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May 03, 2021

EXTRAORDINARY MEETING

TO BE HELD

THURSDAY, MAY 06, 2021

ABN 84 873 116 132

Dear Sir/Madam,

Your attendance is requested at the Extraordinary Meeting of the Council of the City of Broken Hill to be held in the Council Chamber, Sulphide Street, Broken Hill on **Thursday, May 06, 2021** commencing at **6:00pm** to consider the following business:

- 1) Opening Meeting
 - 1a) Requests from Councillor/s for attendance via audio-visual link
- 2) Apologies and Leave of Absence
- 3) Prayer
- 4) Acknowledgement of Country
- 5) Disclosure of Interest
- 6) Reports
- 7) Conclusion of the meeting

JAY NANKIVELL
GENERAL MANAGER

LIVESTREAMING AND RECORDING OF COUNCIL MEETINGS

PLEASE NOTE: This Council meeting is being Livestreamed via YouTube and recorded and published online via Facebook.

To those present in the meeting today, by participating in this public meeting you are consenting to your image, voice and comments being recorded and published.

The Mayor and/or General Manager have the authority to pause the livestream and recording if comments or debate are considered defamatory or otherwise inappropriate for publishing.

Participants are advised that they may be subject to legal action if they engage in unlawful behaviour or commentary.

REPORTS

1. BROKEN HILL CITY COUNCIL REPORT NO. 66/21 - DATED APRIL 30, 2021 - DEVELOPMENT APPLICATION 155/2020 - FOUR NEW DWELLINGS - 480 CUMMINS STREET, BROKEN HILL (DA 155/2020) ... 3

EXTRAORDINARY MEETING OF THE COUNCIL

April 30, 2021

ITEM 1**BROKEN HILL CITY COUNCIL REPORT NO. 66/21**

SUBJECT: DEVELOPMENT APPLICATION 155/2020 - FOUR NEW DWELLINGS - 480 CUMMINS STREET, BROKEN HILL 155/2020 **DA**

Recommendation

1. That Broken Hill City Council Report No /21 dated April 30, 2021, be received.
2. That Development Application 155/2020 for the construction of four new dwellings at 480 Cummins Street be approved subject to the conditions in Attachment 1.

EXECUTIVE SUMMARY

A Development Application (DA) has been received to construct four new two-bedroom detached dwelling houses on a vacant lot at 480 Cummins Street, Broken Hill. The DA is an application for Crown development, with the applicant Kawai Yeung lodging the DA on behalf of the Aboriginal Housing Office. The Aboriginal Housing Office (AHO) is a statutory authority established under the *Aboriginal Housing Act 1998* and is a NSW Government agency.

Neighbour notification was conducted, with 33 letters sent to nearby residents and property owners. The DA is being referred to Council for approval due to the fact that 6 objections were received from neighbours as part of this process.

The application was reported to the Council Meeting held March 31, 2021 when it was resolved (Minute Number 46483):

1. *That Broken Hill City Council Report No. 36/21 dated March 17, 2021, be received.*
2. *That Council defers its decision on this matter for community concerns to be addressed.*
3. *That a report be presented to the April 2021 Council Meeting addressing the technical concerns raised by members of the public present at the Council Meeting.*

A further report was submitted to the Council Meeting held April 28, 2021, when it was resolved (Minute Number 465522):

1. *That Broken Hill City Council Report No 60/21 dated April 8, 2021, be received.*
2. *That the report be deferred pending a site inspection of the proposed development site at 480 Cummins Street, Broken Hill; and that the report be re-presented to the May Council Meeting or an Extraordinary Council Meeting.*

At the April Ordinary Council Meeting, the Mayor took a question on notice from Councillor Kennedy regarding a list of addressees of the letterbox drop of residences in the vicinity of the proposed development site and advised that he had been approached by residents concerned that they were not advised of the development proposal.

A site inspection for Councillors of the proposed development site at 480 Cummins Street will be held on Tuesday, May 4, 2021.

Neighbour notification was conducted in accordance with Council's Development Control Plan. In the instance where the postal address held by Council differed from the property address, a letter was also sent to the occupier. A total of 33 letters were sent to the owners and occupiers and are illustrated in the following plan. Full details on the notification are contained in Attachment 3.

Aerial image with the notified properties highlighted:



This report addresses the Council resolution and incorporates the assessment information from the March and April 2021 reports.

The principal matters raised in the submissions are addressed as follows:

- 1. Concerns regarding location.** The proposed site is zoned R1 General Residential where-in the proposed development is permissible. There may have been some confusion as to whether the proposal was lodged under the provisions of the Affordable Rental Housing State Environmental Planning Policy; however its requirements do not apply.

As the proposal is permissible under the relevant zoning, this is not grounds to refuse the DA.

- 2. Concerns regarding design and character.** The proposed site is not located within a heritage conservation area or in proximity to a heritage item, so heritage requirements regarding the design are not applicable.

To support the proposed design, the applicant has prepared a Design Verification Statement (Attachment 2). The Statement outlines how the proposed development fits within the existing character and mixed architectural style of the neighbourhood.

- 3. Comment that no Social Impact Assessment has been prepared.** There is no NSW legislative requirement for a Social Impact Assessment to be prepared for this type of development.

While the Planning Institute of Australia (PIA) Guidelines note that a social impact assessment should be prepared for major developments, this is not defined as a major development.

Further comments regarding the assessment of the proposal against s4.15(b) of the EP&A Act (including social impacts of the proposal) are found in the body of this report.

- 4. Comment that the proposal has not been assessed against certain State Environmental Planning Policies (SEPPs).** The application was not submitted under SEPP (Affordable Rental Housing), so the provisions within this SEPP are not applicable.

SEPP 65 (Design Quality of Residential Apartment Development) is only applicable to developments of three-storeys or more in height, so this SEPP is not applicable to the development.

SEPP (Building Sustainability Index – BASIX) 2004 - The submitted BASIX Certificate lists measures to satisfy requirements that have been incorporated into the proposal.

There are no other SEPPs applicable to this application.

