

DEVELOPMENT ASSESSMENT REPORT – DA147/19 - PROPOSED MAUSOLEUM, HARTLEY CEMETERY GREAT WESTERN HIGHWAY HARTLEY NSW 2790

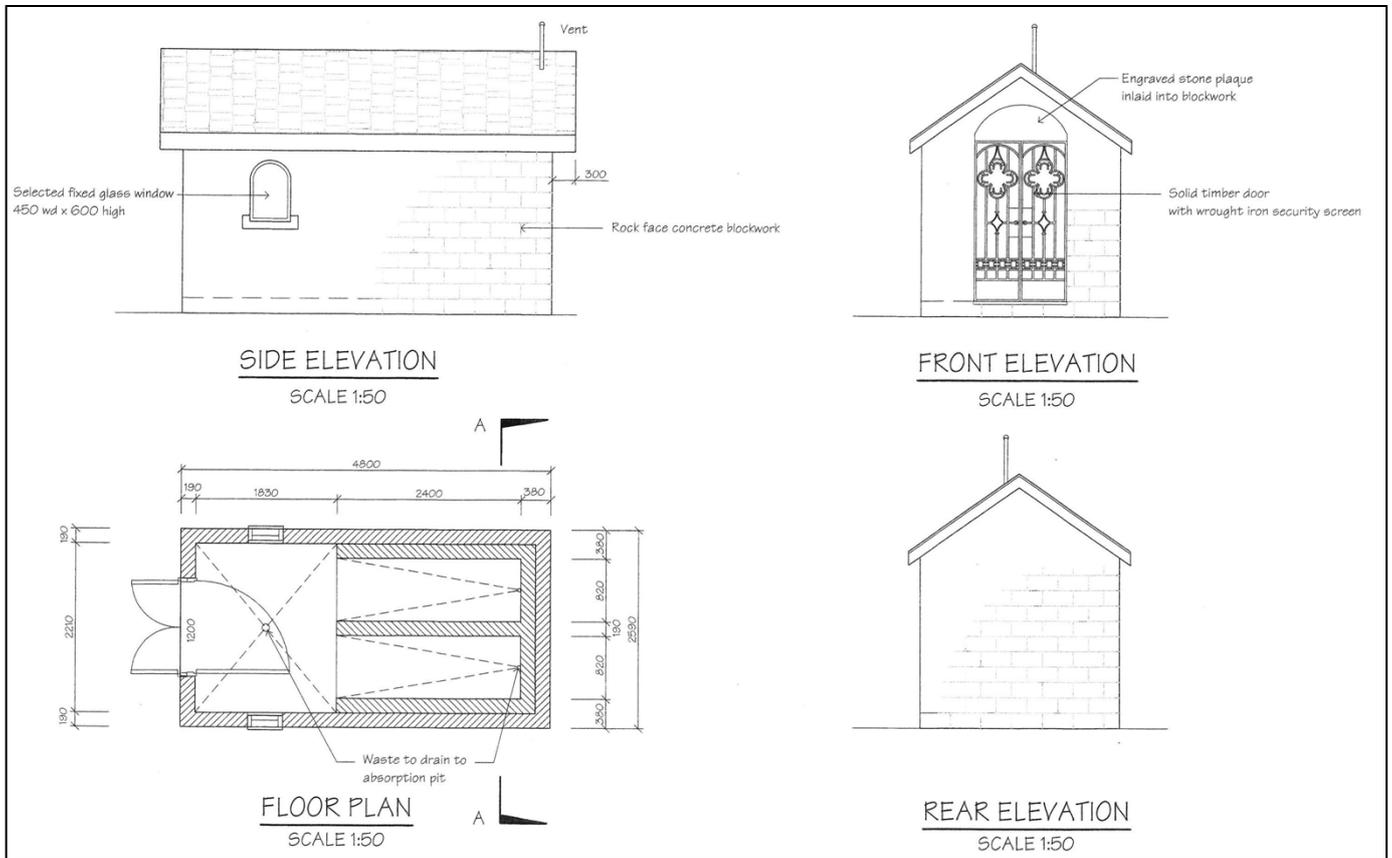
1. PROPOSAL

Council is in receipt of a Development Application DA147/19 for a Mausoleum at the Hartley Cemetery, known as Lot 7018 1057029 Great Western Highway, Hartley.

