

## **SNOWY VALLEYS COUNCIL MEETING**

## LATE REPORTS

**12 DECEMBER 2019** 

THE MEETING WILL BE HELD AT 2.00PM
IN THE TUMUT ROOM 76 CAPPER STREET TUMUT

## Disclosure of Pecuniary Interests at meetings (extract from the Code of Conduct – Section 4)

- **4.28** Councillor or a council committee member who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- **4.29** The councillor or council committee member must not be present at, or in sight of, the meeting of the council or committee:
  - (a) at any time during which the matter is being considered or discussed by the council or committee, or
  - (b) at any time during which the council or committee is voting on any question in relation to the matter.
- **4.30** In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- **4.31** Disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.

## **Disclosure of Political Donations and Gifts**

The *Environmental Planning and Assessment Act 1979* places obligations on Councillors, staff, applicants and any person who makes a public submission, to disclose information relating to political donations and gifts during the environmental plan making or development assessment process.

The fact that political donations or gifts have been made by applicants / proponents of a planning application should not affect whether an application is approved or refused. Political donations or gifts should not be relevant in making a determination. The matter should be determined on its merits. Nor do they provide grounds for challenging the determination of any applications.

For further information, visit www.planning.nsw.gov.au/donations

Furthermore, for each planning decision made at a Council or Committee Meeting, the names of Councillors who supported the decision and those that oppose the decision must be recorded. (Sec. 375A of the Local Government Act 1993)

# Use of mobile phones and the unauthorised recording of meetings (extract from the Code of Meeting Practice – Section 15)

- **15.21** Councillors, council staff and members of the public must ensure that mobile phones
- are turned to silent during meetings of the council and committees of the council.
- **15.22** A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.
- **15.23** Any person who contravenes or attempts to contravene clause 15.22, may be expelled from the meeting as provided for under section 10(2) of the Act.

**15.24** If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

## Livestreaming of Meetings (extract from the Code of Meeting Practice – Section 5)

This meeting is live streamed on Council's website to allow the community to follow Council debates and decisions without the need to attend meetings in person. Members of the public attending or speaking at a meeting agree to have their image, voice and personal information (including name and address) recorded and publicly broadcast. Snowy Valleys Council does not accept liability for any defamatory remarks or inappropriate comments that are made during the course of a meeting. Any part of the meeting that is held in closed session will not be streamed.

**5.19** All meetings of the council and committees of the council are to be webcast on the council's website.

## **Photography**

Flash photography is not permitted at a meeting of the Council or a Committee of the council without the consent of the General Manager.

# Public Forum (extract from the Code of Meeting Practice – Section 4)

- **4.1** The Council may hold a public forum prior to each Ordinary Council meeting for the purpose of hearing oral submissions on items of business to be considered at the meeting.
- **4.2** Public forums are to be chaired by the mayor or their nominee.

Those attending must comply with the terms and conditions of the Code of Meeting Practice which can be viewed on Councils website;

http://www.snowyvalleys.nsw.gov.au/Council/Governance/Policies



Thursday 12 December 2019
Snowy Valleys Council Chambers
76 Capper Street, Tumut
2.00pm

## **LATE REPORTS**

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## 1. CONFIDENTIAL

## 10. MANAGEMENT REPORTS

10.4 MA NO. 2019/0032 (PART ONLY) – 71 WYNYARD STREET TUMUT –

CHANGE OF USE OF EXISTING HOTEL TO MEDICAL CENTRE - PROPOSED

REDUCTION IN CARPARKING SPACES

**REPORT AUTHOR:** ACTING DIRECTOR STRATEGY, COMMUNITY &

DEVELOPMENT

**RESPONSIBLE DIRECTOR:** ACTING DIRECTOR STRATEGY, COMMUNITY &

**DEVELOPMENT** 

#### **EXECUTIVE SUMMARY:**

Modification Application 2019/0032 relating to the change of use of the existing hotel at 71 Wynyard Street Tumut to a medical centre has been approved subject to conditions in part only. Proposed reduction in car parking spaces from 36 spaces to 29 spaces is outside staff delegations to determine. This report examines the proposed reduction and current approved car parking layout and the potential impacts and consequences of each.