- 5. Concerns regarding stormwater.** The proposal complies with Section 3.2.4 of the Broken Hill Development Control Plan. The applicant has provided a stormwater management plan and the design includes 4 x 6,500L rainwater tanks, with any excess stormwater to be directed and utilised in the internal gardens, in the first instance.
- 6. Concerns regarding compliance with the Low-Rise Housing Diversity Design Guide for Development Applications.** There is no legislative requirement for the Guide to be considered – this is only legislated for manor houses or terrace housing (and this particular proposal does not fit either definition). The Guide is a tool that Councils can use in the assessment process. The Guide includes overarching objectives and then specific design criteria. The Guide notes that a consent authority is to be flexible in addressing the criteria, which forms the basis of some of the objections. The proposal meets the overall objectives of the guide and is therefore compliant with the legislation.

These concerns, along with some additional comments from neighbours, are addressed in more detail in the body of this report under the Section 4.15(d) assessment.

Statutory authority: The application is considered to be ‘Crown development’ under Section 4.33 of the *Environmental Planning and Assessment Act 1979*. This section states the consent authority (in this case Council) cannot refuse an application for Crown development, without consent of the Minister.

Council also cannot impose any conditions unless agreed upon by the applicant or the Minister. The applicant has agreed to the conditions in Attachment 1.

As the proposed development complies with the relevant planning controls, it is recommended that Council approve DA 155/2020 subject to the recommended conditions.

This report is now re-presented to the Extraordinary Council Meeting to be held May 6, 2021 for determination.

REPORT

This report has been revised to incorporate matters in the resolution from the March 31, 2021 Ordinary Meeting of Council; in particular the technical concerns raised by members of the community.

THE PROPOSAL

The site is currently vacant, extending between Cummins Lane and Cummins Street. An aerial view of the lot, along with the proposed site plan and elevations, can be found below.

The proposed development consists of four (4) two-bedroom, single-storey detached dwelling houses at a site known as 480 Cummins Street.

The two northern dwellings face towards Cummins Lane and will share a common driveway from that road, while the two southern dwellings will share driveway access from Cummins Street. Each dwelling unit will include a single garage and a carport. It is not proposed to subdivide the lot for this development.

The material palette of the proposed development will be simple and kept in line with surrounding development, and comprises mainly of masonry/face brick walls, corrugated colorbond metal roofing, and aluminium or composite timber batten front and rear fences, as well as a lapped timber fence on the side boundaries.



Image 1. Aerial view of the existing site at 480 Cummins Street (NSW SIX Maps)



Image 2. Proposed site plan.



2 SOUTH EAST ELEVATION - CUMMINS STREET
DA-101 SCALE 1 : 200

Image 3. Proposed south east elevations (from Cummins Street)

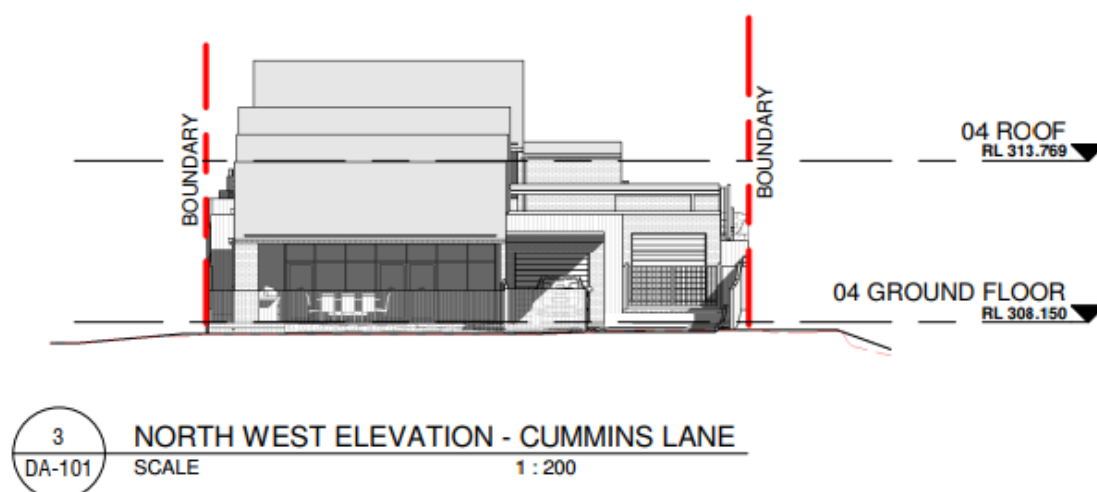


Image 4. Proposed north west elevations (from Cummins Lane)

CONSIDERATIONS UNDER SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

The application was lodged as a requirement of the *Environmental Planning and Assessment Act 1979* and is required to be evaluated using the relevant terms of section 4.15 of the Act.

Section 4.15(a)(i) The provisions of any environmental planning instrument

Broken Hill Local Environmental Plan 2013 (LEP)

Aims of the Plan

The aims of the LEP are:

- (a) to encourage sustainable economic growth and development in Broken Hill,
- (b) to encourage and provide opportunities for local employment growth, and the retention of the population, in Broken Hill,
- (c) to encourage the retention of mining and acknowledge that industry's heritage and regional significance,
- (d) to identify, protect, conserve and enhance Broken Hill's natural assets,
- (e) to identify and protect Broken Hill's built and nationally significant cultural heritage assets for future generations,
- (f) to provide for a range of housing types and living opportunities,
- (g) to allow for the equitable provision of services and facilities for the community,
- (h) to provide for future tourist and visitor accommodation in a sustainable manner that is compatible with, and will not compromise, the natural resource and heritage values of the surrounding area.

The aims or objectives of the plan are not compromised by the proposed development. In particular, the proposal fits in directly with Aim (f) "to provide for a range of housing types and living opportunities".

Zone Objectives

480 Cummins Street is zoned R1 General Residential, with the objectives of this zone being:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposal is consistent with the objectives of zone R1 General Residential, in particular directly meeting the objectives around providing for the housing needs of the community.

The development is permitted with consent under the zoning provisions in Broken Hill LEP.

Clause 6.2 - Essential Services

All necessary essential services are available within the area. Council officers are satisfied that the following services that are essential for the development are available or that adequate arrangements can be made to make them available when required: (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, and (e) suitable vehicular access.

