrity of the Yass River by way of weed removal, bank stabilisation and revegetation. As such, formal pedestrian access along the river corridor is not proposed.
- As outlined in section 6.4, a VMP must be approved by NRAR and as such, there is no need for the formal involvement of Landcare.

- A condition of consent will require a restriction to user to be created over lots 'bi', 'bj' and 'bk' which does not permit impact on the identified PADs unless sub-surface testing is undertaken. This will ensure future landowners and Council are aware of the PAD and the responsibility to avoid impact. On this basis, inclusion of the PADs in the community association lot is not considered necessary.

7.2.5 Sutton Road Bypass

The submissions request Council to undertake a preliminary design and costing for a bypass, prepare a contributions plan and require the developer to make a contribution towards the bypass.

Whilst there is an action in the Master Plan to investigate options for straightening/bypassing the current alignment of Sutton Road, there has been no feasibility study undertaken and therefore this project has not been included within the Development Contributions Plan, to which a contribution can be made.

Notwithstanding, a condition can require the payment of development contributions to Council in accordance with the *Yass Valley Development Contributions Plan 2018*.

7.2.6 Sutton Common

Submissions raise concern that the biodiversity values of the 'Sutton Common' will be impacted due to the lack of connectivity with woodland in the development site.

The idea of extending the 'Sutton Common' onto the development site was considered as part of the Planning Proposal and the following comments were made:

The Sutton Master Plan refers to improvements and management of existing open space areas and Crown Land rather than encouraging creation of additional new areas. Acquisition of any of this site for open space, together with its ongoing management would not be financially sustainable for Council. Instead, its management under stewardship will allow for its ongoing conservation and continued connection to the habitat within the Crown Land to the north.

7.3 Environmental Impacts

Concerns are raised that the rezoning of part of the site to C3 Environmental Management is not sufficient in order to achieve environmental outcomes and it is suggested that this land be set aside as 'common land' managed by a trust.

In this regard, environmental surveys undertaken at the Planning Proposal stage, identified the C3 Environmental Management zone as the most appropriate given the high-quality vegetation on the site.

In addition, the Biodiversity Certification Agreement (refer section 6.1) requires the proponent to enter into a BSA with the Biodiversity Conservation Trust for each lot in the C3 Environmental Management zone (i.e. lots 'ca'-'cd') requiring each future landowner to undertake agreed management actions (e.g. revegetation, weed control and fencing) in order to enhance and protect the biodiversity values of the site. A BSA must be registered on the title of the land ensuring each site is managed in perpetuity and at no cost to Council or the wider community. On this basis, the proposed approach is considered more than adequate to achieve long-term environmental outcomes for the site.

There are also concerns in relation to tree removal, including the potential impact on Superb Parrot habitat and the lack of information in relation to the upgrade of Guise Street. As previously stated, the development has been designed in response to ecological surveys, resulting in minimal site disturbance and most importantly, all environmental impacts have been considered and assessed by the BCAR (refer section 6.1).

7.4 Community Title

The proposed community title subdivision satisfies the provisions of clauses 4.1AA and 6.13 *Yass Valley LEP 2013*. Notwithstanding, the suitability of community title has been questioned, with the following concerns raised:

- The development should be Torrens (freehold) title with Council directly responsible for managing common land and facilities
- The managing body does not guarantee environmental or community benefits
- This arrangement will create different status between existing residents and those in the proposed development

It is considered reasonable that residents of a particular development are responsible for the maintenance of the facilities which their neighbourhood utilise. In this regard, early discussions between the applicant and Council concluded that a community title scheme would be the most appropriate, as the common areas will be the responsibility of the Community Association, reducing operational costs for Council.

The Community Association will be established using the appropriate legal mechanisms and will therefore be legally responsible for all identified community property, including the rehabilitation of the river corridor.

Community title will assist in creating a sense of 'community' amongst the residents, given their shared responsibility, however it is not anticipated that this will be detrimental to the existing village. It is considered that the building and landscaping controls, achieved through the community title scheme, will only add value to the wider village.

7.5 Entry Signs

Concerns have been raised that the proposed entry signs will create a point of difference between the existing village and the proposed development, which will detract from the identity of Sutton as being a single village.

The signs are proposed to be located on Guise Street, at the main entry to the development site, and will therefore not be visible from the main thoroughfare into or through the village. The signs will be located outside of the road reserve, within land community property and will therefore be maintained by the Community Association. Signs comprising an estate name are not an uncommon feature of a new development such as that proposed, with the intent of allowing identification of an estate, whilst also promoting a sense of pride and ownership amongst residents.