The existing cemetery has three mausoleums (one constructed 2017) and a number of gravesites, with access from the Great Western Highway. The proposal is to be located next to the 2017 existing mausoleum (see below map for location).



The mausoleum will hold six crypts with a viewing area being constructed of rock face concrete blockwork, solid timber door with decorative wrought iron security screen and a slate style terracotta roof. The mausoleum will be 12.38m² with a 4.8m length, 2.59m width and a height of 3.325m at the highest point (2.35m wall height). See below plans:



2. SUMMARY

To assess and recommend determination of DA147/19. with recommendation for approval subject to conditions.

3. LOCATION OF THE PROPOSAL

Legal Description : Lot 7018 1057029
 Property Address : Hartley Cemetery, Great Western Highway Hartley NSW 2790

4. ZONING: The land is zoned R5 Large Lot Residential in accordance with Lithgow Local Environmental Plan (LEP) 2014.

5. PERMISSIBILITY: The development being a mausoleum is permissible under Lithgow Local Environmental Plan 2014 as an ancillary structure associated with an existing public cemetery. A cemetery is defined as below:

***cemetery** means a building or place used primarily for the interment of deceased persons or pets or their ashes, whether or not it contains an associated building for conducting memorial services.*

5.1 POLICY IMPLICATIONS (OTHER THAN DCP's)

Policy 7.5 Notification Of Development Applications

This policy applies to the development, however the following clause was applied to the development:

2.0 Applications for which notification will not be given

*Council will **not** give notice of an application in the following instances:*

- Any other development of a minor nature that, in the opinion of the assessing officer, does not have the potential to create a negative impact on the amenity of the neighbourhood by way of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise.*

Given the proposal is for a mausoleum, a small building in an existing public cemetery, it is considered the development is of a minor nature with no impacts on adjoining landowners. Therefore, no adjoining or adjacent landowners have been notified of the proposal as part of this process.

Policy 7.6 Development Applications By Councillors And Staff Or On Council Owned Land

This policy is applicable given the land is owned/managed by Lithgow City Council as the Hartley Cemetery. The policy states:

- That, subject to the exemptions in Part 2 of this Policy, any development application lodged where the applicant is a Councillor or a member of staff, or where a Councillor or member of staff is the owner of the land to which the application relates, or where the development application on Council owned land, that such an application be referred to Council for consideration and determination.*

Therefore, the proposal will require determination at a Council meeting.

5.2 FINANCIAL IMPLICATIONS

Section 94A (Section 7.12) Development Contributions Plan 2015

The Section 94A plan applies to all development, however, given the proposed estimated cost is \$18,500.00 under the threshold of \$100,000.00, no levy is applicable.

5.3 LEGAL IMPLICATIONS

Biodiversity Conservation Act 2016

Section 7.2 of the *Biodiversity Conservation Act 2016* (BC Act) prescribes the circumstances in which the Biodiversity Offset Scheme (BOS) is required to be applied to development. However, as no clearing is required as part of this proposal the Act is not applicable to this development.

Rural Fires Act 1997

The land is bushfire prone, however the proposed development is not habitable proposal and therefore does not require referral to the Rural Fire Service NSW. Council's Building Officer has undertaken an assessment in relation to Planning for Bushfire Protection 2006 as required.