The property at 480 Cummins Street is not a heritage item or within a heritage conservation area.

State Environmental Planning Policies

SEPP (Building Sustainability Index – BASIX) 2004 - The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal.

(a)(ii) Any proposed Instruments

Not Applicable.

(a)(iii) Any Development Control Plan (DCP)

Broken Hill Development Control Plan 2016

Section 4.15 (3A) of the Act sets out that:

If a DCP contains provisions that:

- sets standards with respect to an aspect of the development and the DA complies with those standards—the consent authority is not to require more onerous standards with respect to that aspect of the development, and
- set standards with respect to an aspect of the development and the DA does not comply with those standards—the consent authority is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development.

The Environmental Law in NSW Handbook (2016) outlined that whilst DCPs must be considered as part of the assessment process, it should be noted that (unlike LEPs), DCPs are not legally binding, even though they might spell out planning guidelines and/or standards.

The applicant has provided detail in the Statement of Environmental Effects as to how the proposal complies satisfactorily with the relevant provisions of the DCP.

The main provisions of the DCP relevant to this proposal are noted below.

3.2.4 Multi dwelling housing and residential flat buildings

The DCP design guidance notes that new buildings should create a well-proportioned building form, compatible with the character of neighbouring buildings. The applicant has provided the Design Verification Statement (Attachment 2) which outlines how the proposal complies with this design guidance.

The proposal also meets the landscaping requirements of the DCP, with the proposed landscaping to be simple and low maintenance. It has been confirmed by the applicant that landscaping species will be native.

Adequate provision has been made for the control, collection and disposal of stormwater, with the applicant providing a Stormwater Management Plan, prepared by Stellen Civil and Structural Engineering.

This section of the DCP states “adequate provision should be made for control, collection and disposal of excess stormwater by way of easements, on-site storage or directed to the street”. The proposal provides for 4 x 6500 litre rainwater tanks, with runoff directed to gardens and minimal to street.

The proposed dwellings have been designed to maintain visual privacy and reduce noise, with recessed alfresco areas and full height side walls.

(a)(iv) Any Matters Prescribed by the Regulations

Not applicable.

(a)(v) Any coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*)

Not applicable.

Section 4.15(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

The site is residential zoned vacant land with no significant vegetation. It is not anticipated that there will be any significant impact on the natural environment.

The applicant has supplied a BASIX certificate to demonstrate compliance with the NSW Government’s sustainability requirements.

There is currently no existing building on the site, so there will be no changes to any existing built environment.

In relation to economic impact, there are often concerns that a new development may impact on property values of surrounding properties. Reference is made to *Alphatex Australia v The Hills Shire Council (No 2) [2009]* where it was noted “I pay no regard to the fears about loss of property values as, consistent with the position long taken in the Court, this is not a relevant planning consideration”.

In relation to social impact, the applicant provided information on behalf of the Aboriginal Housing Office (AHO) regarding justification for the development. Relevant comments provided by the applicant include:

“The AHO recognises that the home is a vital tool to help unlock opportunities and break the cycle of disadvantage. New AHO homes are therefore located in areas that offer tenants good access to education, employment and key support services. New AHO homes are built away from areas of existing high social housing concentration and are designed to integrate positively into the streetscape and be indistinguishable from housing in the private market.

The site at 480 Cummins Street meets the AHO’s location criteria for new housing construction and is considered highly suitable for Aboriginal social housing development.

AHO investment in new housing supply is informed by the AHO’s Demand and Supply Model. The model forecasts Aboriginal housing demand over the period to 2031 and beyond and allows evidence-based decision making to support strategic portfolio growth. Broken Hill is identified as having high and growing demand for Aboriginal housing. The town is also recognised as a major employment and services hub for Far Western NSW. These combined factors make Broken Hill a priority for investment in new AHO housing supply.

An assessment of the demand data, waitlist numbers and required bedroom categories in the Broken Hill Allocation Zone informed the type and size of housing proposed. Almost 50% of the housing need in Broken Hill is for smaller, 1 & 2-bed units. Demographic trends in the NSW Aboriginal population are also showing significant growth in small families and single person households. With a recent AHO Asset Portfolio Review identifying a shortfall in smaller homes within the AHO housing portfolio there is growing misalignment between Aboriginal housing demand and the shape of the AHO housing portfolio. This misalignment risks increased rates of both under occupancy and overcrowding if tenants are inappropriately housed. The construction of 4 x 2-bed homes will therefore support current and projected housing demand in Broken Hill and help address a key issue with the current AHO portfolio”

The demonstrated need for suitable Aboriginal social housing has been considered in the assessment process. The provision of an in-demand type of housing will not have a detrimental social impact on the greater Broken Hill community. The land is vacant, and the development of residential housing in the area will not have a detrimental social impact.

Section 4.15(c) Suitability of the site for the development

The site is vacant land with an area of 1,735m², zoned R1 General Residential. The site is long and narrow with legal vehicular access to both Cummins Street and Cummins Lane.

The neighbouring properties are residentially used. There are other nearby multi-dwelling units in the area. The property at 478 Cummins Street has 5 units and is immediately adjacent to the proposed site, and 471 Wyman Street has 4 units and is on the opposite side of Cummins Lane to the site.

The site is within proximity to health and education services and is in walking distance to nearby bus stops.

As the site is a large block of vacant land in an appropriately zoned residential area, with access to both Cummins Street and Cummins Lane, the site is suitable for the proposed development.

The site is not bushfire prone land and is not subject to any known risks that would prevent the development from being approved.

Section 4.15(d) Any submissions made in accordance with the Act or Regulations

Neighbour notification was conducted in accordance with Council's Community Engagement Strategy, with the surrounding neighbours notified of the proposal with a three-week period for submissions. Letters were sent to 33 neighbouring residents and property owners, with 6 objections received. The main points of objection have been noted below, together with comments on how these matters have been addressed.

1. Comments regarding inaccuracies and omissions in the Statement of Environmental Effects (SEE), elevations plan, and stormwater plan.

The applicant has provided an SEE, revised elevations plan, and amended stormwater plan. It also confirmed that essential services are available.

2. Objections regarding the suitability of the site for the development, compared to a location closer to the Central Business District.