A Consent condition can require details of the signs to be provided to Council for approval, prior to construction. This will ensure the signs are of suitable scale and design for the proposed location.

7.6 Roads and Access

7.6.1 Existing Road Network

The adequacy of the existing road network to cater for the increase in traffic, resulting from the development, has been raised. In particular the current state of Guise Street and its intersection with Sutton Road are viewed as areas of concern with regard to vehicular and pedestrian safety.

As outlined in section 6.7 of the report, the application was referred to TfNSW who raised no objections subject to the inclusion of conditions in a consent which require the upgrade of the Guise Street and Sutton Road intersection. The upgrade must be designed in accordance with the latest Austroads publication including safe sight distance requirements, ensuring the intersection is brought up to current safety standards.

In addition, conditions in the draft consent require the upgrade of Guise Street for its entire length. This will include a maximum pavement width of 8m, localised narrowing to

avoid remnant vegetation, installation of appropriate roadside drainage and formalisation of the Moorong Street intersection.

7.6.2 Pedestrian and Equestrian Access

A 1.5m wide footpath is proposed from the Sutton Road and Guise Street intersection, through the community park, to the eastern section of 'road 01', being the main thoroughfare through the site. In addition, a 3m wide grassed equestrian route is proposed from the eastern intersection with Guise Street, to the river corridor. Both of the aforementioned pedestrian access ways will not only increase safety for active travellers for but will provide a link between the existing village and new estate.

7.6.3 Fire Trail

A fire trail is proposed to provide an alternate access for residents within the eastern portion of the site, in the event that the linking road to the west is impacted by fire and cannot be used. On this basis, access to the fire trail will be restricted for authorised emergency purposes only and will not include formal pedestrian access, as suggested by submissions.

The use of gates on the fire trail is questioned. These are required to restrict access, however will remain unlocked for obvious safety reasons.

7.6.4 Proposed Road Network

Issues raised in relation to the proposed road network are addressed below:

- The eastern intersection of Road 01 and Guise Street has been relocated to avoid glare from headlights impacting the existing dwellings on the northern side of Guise Street
- The RFS raised no objection to the proposed road layout subject to the inclusion of consent conditions requiring compliance with *Planning for Bushfire Protection 2019*
- Direct access to Sutton Road is not permitted in accordance with requirements of TfNSW.

7.7 Stormwater and Flooding

The submissions ask questions about the proposed treatment pond in the community park, stormwater infrastructure within privately owned land and compliance with current flood planning controls.

The Civil Engineering Report which accompanied the application provides the following details:

- The pre-development catchment layout results in stormwater discharge points to Sutton Road, Yass River and Guise Street, which will be modified as a result of road construction
- Increased stormwater flows to Sutton Road resulting from the development, will be detained and treated by a central retarding and bio retention basin within the community park. This will ensure flow rates do not exceed that of pre-development rates
- Stormwater will be conveyed through the development site, to the various discharge points, by grassed swale drains located on road shoulders and within lots 'a'-'d'
- A 90,000L rainwater tank will be installed for each dwelling
- The site is flood prone as identified by flood studies undertaken on behalf of Council

Consent conditions can require engineering drawings and details to be provided to Council, prior to the issue of a Subdivision Works Certificate, to ensure the installation of suitable stormwater infrastructure and compliance with relevant flood studies.

Consent conditions can also require that legal mechanisms (i.e. easements and/or restrictions) are placed over relevant lots which requires:

- The installation of rainwater tanks in accordance with Council's *Water Supply for Rural Areas and Villages Policy*

- The long-term maintenance of stormwater infrastructure on privately owned land to the satisfaction of Council
- Construction (i.e. prescribed finished floor levels) that is compatible with the flood risk of the site

7.8 Lot Size and Layout

The submissions raise concern that the proposed lots in the R5 Large Lot Residential zone are much smaller and therefore, out of character with, existing lots at the eastern end of Guise Street, with the latter being approximately 2ha.

The R5 Large Lot Residential zone minimum lot size varies significantly across the LGA, ranging from 1ha up to 10ha. The intent of the averaging provisions of clause 6.13(3) *Yass Valley LEP 2013* is to provide flexibility in retaining vegetation, rather than a ‘one size fits all’ approach. In this circumstance, it is not an adverse outcome to have adjoining lots which vary in size. The building controls applicable to the development site will ensure the built environment is in keeping with existing development in the area.

Concerns are also raised as to the merit of proposed battle-axe handles, however these are considered appropriate as they reduce construction of access roads, thus minimising site disturbance and vegetation removal.