Environmental Planning and Assessment Act 1979

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. These matters for consideration are as follows:

5.3.1 Any Environmental Planning Instruments

Lithgow Local Environmental Plan 2014

LEP 2014 – Compliance Check		
Clause		Compliance
Land Use table	R5 Large Lot Residential	Yes
5.10	Heritage conservation	Yes
7.4	Terrestrial biodiversity	Yes
7.5	Groundwater vulnerability	Yes

Comment: The proposed development will not impact on the location or scenic quality of the area. The proposal does not hinder on proposed residential development and will not require additional services or public facilities. There is no conflict between land uses given the land uses are existing and there is a neutral or beneficial effect on water quality of receiving catchments.

The land is heritage listed under Lithgow Local Environmental Plan 2014 as Old Roman Catholic Cemetery. The proposal of a mausoleum in the existing cemetery is consistent with the heritage use of the land. Although the building is new it is not expected to impact on any existing structure or grave sites.

The proposal is outside the area known to be terrestrial biodiversity and given the proposal does not include any clearing it is expected to have minimal impact. Further, the land to be utilised is previously disturbed and used as a cemetery with this proposal not increasing that use.

Due to the minor nature of the building being 12.38m² with small concrete footings it is not expected the development will have an impact on the groundwater vulnerability.

The proposal meets the requirements of the LEP.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

SEPP (Sydney Drinking Water Catchment) 2011 – Compliance Check		
Clause		Compliance
10	Development consent cannot be granted unless neutral or beneficial effect on water quality	Yes
11	Development that needs concurrence of the Chief Executive	NA

Comment: The application is required to be assessed using the Neutral or Beneficial Effect on Water Quality Assessment Tool as below. Given the development satisfies this assessment the development complies with the SEPP.

NEUTRAL OR BENEFICIAL EFFECT ON WATER QUALITY ASSESSMENT TOOL

General Information

DA number **DA147/19**
 Council **Lithgow City**
 Development class **Other Development**
 Date of assessment **6/9/19**

Lot	Section	Plan
7018		1057029

Assessment Summary

NorBE status **Determined**
 System outcome **Satisfied** User outcome **Satisfied**
 SCA concurrence outcome
 Determination outcome **Granted** Determination date **6/9/19**

Pre-Assessment

Located within Sydney drinking water catchment? **Yes**
 Is development consistent with any existing SCA S88 instruments on title? **N/A**
 Water quality impact ?
 Concentration of flow of water? **No**
 Flow of water impeded? **No**
 Discharge of pollutants? **No**
 Any other matter? **No**
 Documentation is complete? **Yes**
 Does Water Cycle Management Study meet SCA/Council requirements? **Yes**

5.3.2 Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

Nil.

5.3.3 Any Development Control Plan

Nil.

5.3.4 Any planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4?

Nil.

5.3.5 Any matters prescribed by the regulations that apply to the land

The development has been forwarded to Council's Building Officer for assessment under appropriate regulations. It is considered that as a result of this assessment the development will comply with the provisions of the regulations subject to conditions of consent.

5.3.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Adjoining Landuse: The surrounding area is generally for rural and residential type pursuits with the proposal to be established within an existing cemetery.

The proposal will not cause any land use conflicts and the development is permissible within the zone given the land uses are not proposed to change.

Context and Setting: The proposed development will be located within an established cemetery and will have no major impact on the context and setting of the area.

Heritage: The land is heritage listed under Lithgow Local Environmental Plan 2014 as Old Roman Catholic Cemetery. The proposal of a mausoleum in the existing cemetery is consistent with the heritage use of the land. Although the building is new it is not expected to impact on any existing structure or grave sites.

Access/ traffic: The proposal will gain access via the existing access from the Great Western Highway and is considered adequate for the proposal given the minimal traffic increase.

Flora and Fauna: No proposed clearing is required and the development will have no impact on flora or fauna.