The applicant has responded advising that the property is only one of two blocks of vacant land owned by the Aboriginal Housing Office (AHO) in Broken Hill. The AHO purchased this block due to the quiet residential location and positive neighbourhood reputation, and the area is zoned for residential development. The applicant advised of the site's suitability due to its proximity to health, education, and bus services.

No Affordable Housing SEPP provisions are applicable to this development, with Point 10 below addressing these concerns. Ultimately the proposed development on this site

is permissible under Council's LEP, and meets the objectives of the R1 General Residential zone.

3. The design and appearance of the buildings is not consistent with the neighbourhood, with some objections stating this will have a negative visual impact on the neighbourhood.

The applicant is of the view that the existing dwellings in the area demonstrate a mix of styles of architecture. The applicant has provided a Design Verification Statement (Attachment 2) that justifies the design choices, comparing the facades, setbacks, and fenestration to the surrounding dwellings and units. The proposal also includes native landscaping and would add greenery to the neighbourhood.

4. Concerns regarding an increase in density of the neighbourhood.

The proposed density is permissible within the R1 General Residential zoning of the Broken Hill LEP. The block is relatively large, with access to both Cummins Street and Cummins Lane. The applicant has noted that four two-bedroom dwellings on a block this size is appropriate.

There are nearby residential multi-dwelling developments. The adjoining property at 478 Cummins Street accommodates five dwellings, adjacent to the proposed site and is of an identical size. 471 Wyman Street is also nearby with four dwellings on the site. Precedent has therefore been established for a multi-dwelling development, and the proposed density is both appropriate and permissible in this location.

5. Concerns regarding an increase in noise levels as a result of the higher density.

The applicant has noted that the proposed density is consistent with the neighbouring area for a block this size, and permissible under the planning controls.

It has been advised that the homes are designed to reduce noise impacts, with recessed alfresco areas, an integrated roof and full height side walls around the alfresco areas, directing sound away from neighbouring properties.

The applicant has noted that the target tenants for the homes are individuals from the Aboriginal community who require access to health facilities and/or job opportunities, or single parents with a child requiring access to education. The applicant has advised that despite the potential for 16 occupants across the whole development, it is more likely that each unit will have an average of two occupants.

6. Design criteria of NSW Government's Low-Rise Housing Diversity Design Guide

The NSW Low-Rise Housing Diversity Design Guide is a best practice guide, and a tool that Councils can use when assessing DAs.

One objection commented on the requirements of Clause 92 of the *Environmental Planning & Assessment Regulation 2000*. The Clause states:

(1) *For the purposes of section 4.15(1)(a)(iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application -*

(e) *in the case of a development application for development for **the purposes of a manor house or multi dwelling housing (terraces)**, the Low Rise Housing Diversity Design Guide for Development Applications published by the Department in July 2020, but only if the consent authority is satisfied that there is not a development control plan that adequately addresses such development.*

A manor house is a residential flat building where the dwellings are attached by a common wall or floor, and at least 1 dwelling is particularly or wholly located above another dwelling.

Multi-dwelling housing (terraces) refer to multi-dwelling housing where the dwellings face and are generally aligned along, one or more public roads.



Under the Guide, multi dwelling housing (of which is the type that this development is) - is separately defined to multi dwelling (terraces).

As the proposal is not for a manor house or terraces, Clause 92 (and the legislative requirement for the Low-Rise Housing Diversity Design Guide to be considered) is not applicable to DA 155/2020.

The Guide has been developed as a tool for Councils to use when assessing different types of Development Applications.

This Development Application is considered 'multi dwelling housing' as defined in the Guide.

Section 1.3 of the Guide notes that:

"The Design Criteria set a clear and measurable standard of how each Objective can be practically achieved. Alternate solutions which achieve the Objectives can also be considered by the consent authority when assessing an application."

Section 2.4 of the Guide notes that:

"The development application proposal is merit assessed. If the development application cannot meet the Design Criteria then the consent authority is to be flexible in applying these provisions and allow reasonable alternative solutions that achieve the relevant Objectives."

The proposal is considered to meet the overall Objectives in the Guide, and complies with the objectives of the Broken Hill Local Environmental Plan 2013, and the Broken Hill Development Control Plan 2016.

Notwithstanding that the specific design criteria in the Guide are not required to be strictly adhered to, reference is made to the comments from an objector regarding compliance with:

- a) *Proposed side boundary clearance of 983mm.* This is permissible and consistent with the pattern of neighbouring development.
- b) *No ongoing landscaping maintenance plan submitted with the DA.* This design criteria is not a legislative requirement. The proposal meets the overall objective 'Landscape design supports healthy plant and tree growth'.
- c) *Comment that 50% of the landscape plans must be native to the region* The applicant has confirmed that the majority of the plants in the landscape will be native to the region.

- d) *Comment that the front door of each dwelling must be visible from the street, and the secondary dwellings do not comply.*

The design meets the overall objective of “provide activation and passive surveillance to the public streets”. The two southern dwellings provide activation and passive surveillance to Cummins Street and the northern dwellings provide activation and passive surveillance to Cummins Lane.

- e) *Comment dwelling are required to have a habitable room that faces the street.*

The full design criteria actually states “each dwelling is required to have a habitable room that faces the street or public space”. As the dwellings all have a habitable room that face a public space, the development complies with this criteria.

- f) *Comment that the vehicle circulation spaces are to be 1m from the boundary but the development proposes 800mm.*

The applicant has confirmed that the driveway complies with relevant Australian standards, in particular AS 2890. The design meets the overall objective of the Guide.”

- g) *Comment that the required minimum allotment width is 20 metres and the proposed allotment width is 18.05 metres.*

The proposed development is consistent with the neighbouring development of 478 Cummins Street and the nearby 471 Wyman Street. The design achieves the overall required objective of the Guide being that “the development site area will have sufficient area for the dwelling, vehicle access, landscaping, parking and amenity and are consistent with the desired future character of the area”.

- h) *Comment that the dwellings do not have the required amount of storage.*

The proposed development does comply with the design criteria, with the applicant confirming storage of 3.2m x 0.8m x 2.7m total 7m³, and storage adjacent to the kitchen of 1m³.