## **RECOMMENDATION:**

#### THAT COUNCIL:

- 1. Receive the report on Modification Application No. 2019/0032 on the proposed reduction of car parking spaces to be provided to the approved Development Application 2017/0138 for the change of use of existing Hotel to Medical Centre.
- 2. Determine a reduction in car parking spaces and that an Amended Notice of Determination of Modification of Development Consent be issued subject to proposed conditions of consent found in Appendix A.

## **BACKGROUND:**

Approval for DA2017/0138 for the change of use and associated works of the existing Wynyard Hotel to a medical Centre was issued subject to conditions on 21 December 2019. The approved plans provided for 36 car parking spaces at the rear of the medical centre for use of the staff and customers of the medical centre and existing accommodation on the first floor of the building in accordance with the Tumut Development Control Plan 2011 Chapter 3 — Car parking. A breakdown of the car parking requirements at the time of assessment of DA2017/0138 in accordance with Chapter 3 are provided below. The current approved parking layout plan is in Attachment 1.

Proposed	Required parking spaces
19 rooms	19
9 consulting rooms	9
5 Doctors	5
4 employees	2
Delivery & Pick up	1
Total	36

Application for Modification Application 2019/0032, being modification 2 of DA2017/0138, was lodged on 19 November 2019. The modification was approved in part only on 29 November 2019 with the following condition in regards to the proposed reduction in car parking spaces. A copy of the proposed car parking layout submitted is in Attachment 2. It is noted that the current proposed car parking layout was received on 2 December 2019 and proposes a reduction of seven (7) spaces from 36 to 29 car parking spaces.

"3A. This consent does not provide for a reduction in the number of car parking spaces to be provided. Currently the approved development requires 36 car parking spaces.

**ADVISORY NOTE:** The proposed reduction in the number of car parking spaces cannot be determined by staff under delegation and will be put forward to Council for consideration and determination. Following receipt of a Council resolution in this regard an amended Notice of Determination will be released subject to details of the resolution.

**REASON**: To ensure works are carried out in accordance with this consent and the approved plans."

Snowy Valleys Council adopted the Snowy Valleys Council Development Control Plan 2019 which commenced on 18 November 2019. As the application is a modification application, the applicable DCP is the DCP in place at time of assessment of the original development application, being Tumut Development Control Plan 2011 Chapter 3 – Car parking. The proposed modification does not comply with the Tumut DCP 2011 Chapter 3 – Car parking.

Resolution M013/18 was passed by Council on 25 January 2018 repealing the section 94 Contribution Plan – Car Parking and endorsing that change of use of existing approved buildings be exempt to car parking requirements to increase the use of existing vacant buildings in the Tumut town centre. Resolution M013/18 was made after the determination of DA2017/0138 and does not provide a position on car parking requirements of existing development approvals or modification applications received in relation to existing development approvals. As such it could not be used by staff to determine subject application MA2019/0032. Noted that the former Wynyard Hotel is not an existing approved building. No approval is on record for its construction. This is thought to be due to the age of the building which likely predated approval requirements. Approvals do exist for later alterations.

#### **REPORT:**

In considering any development proposal Council must consider all relevant provisions of a DCP, and when requesting a variation to the DCP it is expected that the applicant and the documentation supporting the proposal can demonstrate that a particular control is either unreasonable in the circumstances of the case, or it is demonstrated that the controls are met or satisfied by alternate means and the best outcome is achieved.

In this case the applicant did not submit any documentation in support of the proposed reduction. However, it is acknowledged that if constructed in accordance with the approved car parking layout in Attachment 1 car parking spaces identified as 1, 2 and 13 would likely have difficulty safely manoeuvring to exit the carpark. Entering and exiting of space 12 would also potentially cause disruption to the flow of traffic in Herlihy Street.