7.9 Setback Variations

7.9.1 Building Line Policy – Urban

This policy applies to lots in the RU5 Village zone. The proposed ‘permitted building zones’ over these lots meets minimum setback requirements. In this regard, the following is noted:

- A front setback of 8m is proposed, instead of the required 6m
- Lots ‘a’-‘d’, which front Guise Street, will have an increased setback of 10m to cater for the proposed stormwater easement.
- To minimise visual impacts upon entry to the estate, the secondary frontage of corner lots ‘d’, ‘e’ and ‘f’, is proposed to be 8m as opposed to the required 6m
- Lots with frontage to Sutton Road will have a required rear setback of 11m, as opposed to the required 900mm. This is allow for the 10m wide landscaped buffer within these lots and to maintain adequate separation between existing Telstra infrastructure and future development.

7.9.2 Building Line Policy – Rural and Rural Residential

This policy applies to land zoned R5 Large Lot Residential and C3 Environmental Management. The proposed building envelopes/zones over these lots are generally located in accordance with minimum setback requirements, except as provided in the table below.

Lot & Lot Size	Required Setback	Proposed Setback	Justification
‘bc’ 15,250m ²	10m to southern boundary	8m	To allow a suitably sized building envelope of 2,000m ² whilst avoiding mature native trees. Adequate separation between building envelopes on adjoining lots is achieved notwithstanding the reduced setback.
‘bk’ 24,498m ²	30m to northern and	20m	Lot has narrow road frontage creating an irregular shaped lot.

	southern side boundaries		<p>The southern boundary adjoins the proposed fire trail which increases separation to the available building zone on the adjoining lot.</p> <p>The proposed building zone is adequately sized to allow future development to achieve reasonable separation to adjoining lots.</p>
'bl' 16,226m ²	30m to northern side boundary	10m	<p>The northern boundary adjoins the proposed fire trail which increases separation to the available building zone on the adjoining lot.</p> <p>The eastern portion of the lot is constrained by a natural drainage depression, restricting the area available for future development.</p> <p>An increased building zone will allow greater flexibility for future development to achieve reasonable separation from adjoining lots.</p>
'bq' 21,033m ²	30m to southern side boundary	20m	<p>The southern boundary adjoins the 'access handle' which forms part of the community association lot. This increases separation to the adjoining lot, noting that development on lot 'cd' is not permitted in this part of the site.</p>
'am' 22,425m ²	30m to southern side boundary	13m	<p>To allow a suitably sized building zone of 2,000m² whilst avoiding mature native trees. Adequate separation between building envelopes/zones on adjoining lots is achieved notwithstanding the reduced setback.</p>

It is recommended the proposed variations are supported based on the justifications provided above.

7.10 Dual Occupancy

The permissibility of dual occupancy developments has been questioned, suggesting that this type of development is not sympathetic to that within the existing village. In this regard, the land use table in the *Yass Valley LEP 2013* prescribes dual occupancies as permitted with consent in the three land use zones applicable to the development site.

The *Yass Valley LEP 2013* also prescribes minimum land area requirements for dual occupancies on the development site, as set out below:

- RU5 Village - 2,000m² if the site is not connected to a reticulated sewerage system (clause 4.1D)
- R5 Large Lot Residential – 1ha (clause 6.13)
- C3 Environmental Management – the minimum lot size applicable, being 20ha and 40ha

All of the lots, with the exception of lot 'ae' in the R5 zone, meet the land area requirements.

In this regard, all development and associated infrastructure (i.e. effluent management systems) in the R5 and C3 zones must be located in accordance with the 'permitted building zone' and 'effluent management zones', as indicated on the plan of subdivision. This is to ensure compliance with environmental controls over the land, pursuant to the Biodiversity Certification Agreement. Any development proposed outside of these areas would require further environmental assessment to be undertaken by the individual landowner.

7.11 Bore Water Supply

The proposed community bore is generally supported however the submissions recommend that the developer undertake appropriate studies to ensure that this does not reduce existing groundwater supplies for current residents.

As stated in section 6.8 of the report, the proposed bore is a 'concept' only and is therefore subject to further investigation upon approval of the development. Consent conditions can require appropriate approvals are obtained from WaterNSW prior to the issue of any Subdivision Works Certificate.