- i) *Comment that the roof treatment needs to respond positively to the street.*

The proposed development complies with this criteria.

The Guide notes that Council is to be flexible with how the proposal meets the objectives, and it is not mandated that the proposal is required to meet every single design criteria.

7. Comment that no Design Verification Statement was submitted with the application.

A Design Verification Statement has been provided (Attachment 2).

8. Concerns the proposed development would increase residential rates in area.

The impact on residential rates is not a relevant planning consideration, however it is noted that the assumption that the development will impact residential rates is incorrect.

9. Concerns regarding stormwater disposal

A Stormwater Management Plan was provided in the application, and was prepared by Stellen Engineering.

Section 3.24 of Council's Development Control Plan notes that for multi-dwelling developments, "adequate provision should be made for control, collection and disposal of excess stormwater by way of easements, on-site storage or directed to the street".

The proposed development also includes 4 x 6,500 litre rainwater tanks to capture stormwater. The solution that the engineer has proposed is considered acceptable. Council has, for a number of years, encouraged the installation of rainwater tanks to allow for holding and storage, and re-use of the water onto landscaped areas.

One objector noted that where there is an increase in impervious site coverage, that on-site detention structures must be provided to limit the post development discharge rate to the pre development peak flow rate.

The proposal has addressed the matter by the engineering design noting that "In lieu of Onsite detention system an equivalent rainwater tank volume is provided for each dwelling (6.5kl each)".

10. Concerns that the DA was not assessed against the relevant State Environmental Planning Policies (SEPPs).

SEPP 65

One objection noted that the DA had not been assessed against SEPP 65 (Design Quality of Residential Apartment Development).

It should be noted SEPP 65 only applies to residential flat buildings that are three or more storeys and have four or more dwellings.

Therefore SEPP 65 is not applicable, as the proposed buildings are not three or more storeys.

SEPP (Affordable Rental Housing)

One objector noted that SEPP (Affordable Rental Housing) had not been considered.

The purpose of this SEPP is to provide a range of planning incentives to encourage home owners and developers to invest and create new affordable rental housing.

Note – Clause 10 of SEPP (Affordable Rental Housing) states when/where the relevant provisions of the SEPP apply for infill residential development applies.

In particular, attention is drawn to:

(e) for development on other land—all or part of the development is within 400 metres walking distance of land within Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to those zones.

The location of the proposed development is not within 400 metres of any of the noted zones.

Therefore the provisions of the SEPP do not apply.

Further, the applicant has confirmed that the DA was not submitted to utilise any incentives under the provisions of SEPP (Affordable Rental Housing).

SEPP (BASIX)

The only applicable SEPP to this development is SEPP (Building Sustainability Index – BASIX) 2004. The BASIX Certificate provided by the applicant lists measures to satisfy BASIX requirements which have been incorporated into the proposal.

The DA has been assessed against the relevant and required planning controls.

11. Concerns regarding the driveway design and vehicular access.

The driveway has been designed by the applicant's engineer. Comments were received from one objector stating that the driveway should incorporate curves. The applicant's engineer has confirmed that the driveway geometry complies with AS2890.

It was also mentioned in objections that some neighbours were concerned that the vehicles would need to leave the site in a reverse direction. The applicant's engineer has confirmed (and provided vehicle swept path diagrams) that it is possible for vehicles to leave the site in the forward direction, if required.

There is also no legislative requirement for vehicles to leave the site in a forward direction, as these comments from neighbours appear to be based upon the design criteria of the Low-Rise Housing Diversity Design Guide.

As noted in Point 6 of this report, the proposal does not need to meet specific criteria of the Low-Rise Housing Diversity Design Guide, and as the consent authority, Council is able to exercise flexibility provided the development meets the overall objectives of the Guide (and other relevant controls). Given the confirmation received from the applicant's engineer that the driveways comply to the relevant standards and that residents will be able to leave the site in a reverse or forward direction, the objectives of the Guide have been satisfied.

12. Concerns that a Social Impact Assessment was not prepared.

One objection notes that a social impact assessment has not been undertaken, and refers to guidelines issued by the Planning Institute of Australia.

The PIA notes that a social impact assessment should be undertaken for larger developments; significant changes of land use; rezoning of publicly owned land; new planning policies and amendments; and controversial uses.

Given that the proposal for DA 155/2020 is for four two-bedroom dwellings in a residential area, a social impact assessment is not required.

In terms of NSW legislative requirements for a social impact assessment, this is only mandatory for resource projects, being State significant mining, petroleum production, and extractive industry developments.

Consideration has been given to the submissions from neighbours. The amended and additional information provided by the applicant addresses these concerns. Other concerns raised have been addressed in this report.

The proposal is overall compliant with the relevant planning controls, and the site is suitable for the development.

Section 4.15 (e) Public interest

The proposed development complies with the objectives of the R1 General Residential zone, to provide a diverse range of housing types and densities in this zone. The applicant has advised in the amended SEE that Broken Hill has been identified as having a high and growing demand for Aboriginal Housing, and the town is a major employment and services hub in Far West NSW. The applicant has also noted that there is an increase in demand for smaller 1-2 bedroom Aboriginal housing developments, and this development would be consistent with the demand.

Given the demand for this style of housing, and overall suitability and permissibility of the site for the proposed development, the proposal is considered to be in the greater public interest.

CONCLUSION

The Development Application has been assessed against the relevant requirements of the *Environmental Planning & Assessment Act 1979*. The applicant has provided further information as requested by Council during the assessment process and concerns raised in the objections from neighbours have been addressed.

The proposal complies with the relevant planning controls, and upon consideration of all relevant matters, it is recommended that Council approve DA 155/2020, subject to the conditions agreed upon by the applicant.

It is noted that as the development is Crown development under Section 4.33 of the *Environmental Planning & Assessment Act*, Council cannot impose conditions without the consent of the applicant or Minister. Section 4.33 also advises that Council cannot refuse the DA without the consent of the Minister.

Community Engagement:

Neighbour notification was conducted in accordance with Council's Community Engagement Strategy. Six objections were received from neighbours, and these objections have been addressed in detail within the report.