The proposed car parking layout in Attachment 2 submitted with MA2019/0032 is considered to be preferential based on the safety of users and pedestrians as well as potential disruption of traffic in in Herlihy Street. Noting that the anticipated users of the space are likely to be more vulnerable members of the community, being elderly, persons who are sick and parents with children, the deletion of spaces close to the access ramp at the rear of the building is regarded as providing for safer pedestrian access and egress between the carpark and building as well as facilitating better

manoeuvrability for spaces 1 and 2. Spaces are also proposed to be wider, better facilitating prams and/or access to children in the back of a car or similar.

In reading this report Council's attention is drawn to the DCP guide for considering exceptions to the controls or standards expressed in the DCP Chapter 3 – Car parking, which is reproduced below.

## "Exceptions to Standards

Council will assess each application on its merits, and at its discretion, may relax the requirement of this DCP where they are considered unreasonable or unnecessary in the circumstances of a particular case. Council may also make additional requirements if it considers that a development is likely to generate an excessively high parking demand. Where a deviation from this DCP's requirements is imposed, detailed justification for the departure must be submitted with the Development Application."

As previously stated council may vary the controls of the DCP if it believes that the requirements of the DCP are unreasonable or unnecessary in the particular case.

In the case for varying the controls it is considered that:

- Council has a commitment to support the attraction of additional medical services to the SVC region, which approval of this variation will enable without further delay;
- That the impacts of reduced car parking are outweighed by the safety and traffic concerns that constructing the carpark in accordance with the current approved layout would cause;
- Layout provides for improved manoeuvrability with consideration to anticipated users being more vulnerable members of the community;
- The reduction in car parking spaces in consistent with Council's intent in implementing a
  waiving of car parking requirements as shown by the requirements of the Snowy Valleys
  Development Control Plan 2019 and resolution M013/18.

In the case to enforce the control it is considered that:

- There is a significant demand on car parking in this vicinity. The subject site is next to and in close proximity to offices and shops;
- There is no public transport available in Tumut, therefore travel to the subject premises must be predominantly by private car;
- Relaxing parking for this development will set a precedent for other existing approvals to have their car parking controls relaxed through lodgement of a modification application;
- Modifications to the floorplan of the medical centre suggest that initial calculations
  undertaken in the assessment of the original development application based on the
  submitted Statement of Environmental Effects may not be correct and suggest that the
  staffing numbers will likely be higher than what was originally put forward;
- The proposed layout may not be utilising the site to its full potential. It is understood that the
  existing flat located in the carpark is vacant. Demolition of the flat may provide for additional
  car parking spaces.

## **APPENDIX A:**

## PROPOSED CONDITIONS

#### General:

The proposed 'Tenancy' room shall be used in association with the approved Medical Centre.

2. The development shall be in accordance with the plans, specifications and Statement of Environmental Effects bearing the Snowy Valleys Council approval stamp and any amendments marked in red or otherwise modified by conditions of consent. The plans referenced by this approval are as follows:

Sheet Description	Number	Date	Revision
Rendered front façade – finishes	-	-	-
Pathology Centre Fitout	DWG SH-1419-00 to	1/10/2019	1
documentation set	SH-1419-16		
Medical Centre Fitout	DWG SH-1019-00 to	01/06/2019	1
documentation set (excluding	SH-1019-24		
security fence)			
Proposed carpark	Project No. 190524	April 2019	E
	sheets C1 to C7		

In the event of any inconsistency between the conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

3. A Construction Certificate application shall be made for the proposed works in accordance with the Environmental Planning and Assessment Act 1979 and Regulations 2000. The Construction Certificate application shall address relevant conditions of development consent. In the event that Council is appointed to issue the Construction Certificate, it is recommended that a pre-application discussions be held with the appropriate Council staff.

A Construction Certificate can only be issued where the design and construction of the building is consistent with the development consent. Design amendments may require modification of the Development Consent.