Social and Economic Impact: As the proposed development will be generally in keeping with the provisions of the planning instrument and is reasonably compatible with other similar development in the locality, it is expected to have minimal social and economic impact. However, to ensure minimal impact to the existing cemetery and visitors, the following is recommended to be implemented within the conditions of consent:

- That all care is taken within and around the cemetery with machinery and workers to ensure no impact be made to existing gravesites and structures. A meeting onsite with Council's Cemetery Officer should be undertaken prior to any works. Discussions onsite should include vehicles paths, parking, materials storage and delineating the work site area.
- That the building be completed within 3 months of works commencing, to minimise impacts to visitors of the cemetery.
- That no works on the proposal be undertaken on weekends.
- That no works occur during any services. In this regard, the applicant/builder is to liaise with Council's Executive Assistant Infrastructure Services.

Soils: The proposed development will have no significant impact on soils. There is no reason to believe the site would be affected by acid sulphate soil or contamination problems. Conditions of consent will be imposed to control erosion and sedimentation impacts on the site and therefore it is considered there will be minimal impacts on soils.

Water: The proposed development has been assessed using the NorBE tool as required by the *State Environmental Planning Policy (Sydney Catchment Drinking Water) 2011* with a result of satisfied. Therefore with appropriate conditions of consent it is considered that the development will have minimal impact on water.

5.3.7 The Suitability of the site for the development

The surrounding land uses are for rural and residential pursuits with the size and nature of the development to be consistent with the existing cemetery established.

The proposal is compatible with the objectives of the zone and is considered to have minimal impact on the surrounding amenity. Therefore, as the site is an existing cemetery, the site is considered to be suitable for the proposed development.

5.3.8 Any submissions made in accordance with this Act or the Regulations

The proposal was sent to Council's Cemetery Officer and Council's Building Officer, for commenting with recommendations detailed below.

COUNCIL'S BUILDING OFFICER

I refer to the abovementioned development application in regards to your referral dated 23 August 2019 and provide the following comments.

The proposal provides for the construction of a Class 10a Mausoleum structure, having a floor area of 12.432m² at the abovementioned property.

A Constriction Certificate has been submitted to Council for consideration. The proposal generally satisfies the relevant provisions of the Building Code of Australia.

It is noted however that no structural details prepared by a Structural Engineer for roof framework (including snow loading), footings or masonry construction have been submitted. An advisory note should be imposed on the Development Consent in this regard.

The site plan does not nominate any setbacks in relation to the site boundaries.

Recommendation

Should approval be recommended, no objection is given to the proposal subject to the following conditions being imposed on the Development Consent:

GENERAL

1. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

REQUIREMENTS PRIOR TO COMMENCEMENT OF WORK

2. Prior to commencing any construction works, Council is to be notified at least two days prior of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act in Form 7 of Schedule 1 of the Regulations.
3. To contain soil and sediment on the property, controls are to be implemented prior to clearing of the site vegetation and the commencement of site works. This will include:
 - a) The installation of a sediment fence with returned ends across the low side of the site so that all water flows through. These shall be maintained at no less than 70% capacity at all times. Drains, gutters, roadways etc., shall be kept clean and free of sediment.
 - b) To prevent the movement of soil off site, a single entry/exit point to the property shall be constructed of 40mm blue metal aggregate or recycled concrete to a depth of 150mm. The length must be at least 5 metres with the width at least 3 metres.

Soil erosion fences shall remain and must be maintained until all disturbed areas are restored by turfing, paving, revegetation.

4. Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:
 - a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person can be contacted outside working hours.
 - b. Stating that unauthorised entry to the work site is prohibited and
 - c. Showing the name, address and telephone number of the principle certifying authority for the work.The sign/s are 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.

5. An appropriate fence preventing public access to the construction site shall be erected for the duration of Construction works

REQUIREMENTS DURING CONSTRUCTION

6. All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and public holidays	No work

REQUIREMENTS PRIOR TO USE

7. Prior to the use/occupation of the structure an Occupation Certificate must be issued by the Principal Certifying Authority (PCA). In this regard an application must be lodged with the PCA in conjunction with any request to carry out a final inspection.