Strategic Direction:

Key Direction:	4	Our Leadership
Objective:	4.1	Openness and transparency in decision making
Strategy:	4.1.1	Support the organisation to operate its legal framework

Relevant Legislation:

Environmental Planning & Assessment Act 1979.

Financial Implications:

Refusal of a Development Application lodged by the Crown may result in legal costs.

Attachments

1. [↓](#) Proposed Conditions of Consent
2. [↓](#) Design Verification Statement
3. [↓](#) Property owners and occupiers notified of application

PAUL BAWDEN
MANAGER CITY DEVELOPMENT, PLANNING AND COMPLIANCE

JAY NANKIVELL
GENERAL MANAGER

**Development Application 155/2020
Four new dwellings at 480 Cummins Street, Broken Hill
Proposed Conditions of Consent**

- (1) That all building work must be carried out in accordance with the provisions of the Building Code of Australia.
- (2) That all necessary alterations and or extensions to services shall be carried out in accordance with the requirements of the appropriate Supply Authorities.
- (3) That immediate remedial measures shall be taken if in the opinion of Council, injury is being caused to the amenity of the neighbourhood due to any nuisance, traffic hazard or otherwise and that the use shall cease if it is considered that the use can no longer be tolerated.
- (4) The Applicant is to obtain an Occupation Certificate pursuant to Section 6.9 of the Environmental Planning and Assessment Act 1979, from the Principal Certifying Authority prior to occupation of the buildings.
- (5) Prior to the commencement of any work within the public road reserve, including construction of new driveways and dishcrossings, Roads Act approval must be obtained from Broken Hill City Council's Infrastructure Department.
- (6) Any public road, footpath, public reserve and/or infrastructure that is damaged by the development is to be repaired/restored at no cost to Council.
- (7) Construction activities at the development site shall be carried out only between 7.00am to 5.00pm Monday to Saturday. No work on Sundays and Public Holidays is permitted.
- (8) Dust control measures are to be implemented during earthworks and during construction works to reduce any impact on local air quality and to reduce dust emissions. This will include but may not be limited to regularly wetting down of the site during the course of works being carried out in order to control wind-blown dust.
- (9) Prior to the commencement of any work on the site, the applicant is to obtain all relevant approvals to carry out any sewerage work, electricity work and water supply work from the relevant local service provider (Essential Energy and Essential Water) and comply with any conditions of those approvals.
- (10) Approved Plans/ Documents
Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

Document Description	Date	Plan No/Reference
Plans	10/12/2020	DA-000 – DA-800
Stormwater	19/08/2020	DR00 – DR-100
BASIX	10/12/2020	Certificate 1160680M
Elevations	22/02/2021	DA-102

Design Verification Statement

480 Cummins Street, Broken Hill, NSW

05.03.2021

Project and Address:	480 Cummins Street, Broken Hill, NSW
Applicant Name and Address:	Kawai Yeung Kaunitz Yeung Architecture 85 William Street, Darlinghurst NSW 2010, On behalf of the Aboriginal Housing Office (AHO)
Architects Name and Registration No:	Kawai Yeung 7763 NSW
Development Application (DA) No:	155/2020
Development Type:	Multi Dwelling Housing development (as categorised by the Council)
Subdivision Type:	No Subdivision

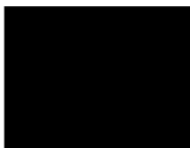
This design verification has been written in response to Broken Hill Council's Request for More Information dated 15 February 2021 and sent 17 February 2021. The Council requested a Design Verification Statement as outlined in the 'Low-Rise Housing Diversity Design Guide' be provided to support the Development Application.

While the Council clarified and acknowledged that there is no mandatory requirement for a Design Verification Statement, we are providing one to assist the Council.

For detailed information on how the proposal has complied with the relevant LEP and DCP, please also refer to the Statement of Environmental Effects (SEE).

I confirm that I was responsible for designing the development, and that the development is consistent with the relevant Design Objectives in the Low-Rise Housing Diversity Design Guide.

Yours sincerely,



Kawai Yeung

Local Character and Context:

Local Character

The proposed site, 480 Cummins Street is zoned R1 for general residential use and is permissible for multi-dwelling development. It is accessible from both Cummins Street and Cummins Lane. Surrounding blocks also zoned the same.



Figure 1.1 – Aerial photo of the site showing near-by multi-unit developments, public school and bus stop.

There is a number of multi-unit developments in the immediate vicinity, and therefore precedent has been established for multi-dwelling development:

1. 478 Cummins Street with 5 units, immediately adjacent to the proposed site.
2. 471 Wyman Street with 4 units, on the opposite side of Cummins Lane to the site.

Other nearby multi-dwelling developments include:

3. 477 Wyman Street with 3 units.
4. 506 Cummins Lane with 4 units.

The site at 480 Cummins Street will provide future residents with proximity to health and education opportunities, and is within walking distance from a number of services as follows:

- 270m to Morgan Street Public School

- 350m walking distance from Cummins Ln to bus stop 288059 at Wyman St at Iodide St which could take the resident to and from the CBD – Bus service 592 & 592A
- 450m walking distance from Cummins Street to bus stop 288059 at Wyman St at Iodide St which could take the resident to and from the CBD – Bus service 592 & 592A
- 750m to Broken Hill Regional Aquatic Centre
- 1.1km to Broken Hill Hospital



Figure 1.2 – Cadastre map showing majority of the lots within the same block are accessible from only one side – either Cummins Street or Cummins Lane. Our proposed design follows this pattern, thus allowing more green spaces in the middle of the lot at the end of the driveways.

Neighbourhood Scale & Streetscape

Existing Character

In the immediate vicinity to the proposed development there are two multi-unit residential developments.