## 3A. DELETED

3B. This consent does not provide for the construction of a retaining wall within the carpark over the existing sewer main.

**REASON:** To ensure access to council's infrastructure is maintained.

- 3C. The following external finishes are to be applied. Where any inconsistency between the approved plans and finishes detailed by this consent occur, the conditions of this consent prevail.
  - a) All existing areas of unrendered and unpainted exposed brick on the Western elevation of the building adjoining the laneway are to remain and no finishes are to be applied;
  - b) Tile pattern to be applied to the front façade is to be stretcher pattern also known as brickbond.
  - c) Dulux 'Rouge' is to be applied to the external painted finishes that have been identified on the plans as being Dulux 'Harold' including the left hand side upper facade (with returns to lane and main building), ground floor bottom facade and rear facades.
  - d) The main upper facade, balcony, upper verandah soffit & fascia and under awning soffit facing Wynyard Street to be "DULUX" Natural White;
  - e) The Canopy/Awning fascia and first floor columns to be "DULUX" Domino, and
  - f) New doors, windows and shopfront framing in 'powdercoat' Black.

**ADVISORY NOTE:** The submitted rendered drawing of the front façade shows a grid/stacker tile pattern and is not to be applied.

**REASON:** To ensure that the external finishes applied to the building are in keeping with the heritage conservation area and are consistent with those approved by council's Heritage

Advisor.

3D. This consent does not provide for the erection of a security fence

**REASON:** Proposed security fence is not in keeping with the visual amenity of the area.

## **Prior to Approval of a Construction Certificate**

- 4. Access for persons with disabilities Access and/or sanitary facilities for persons with disabilities must be provided to the premises/building in accordance with the requirements of the Premises Standards, the Building Code of Australia, and AS 1428.1. Details must be submitted with the Construction Certificate Application. The application must be prepared by a suitably qualified access consultant.
- Access from the carpark to the entry in the northern elevation facing the carpark must be provided for people with disabilities in accordance with the requirements of the BCA and Australian Standard 1428.1 – 2009. Details of this access must be provided in the Construction Certificate documentation.
  - Alternatively the owner may enter into an agreement with Council to exchange the ownership of the land associated with the proposed carpark for the provision by Council of compliant accessible carparking spaces for the development.
- 6. Prior to the approval of any Construction Certificate a water and sewer compliance certificate under Section 305 of the Water Management Act 2000 is to be obtained to show that the impact of the development upon the water and sewerage infrastructure has been fully addressed in accordance with Council's Developer Contribution Plan.
  - The applicant shall provide Council with an indication of the volume of water to be consumed and the volume sewerage to be released per annum, in kilolitres.
  - A headworks charge may apply for water / sewer and must be paid prior to issue of a construction certificate.
- 7. Pursuant to Clause 93 and 94 of the Environmental Planning and Assessment Regulation 2000, the existing building must be brought into partial conformity with the Building Code of Australia in respect to the provisions of the following details of which must be provided on the Construction Certificate documentation and plans:
  - a) Submission of an amended design for the accessible sanitary facility complying with AS1428.1 2009.
  - b) The affected parts of the building (pursuant to the Premises Standard 2010) must comply with the access requirements of AS1428.1-2009.
  - c) A report addressing Section J of Volume 1 of the National Construction Code 2016 must be provided with the Construction Certificate. The Construction Certificate plans and specifications must address the report requirements.
  - d) The inclusion of an ambulant compliant sanitary facility in the main bank of facilities.
  - e) The rear stairs from the carpark are to be upgraded to comply with the balustrade, handrail, colour contrast, slip resistance and ground surface indication requirements under the BCA and AS1428.1-2009.
  - f) The ramp and landing outside the door between the waiting room and the terrace must be extended to comply with the approach requirements of AS1428.1-2009.