ADVISORY NOTES

AN1. Prior to commencement of work, structural details endorsed by a Practising Structural Engineer are to be submitted to Council in respect to all structural members associated with the proposed Mausoleum (e.g. roof framework, reinforced concrete slab, masonry construction, etc.). In this regard the structure must be designed to withstand a minimum Ground Snow Load (Sg) of 1.12kPa in accordance with AS1170.3:2003 and a Design Wind Velocity of N3 in accordance with AS4055:2012.

AN2. That the building is to be protected from the attack of subterranean termites by employing construction methods conforming with Australian Standard 3660.1. A durable notice must be permanently fixed to the building in a prominent location indicating:

- (i) the method of protection and
- (ii) the date of installation of the system and
- (iii) the installer's or manufacturers recommendations for the scope and frequency of future inspections for termite activity.

AN3. To ensure structural integrity, the maintenance of minimum health standards, the management of the buildings surrounds and the protection of the environment, compliance certificates are to be issued at significant stages throughout the construction period. These stages are:

- a) Pier holes/pad footings before filling with concrete.
- b) Trenches complete with reinforcing and prior to filling with concrete.

- c) Internal drainage carried out by licensed plumber prior to covering
- d) Reinforcing steel in position and before concrete is poured (footings, lintels, beams, columns, floors, walls and the like.
- e) Framing when external wall and roof cladding is in place and prior to internal linings.
- f) Stormwater drainage between building and discharge point (drainage pipes, soakage pits and the like) prior to covering.
- g) Completion of the development and sign off to all conditions of the consent including landscaping, prior to occupation and use.

At each inspection, erosion and sediment control measures and site management will be inspected.

Note: forty-eight (48) hours notice shall be given to Council prior to inspections.

Planning Comment: It is suggested that works not be undertaken on Saturday to minimise issues with visitors to the cemetery.

COUNCIL’S CEMETERY OFFICER

There are no objections/issues in relation to the abovementioned development.

5.3.9 The public interest

There have been no issues raised from the public regarding planning issues.

6. DISCUSSION AND CONCLUSIONS

The proposal is considered to generally comply with the relevant provisions of the applicable Environmental Planning Instruments. The proposal is not considered likely to have any significant negative impacts upon the environment or upon the amenity of the locality. As such it is recommended that development consent is issued subject to the conditions outlined below.

7. ATTACHMENTS

Schedule A- Conditions of consent.

8. RECOMMENDATION

THAT development application DA147/19 is approved subject to conditions set out in Schedule A.

Report prepared by:

Supervisor:

Signed:.....

Signed:.....

Dated:.....

Dated:.....

REASONS FOR CONDITIONS

The conditions in Schedule A have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instruments
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To ensure that adequate road and drainage works are provided.
- To ensure access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To ensure there is no unacceptable impact on the water quality.
- To ensure compliance with the requirements of the Rural Fire Services.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

Schedule A

Conditions of Consent (Consent Authority)

Please Note: It should be understood that this consent in no way relieves the owner or applicant from any obligation under any covenant affecting the land.

ADMINISTRATIVE CONDITIONS

1. That the development be carried out in accordance with the application, Statement of Environmental Effects, accompanying information, plans listed in the approval and any further information provided during the process unless otherwise amended by the following conditions.
2. That the building be completed within 3 months of works commencing, to minimise impacts to visitors of the cemetery.
3. That all care is taken within and around the cemetery with machinery and workers to ensure no impact be made to existing gravesites and structures. A meeting onsite with Council's Cemetery Officer should be undertaken prior to any works. Discussions onsite should include vehicles paths, parking, materials storage and delineating the work site area.
4. That no works occur during any services. In this regard, the applicant/builder is to liaise with Council's Executive Assistant Infrastructure Services.
5. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

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9. An appropriate fence preventing public access to the construction site shall be erected for the duration of Construction works.

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- | | |
|----------------------------|------------------|
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| Saturday | No work |
| Sunday and public holidays | No work |

REQUIREMENTS PRIOR TO USE

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