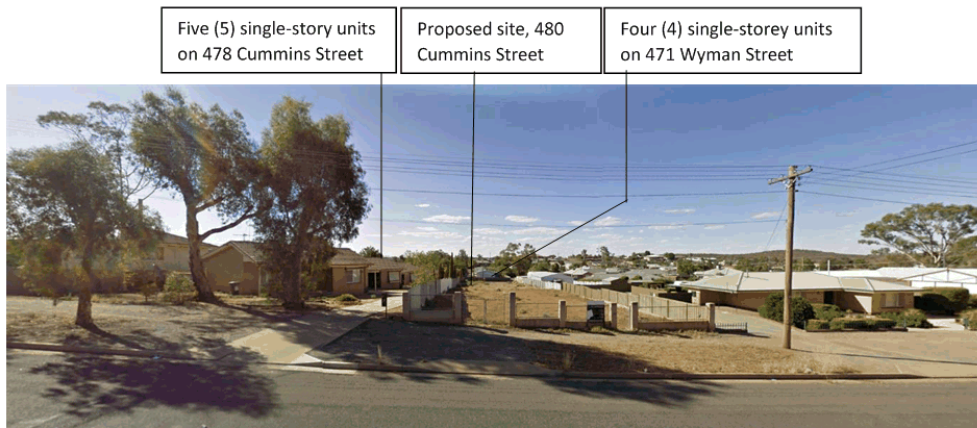


Figure 2 – Cummins Street street scape view showing multi-unit developments in the immediate vicinity to the site.



Figure 3 – 478 Cummins Street adjacent to proposed site viewed from Cummins Street.



Figure 4 – 478 Cummins Street adjacent to proposed site viewed from Cummins Lane.

478 Cummins Street adjacent to the site contains 5 detached dwelling units. The dwellings are constructed of face masonry walls and tiled roofs, and feature double carports at the rear and verandahs at the entry. Each carports are accessible via a driveway within the lot.



Figure 5 – 471 Wyman Street with 4 units behind the proposed site, viewed from Cummins Lane.



Figure 6 – 471 Wyman Street with 4 units behind the proposed site, viewed from Wyman Street.

471 Wyman Street on the opposite side of Cummins Lane to the proposed site contains 4 detached dwelling units. There is a driveway within the lot for vehicular access. The dwellings are constructed of weatherboard walls and metal roof, featuring full length verandahs facing the driveway and the backyards. The main street facades do not contain any fenestration, limiting opportunity for passive surveillance.

Other developments near the proposed site include:

474 Cummins Street, two lots south-east of the site is accessible only from Cummins St with no rear lane access, similar to majority of the lots on the same block. It is built of face masonry walls with a prominent metal roof. Its ground is also significantly raised, giving it a one and a half storey appearance. Similar to 478 Cummins Street it has a simple residential fenestration arrangement, with a central door and windows on either side.



Figure 7 – 474 and 478 Cummins Street south-west of the site showing simple fenestration arrangement of a central door with windows on either side.

482 Cummins Street, north-east of the site, is a double width lot featuring two driveways, and mostly hard impervious ground surfaces with little soft landscaped areas. The dwelling features metal roof and face masonry walls. It also has a carport/ verandah at the front, and simple fenestration arrangement with a central door and windows on either side.



Figure 8 – 482 Cummins Street north-east of the site.

To the opposite side of the site on Cummins Street are mostly two-storey dwellings of large area, bulk and massing. Often they feature multiple garage doors and wide driveways dominating the

streetscape with little green ground cover. They are mostly of face masonry and tiled roof construction.



Figure 9 – 479, 481 and 483 Cummins Street - two-storey dwellings opposite to the proposed site with prominent bulk, multiple garage doors and wide driveways dominating the streetscape.

On Cummins Lane north east to the site is a double width lot 473 Cummins Lane. Six metal sheds are built very close to the common fence to the proposed site.



Figure 10 – 473 Cummins Lane north east to the site.

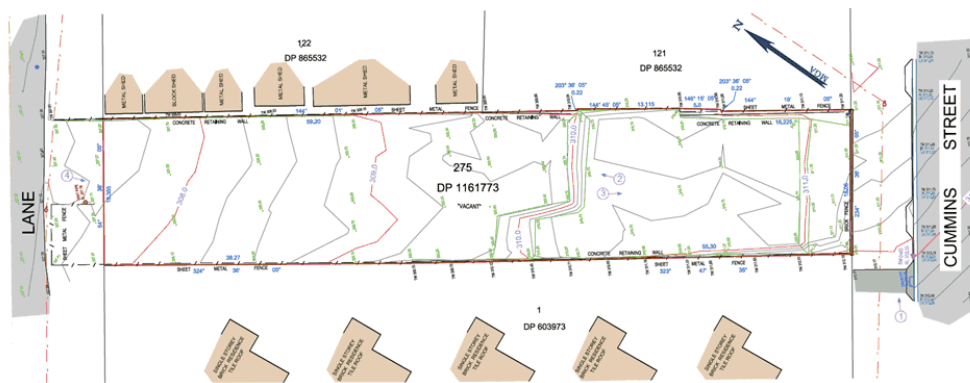


Figure 11 – Survey showing proposed site, adjacent developments and existing services.

The existing buildings surrounding the site show very different massing, styles of architecture, varying degree of responsiveness to local climate and environment, and differing approaches in addressing the streetscape, as demonstrated in Figures 3-10. A majority of them would have non-compliances with the objectives of the current Low-Rise Housing Diversity Design Guide. To ensure our development complies with the Design Guide, while still relating to existing local characters, the proposed development has noted the following local characteristics that would not violate good principles recommended in the design guide, and incorporated these into the proposed design:

- **Scale and built form.** The neighbourhood consists of single, one and a half storey, and double storey dwellings. Our proposed development consists of single-storey dwellings, which is small, fits well and will improve the existing streetscape of the neighbourhood.
- **Setback.** The proposed setbacks are in line with neighbouring buildings as shown in Figure 12.
- **Material.** The existing neighbourhood are built with predominantly the following materials, as evident in Figures 3-9 shown:
 - Metal roof sheeting or tiled roofing
 - Face masonry such as face brick.
 - Weatherboard or fibre cement cladding.

Our proposed external finishes of metal roof sheets, face brick and fibre cement cladding are consistent with the local material palette.

- **Verandahs and carports.** Many buildings feature verandahs and carports that are responsive to the local climate, and provide well shaded outdoor areas. Our proposed design features these local vernacular elements, and includes deep verandahs that provide well-shaded outdoor areas, and carports that lessen the bulk otherwise would have created if they were enclosed garages.
- **Façade and fenestration.** Surrounding buildings often feature a street façade with a central door with windows located on either sides of the door, or wide glazed fenestration under a verandah. This has been captured in our street elevation.