- g) The doors and doorways on the street level floor are to be upgraded in direction of swing and the door furniture must comply with D2.20 and D.2.21 of the NCC.
- h) The fresh air requirements for mechanical ventilation must be upgraded to AS1668.1-1998. Detailed plans and specifications must be provided with the Construction Certificate application.
- i) Fire Hose Reels must be refurbished to comply with the AS2441-2005 standard to each floor level. An additional fire hose is to be provided to the basement level and on the upper floor to within 4m of the top of the rear exit stairs.
- j) Portable Fire Extinguishers are required to cope with electrical equipment will be required to be provided throughout the building In accordance with AS2444 -2001
- k) Smoke Hazard Management General (E2.2): Automatic smoke detection and alarm system is required for the residential portion of the building to alert occupants of a fire event within the building in accordance with NCC Specification E2.2a.Clause 2 (a)(i)(C).
- I) Emergency lighting is required to be provided within the building In accordance with AS2293.1 2005
- m) Exit signs are required to be provided throughout the building in accordance with AS2293.1 -2005.
- n) Note: Lightweight Construction between the ground floor and first floor is not required by this consent but as the applicant has advised that work may be undertaken on the first floor it is advisable to fire separate the upper floor and internal stairway with -/60/60 lightweight construction.
- o) All openings for services through fire rated elements must be protected in accordance with the BCA. Details must be provided.
- p) The path of travel to the front exit from the base of the internal stairs is to be fire protected from the adjacent uses if alterations are proposed to the upper floor. This is required to provide a secure path of travel in the event of a fire incident to the front of the building. It is advisable to undertake and document this work with the lower floor work to prevent re-work.
- 8. Under section 9 of the Plumbing and Drainage Act 2011, the prescribed fee shall be paid and a related Notice of Work shall be submitted for the required plumbing/sanitary drainage works. This notification shall be lodged a minimum of forty-eight (48) hours prior to starting any plumbing/drainage works. Plumbing and drainage shall be carried out by a Licensed Plumber and Drainer and be in accordance with the National Plumbing and Drainage Code.
- 9. Suitable and effective builder's refuse and waste storage facilities are to be provided on the development site for the duration of demolition works. At the completion of works, waste material shall be disposed of to a lawful Waste Management Centre.

## **General – Engineering**

- 10. As Trade Waste will be discharged to Council's sewerage system, the owner of the premises prior to occupation must:
  - a) Install approved pre-treatment device/s, for example plaster arrestor, where pre-treatment of discharge is required under the Liquid Trade Waste Guidelines 2009, with pre installation approval sought in line with The Local Government Act 1993, Section 68.

b) Submit a Trade Waste discharge application, and enter into a written Trade Waste Services Contract with Council, where required, prior to occupation of the building.

Liquid trade waste means all liquid waste other than sewage of a domestic nature.

- 11. Any damage caused to the public road, footpath or street gutter as a consequence of the project shall be repaired at the owner's expense to the satisfaction of the Division Manager Assets, Planning and Design.
- 12. In order to minimise the impact of the development on the public domain, the applicant shall bear the cost of relocating any public utilities required as a consequence of development.
- 13. The applicant will be responsible to ensure that the footpath levels adjacent to the proposed entry are adjusted to comply with the requirements of AS1428.1 Design for Access and Mobility.

#### **Prior to Commencement**

- 14. At least 2 days prior to any work commencing on site Council must be informed, by the submission of a Notice of Commencement in accordance with Section 81A of Environmental Planning & Assessment Act 1979 of the name and details of the Principal Certifying Authority and the date construction work is proposed to commence. The required form may be completed online at Council's website (www.snowyvalleys.nsw.gov.au) or hardcopies may be obtained from Council.
- 15. The Construction Certificate application must address drainage in accordance with AS/NZS 3500.3 2003, compliance with AS/NZ 2890.1:2004 Parking Facilities Part 1: off-street car parking, and AS/NZS 2890.2 -2002 Part 2: off-street commercial vehicle facilities, Aus-spec, Councils standards for Urban/Rural driveway construction and the Environmental Planning & Assessment Act 1979. The application shall be submitted to Council prior to construction of the proposed works.