In addition, a condition can require a Communal Water Management Statement (CWMS) to be registered on the title of each lot benefiting from the bore water supply, should the concept proceed. The CWMS would:

- Limit the total annual use of non-potable water from the reticulated community supply scheme to that which may be licenced by WaterNSW
- Prescribe the arrangements, on-going management and maintenance of the water supply system
- Provide for the equitable distribution of water including metering of water supply to each lot
- Provide for the ability to introduce water supply restrictions during extended dry periods

7.12 Telecommunications

In response to concerns raised in relation to proposed arrangements for telecommunications and the lack of detail provided, the Applicant provided the following information:

- NBN advised that the total hauling distance from the closest [fibre access node] FAN site to the development site is approximately 16.5km with 8km duct build required. The estimated cost of this connection is prohibitive. Accordingly NBN advised that the Sky Muster satellite service delivers the NBN broadband access network to homes in regional Australia and will be the appropriate platform for broadband access to this project.
- Reticulated telecommunications infrastructure already traverses the development site and is available for connection to future dwellings. Telecommunications for each lot is proposed to be located within the road verge and will be supplied through the front of the allotments for connection to the future dwellings.

Notwithstanding the above, a standard Consent condition can require each stage of the development to comply with Council's *Provision of Electricity Supply and Telecommunications Service for Subdivisions Policy*.

8. Conclusion

From the assessment of the proposal and consideration of issues raised in submissions, it is recommended that a Development Consent be issued. Draft conditions are included in **Attachment L**.

STRATEGIC DIRECTION

Theme	1. –	Our Environment
Long Term Goal	EN4 –	Maintain a balance between growth, development and environmental protection through sensible planning
Strategy	EN4.2 –	Ensure development application assessment is thorough and efficient
Strategic Action	EN4.2.1 –	Implement the development process and implement changes aligning with the NSW Government’s best practice guidelines.

ATTACHMENTS:

- A. Locality Plan (*Under Separate Cover*) [⇨](#)
- B. Zoning and Minimum Lot Size Map (*Under Separate Cover*) [⇨](#)
- C. Subdivision Plans - General Layout (*Under Separate Cover*) [⇨](#)
- D. Subdivision Plan - Lot Sizes (*Under Separate Cover*) [⇨](#)
- E. Submissions (*Under Separate Cover*) [⇨](#)
- F. Applicant's response to submissions (*Under Separate Cover*) [⇨](#)
- G. Department of Planning & Environment Recommendation Report (*Under Separate Cover*) [⇨](#)
- H. Referral Responses (*Under Separate Cover*) [⇨](#)
- I. Biodiversity Certification Map (*Under Separate Cover*) [⇨](#)
- J. Section 4.15 Assessment (*Under Separate Cover*) [⇨](#)
- K. Landscaping Plan (*Under Separate Cover*) [⇨](#)
- L. Draft conditions of consent (*Under Separate Cover*) [⇨](#)

6.18 WALKER PARK GRANDSTAND - PUBLIC EXHIBITION OUTCOMES

SUMMARY

To present a report on the outcomes of the public exhibition of the proposal to name the new Walker Park grandstand.

RECOMMENDATION

That both William ‘Kenny’ Bell and Colin ‘Yic’ York be displayed on the Walker Park grandstand and be named the Bell/York Grandstand.

FINANCIAL IMPLICATIONS

Costs associated with the plaques to be managed by Yass United Rugby League Club Inc.

POLICY & LEGISLATION

- Naming of Public Asset Policy

REPORT

1. Report

In March 2022 Council determined that the following options for the naming of the new grandstand at Walker Park be placed on public exhibition:

- The naming of the new Walker Park grandstand the “William ‘Kenny’ Bell Grandstand”, or
- The display of both William ‘Kenny’ Bell and Colin ‘Yic’ York on the Walker Park grandstand

2. Submission

Council received only one submission during the exhibition period (refer **Attachment A**). This submission supported having dual naming of the grandstand, honouring both William ‘Kenny’ Bell and Colin ‘Yic’ York. The submission also recommends to naming the grandstand the Bell/York Grandstand as well as using the full name of both William ‘Kenny’ Bell and Colin ‘Yic’ York either side. This submission has been supported by site users. No other submissions were received during the exhibition period.

STRATEGIC DIRECTION

Key Pillar	4. Our Infrastructure
CSP Strategy	IN4 - Maintain and update existing community facilities, and support the development of new community infrastructure as needed
Delivery Program Action	IN4.1 - Develop and maintain new and existing recreational and community assets to address our communities needs in a sustainable manner
Operational Plan Activity	IN4.1.1 - Maintenance of sporting fields and playgrounds in accordance with user group needs

ATTACHMENTS: A. Walker Park Grandstand Submission (*Under separate cover*)