Site Scale



Figure 12 – Aerial photo of the site and nearby residential development, with the proposed roof plan superimposed. This image shows how the massing of the proposed development fits well within the existing neighbourhood.

Our proposed development consists of four two-bedroom dwellings with a modest building footprint and fits harmoniously within the existing scale and pattern of the neighbourhood as shown in Figure 12. The massing of the design has been broken up so that the main dwelling reads separately from the single garages and carports as much as possible.

All the dwellings share similar design principles, however are all slightly different to provide enough visual diversity whilst not detracting from the unity of the whole.

The unit facing Cummins Street (see Figure 13 below) has been specifically designed to fit in with the existing façade and fenestration arrangements seen in the neighbourhood. The front setback is a generous 10m to the master bedroom, and 12m to the entry/ bedroom 01. The front elevation is well articulated, with over half of the width set back by 2m from the front wall, forming a welcoming porch/ verandah at the entry. This not only reduces appearance of the building mass, but at the same time takes cues of the local vernacular. A single garage and a single carport are provided for each unit, instead of a double garage, to further reduce massing. The garages are also either set as far back as possible, or are separated from the main building by a light weight roof forming an open carport.

Two trees and soft landscaping are proposed for the front yard facing Cummins Street, which shall see greening and further positive contribution to the existing streetscape.

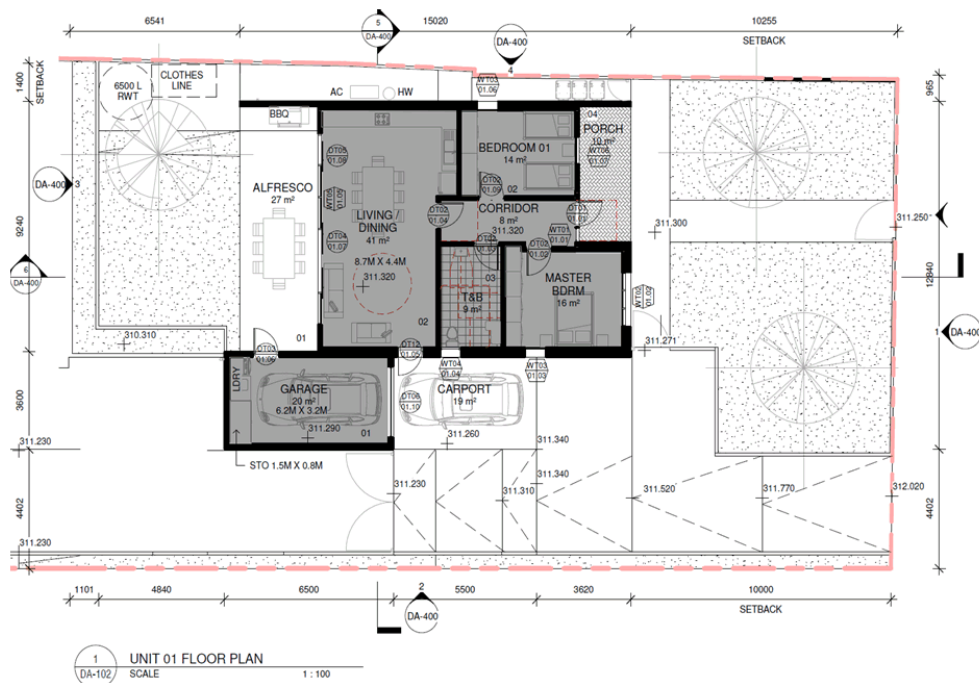


Figure 13 – Unit 01 (facing Cummins Street) Floor Plan showing a modest footprint and green front yard that will positively contribute to the streetscape. The front setback is a generous 10m to the master bedroom, and 12m to the entry/ bedroom 01. The garage has a separate roof from the main building and is set as far back as possible.

Consideration has been given so that the roofs slope in response to the natural slope of the site, consistent with the DCP:

Roof form should be sympathetic to the natural ground slope and/or to neighbouring buildings.

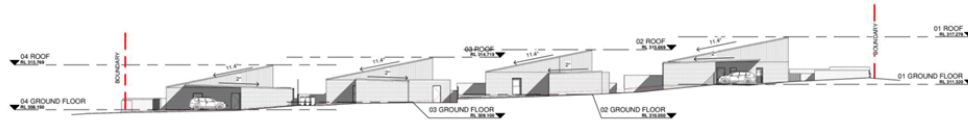


Figure 14 – Section showing the roof sloping in response to the natural slope of the site.

Further, by juxtaposing the location of the garages and carports, the design also provides a sense of visual diversity between the individual dwelling units whilst not detracting from the unity of the whole.

Overall the proposal is consistent with the relevant Design Objectives in the Low-Rise Housing Diversity Design Guide. It will be a positive contribution to the neighbourhood, and will set a precedence for good design in the area.

Attachment 3 Property owners and occupiers notified of application

486 Cummins Street	Owner	467 Cummins Lane	Occupier
484A Cummins Street	Owner	478 Cummins Street	Owner
484 Cummins Street	Owner	1/478 Cummins Street	Occupier
473 Cummins Lane	Owner	2/478 Cummins Street	Occupier
476 Cummins Lane	Owner	3/478 Cummins Street	Occupier
473 Wyman Street	Owner	4/478 Cummins Street	Occupier
471 Wyman Street	Owner	5/478 Cummins Street	Occupier
1/471 Wyman Street	Occupier	474 Cummins Street	Owner
2/471 Wyman Street	Occupier	474 Cummins Street	Occupier
3/471 Wyman Street	Occupier	470 Cummins Street	Owner
4/471 Wyman Street	Occupier	475 Cummins Street	Owner
472 Cummins Lane	Owner	477 Cummins Street	Owner
470 Cummins Lane	Owner	479 Cummins Street	Owner
463 Cummins Lane	Owner	481 Cummins Street	Owner
463 Cummins Lane	Occupier	481 Cummins Street	Occupier
467 Cummins Lane	Owner	483 Cummins Street	Owner
483 Cummins Street	Occupier		