## **During Construction**

16. Hours of construction for demolition and building work likely to cause annoyance due to noise shall be restricted to:

Monday – Friday: 7 a.m. to 6 p.m.
Saturday: 8 a.m. to 1 p.m.
Sundays & Public Holidays: No construction work.

#### **Prescribed Conditions**

- 17. All work shall be carried out in accordance with the requirements of the Building Code of Australia
- 18. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

(c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

## **Prior to Occupation**

- 19. An interim occupation certificate may be issued prior to the completion of the building work on receipt of an application for an interim occupation certificate provided that part of the development is safe and suitable for occupation, and an agreement regarding the process for completion of the project is entered into between the applicant and Council.
- 20. Final Occupation Certificate shall not be issued until such time as an application for Occupation Certificate is made and all conditions of this consent have been satisfied, and the development is constructed in accordance with the plans, specifications and Statement of Environmental Effects as approved under this development consent.
- 21. Prior to occupation of the building, the water service shall be provided with the appropriate cross connection prevention and/or backflow prevention devices, relative to the degree of hazard. The installation, servicing and maintenance of the devices shall comply with Council's policy Backflow Prevention Policy.
- 22. Prior to occupation all trade waste requirements of Condition No. 10. must be satisfied.

## **On-going Town Planning**

23. The proposed (Medical Centre) use is generally not restricted to specific hours of operation, however the business must be operated so as not to cause any nuisance to premises in the vicinity.

## **REASONS FOR CONDITIONS:**

- 1. To ensure compliance with the Environmental Planning and Assessment Act 1979 and Building Code of Australia.
- 2. To ensure that the development complies with the provisions of relevant Environmental Planning Instruments and Council's Codes and Policies.
- 3. To minimise adverse environmental impact.
- 4. To maintain the amenity and character of the neighbourhood.
- 5. To ensure that the development does not conflict with the public interest.

## LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY AND OPERATIONAL PLAN:

## Integrated Planning and Reporting Framework: CSP Outcome 2028

Theme 2: Growth through Innovation

#### **Delivery Outcomes**

2.1 Develop strong relationships with local industry, organisations and government to ensure a sustainable local economy

## **Operational Actions**

1.9.1 80% of all Development Applications are assessed and determined within 60 days

## SUSTAINABILITY ASSESSMENT:

	Positive	Negative
Social	Ensuring adequate health services are provided to the community quickly	There may be delays in the commencement of the health centres operations if not approved.
Environmental	Ensuring adequate facilities are in place	Reduced parking provision will increase demand for parking in public places.
Economic	Facilitates earlier commencement of operations at the medical centre	Car parking is provided at the expense of others
Governance	Commitment to support additional health services	Makes the consistency of implementation of planning instruments more difficult.

## **Financial and Resources Implications**

The provision of car parking spaces at the expense of the general community rather than through development provisions

#### **Costs and Benefits:**

Potential additional burden on existing on-street and off-street parking spaces within the Tumut town centre.

## **Policy, Legal and Statutory Implications:**

Council DCP- 3 Car parking as it applies to existing development consents will be compromised, and therefor if consented to this application may set an undesirable precedent.

## **RISK MANAGEMENT - BUSINESS RISK/WHS/PUBLIC:**

There is a potential risk that the proposed services, and/or other health services may be jeopardised by strict enforcement of the DCP controls where parking space onsite is unavailable.

There is a potential risk that in seeking to adhere to the DCP controls the carpark may not provide for an appropriately functioning and safe space for users.

## **OPTIONS:**

As presented within the report there are two options; either conditional approval of the modification application as proposed or refusal of the application on the grounds of non-compliance with the DCP controls for onsite parking.

#### **COUNCIL SEAL REQUIRED:**

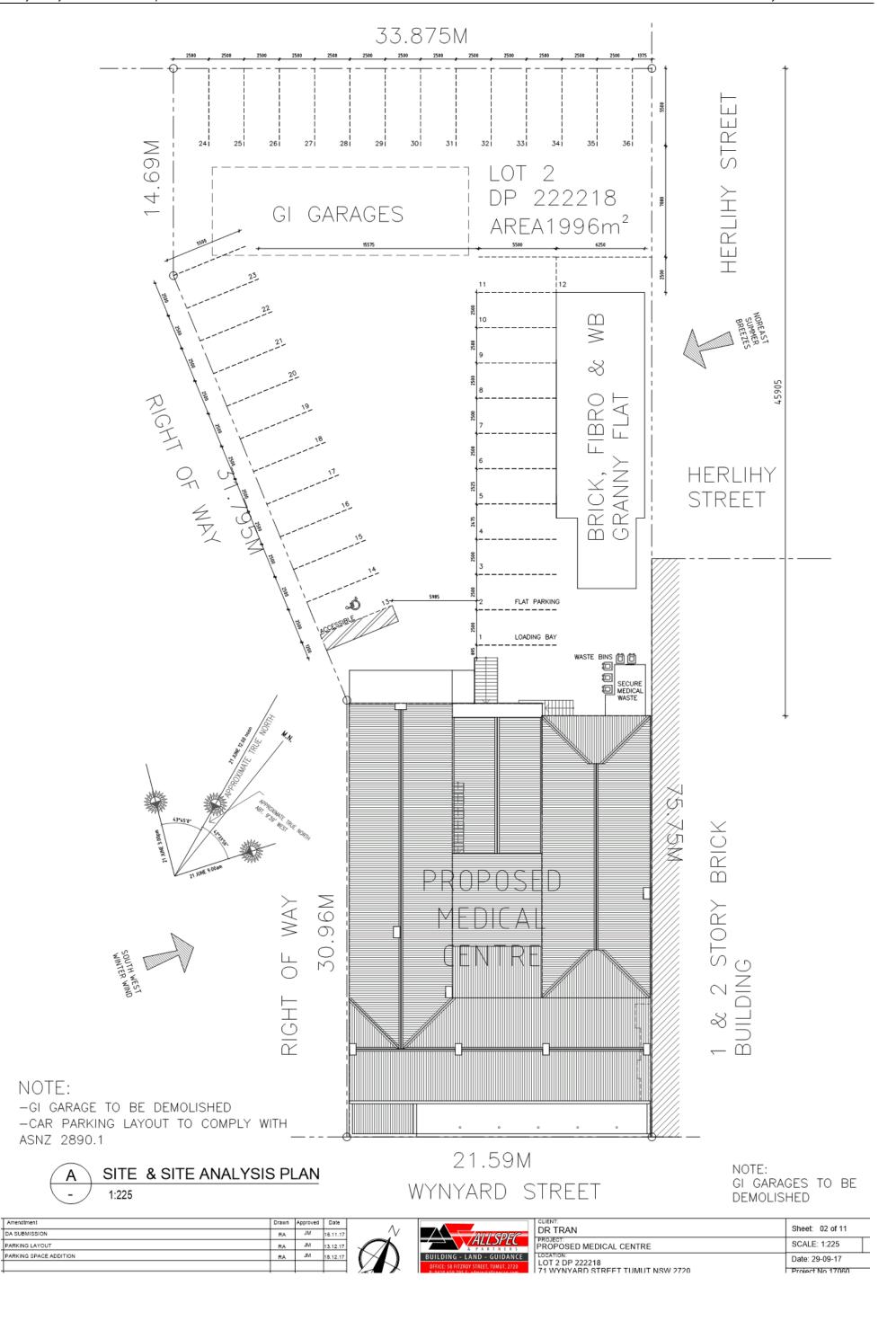
No

## **COMMUNITY ENGAGEMENT AND COMMUNICATION:**

The development was not notified to adjoining premises. The matter is before Council for determination.

## Attachments

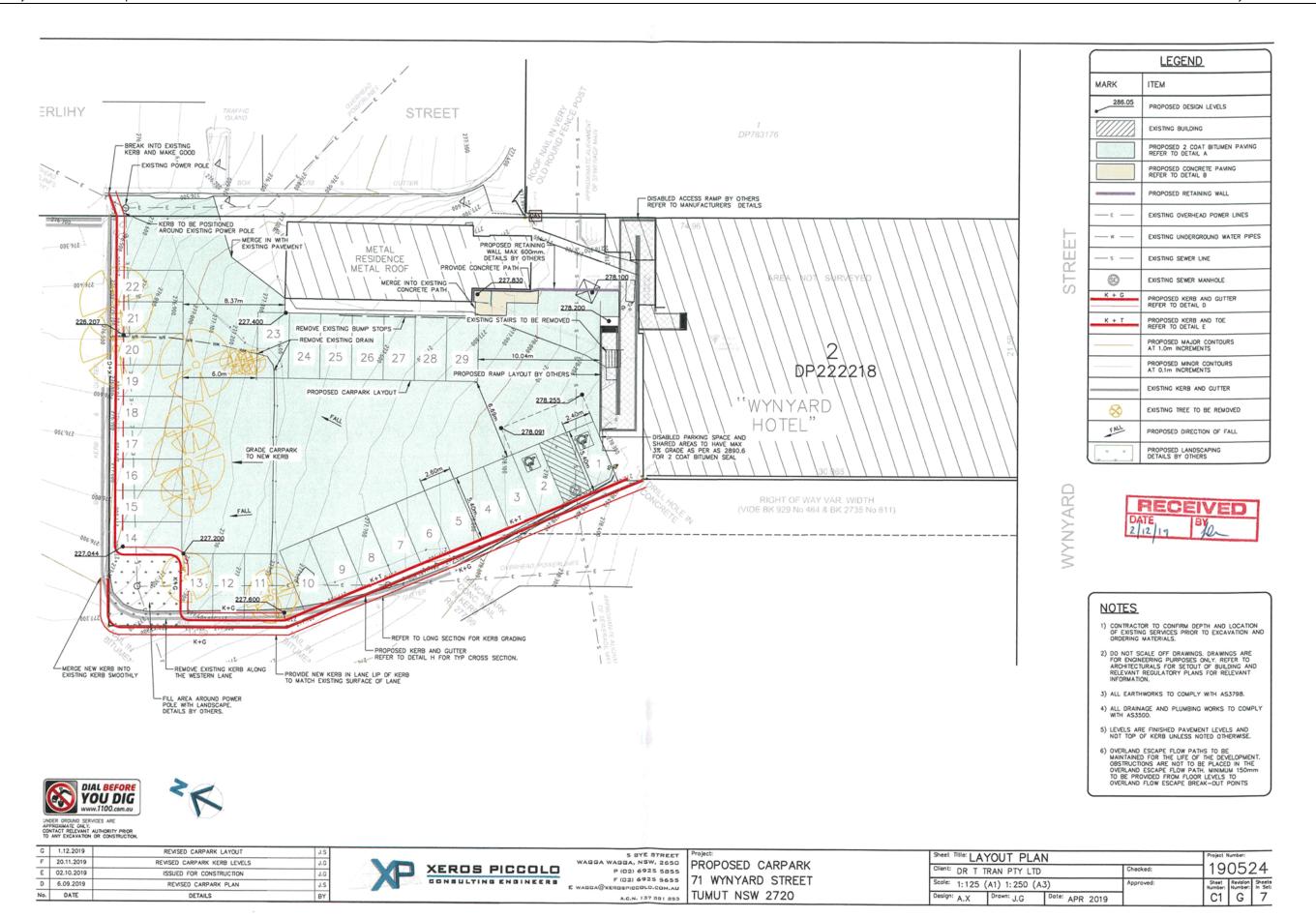
- 1 Existing approved carparking layout <a href="#">J</a>
- 2 Prosposed layout plan dated April 2019 J



10.4 Attachment 1 Page 11

Snowy Valleys Council - Late Reports

Thursday 12 December 2019



10.4 Attachment 2 Page 12