

# Business Paper

## EXTRAORDINARY COUNCIL MEETING

**STEPHEN WARD ROOM, COOTAMUNDRA**

**5:00PM, THURSDAY 19<sup>TH</sup> OCTOBER, 2017**

**Cootamundra Office: Ph: 02 6940 2100**

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The Mayor and Councillors  
Cootamundra-Gundagai Regional Council  
PO Box 420  
Cootamundra NSW 2590

NOTICE OF MEETING

An Extraordinary Meeting of the Council will be held in the Stephen Ward Rooms,  
Cootamundra on:

**Thursday, 19th October, 2017 to be held at  
5:00pm  
In the Stephen Ward Rooms.**

The agenda for the meeting is enclosed.

Allen Dwyer  
General Manager

# AGENDA

## 1. Acknowledgement of Country

Council acknowledges the Wiradjuri people who are the the Traditional Custodians of the Land on which the meeting is held. Council pays respect to Elders, both past and present, of the Wiradjuri Nation and extends that respect to other Aboriginal people who are present.

## 2. Apologies

## 3. Disclosures of Interest

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## 4 GENERAL MANAGER'S REPORT

### 4.1 DEVELOPMENT AND COMMUNITY SERVICES DIVISION

#### 4.1.1 DEVELOPMENT AND BUILDING

##### 4.1.1.1 APPLICATION FOR HARDWARE STORE, 1-5 WALLEDOON STREET COOTAMUNDRA

REPORTING OFFICER	Grace Foulds – Town Planner
ATTACHMENTS	79C Report Plans Statement of Environmental Effects
RELEVANCE TO COMMUNITY STRATEGIC PLAN	Not yet adopted.
FINANCIAL IMPLICATIONS	See 79C Report
LEGISLATIVE IMPLICATIONS	See 79C Report
POLICY IMPLICATIONS	See 79C Report

#### RECOMMENDATION

That DA2017/82, application for a hardware store, be refused consent.

#### Introduction

Council received an application for a hardware store at 1-5 Wallendoon Street Cootamundra on 21 September 2017.

Preliminary assessment of the application revealed a number of shortcomings, which would make assessing the application in accordance with criteria under 79C of the *Environmental Planning & Assessment Act 1979* impossible. Further information was formally requested from the applicant on 27 September 2017.

Council received a response to this request 9 October 2017. This response did not adequately address all points raised, however it was requested that Council form a recommendation on information provided to be presented at an extraordinary Council Meeting (19 October 2017).

#### Applicant

Colin Robert Blake

Owner

Colin Robert Blake

Property Description

Lots 1 & 2 Section 31 Deposited Plan 758287

Zoning

B3 – Commercial Core

Existing Use

No existing use rights

Proposal

Hardware Store (Hardware and Building Supplies)

Discussion

Council has an obligation to assess development applications in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*. As the attached 79C Report demonstrates, there is a significant amount of vital information which is either lacking or ignored in this application. Furthermore, other obligations for notification and referral to other government agencies have not been undertaken due to a lack of information and time. The request for a recommendation to be presented at an extraordinary Council Meeting has limited the ability for staff to recommend anything other than refusal.

**RECOMMENDATION**

DA2017/82, application for a hardware store, be refused consent.

# DEVELOPMENT ASSESSMENT REPORT

Pursuant to the *Environmental Planning & Assessment Act 1979*  
Section 79C (as amended)

**DATE OF REPORT COMMENCEMENT:**

12 October 2017

**COUNCIL OFFICER COMPLETING DEVELOPMENT ASSESSMENT:**

Grace Foulds

**DEVELOPMENT REFERENCE:**

DA 2017/82

**DEVELOPMENT ADDRESS:**

1-5 Wallendoon Street COOTAMUNDRA

**DEVELOPMENT LOT / SEC / PLAN:**

Lot: 1 Sec: 31 DP: 758287

**OWNER(S):**

Colin Robert Blake

**APPLICANT:**

Colin Robert Blake

**APPLICANT ADDRESS:**

PO Box 726  
COOTAMUNDRA NSW 2590

**PROPOSAL:**

New Commercial Building

**ZONING (LOCAL ENVIRONMENTAL PLAN):**

B3 – Commercial Core

**OTHER SPECIAL ZONING IMPACTS:**

5.10 – Heritage Conservation Area

6.4 – Groundwater Vulnerability

**BACKGROUND:**

Council received an application for a hardware store at 1-5 Wallendoon Street Cootamundra 21 September 2017. The lodgement of this application was preceded by a pre DA meeting held 18 September 2017 in which Council staff provided feedback and detailed certain assessment criteria for such an application.

Preliminary assessment of the application, once received, revealed a number of shortcomings in the application which would make assessing the application in accordance with criteria under 79C of the *Environmental Planning & Assessment Act 1979* impossible. Further information was formally requested from the applicant on 27 September 2017.

Council received a response to this request 9 October 2017. This response did not adequately address all points raised, however it was requested that Council form a recommendation on

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Pursuant to the Environmental Planning & Assessment Act 1979  
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information provided to be presented at an extraordinary Council Meeting (19 October 2017).

## PREVIOUS DEVELOPMENT PROPOSALS AND DECISIONS:

A development application for demolition of the existing building on the site – the blue shed was received by Council on 22 August 2017. Development Consent was granted for this development 30 August 2017.

## INTEGRATED / DESIGNATED / ADVERTISED / NEIGHBOUR NOTIFICATION / CROWN DEVELOPMENTS:

This application would ordinarily have been notified to adjoining neighbours, however as further information was requested which may impact the aesthetic and dimensions of the development (generally what people pick up on for neighbour notification) it was decided to defer notification until further information was received. With the request that the application be assessed (9 October 2017) as is and at an extraordinary Council Meeting (19 October 2017), there has not been sufficient time to notify neighbours (minimum of 14 days).

Sufficient neighbour notification and exhibition periods have been controversial at CGRC in recent months, with lessons learnt that it is better to over notify than comply with the minimum standard. It must be highlighted that this application has not been notified at all.

## STATUTORY CONSIDERATIONS / EP&A ACT / EP&A REGULATION:

### State of Environmental Planning Policies:

State Environmental Planning Policy (Infrastructure) 2007, Clause 104 of the Traffic-generating development apply to this development as the location, type and size of the development is identified in Schedule 3 Traffic Generating Development to be referred to Roads and Maritime Service (RMS).

Clause 104 of the SEPP states:

"Before determining a development application for development to which this clause applies, the consent authority must give written notice of the application to RMS within 7 days after the application is made, and take into consideration any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, RMS advises that it will not be making a submission), and the accessibility of the site concerned, including the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and any potential traffic safety, road congestion or parking implications of the development.

The consent authority must give RMS a copy of the determination of the application within 7 days after the determination is made"



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## **Regional Environmental Planning Policies:**

Direction 28: Deliver healthy built environments and improved urban design

While industrial sheds are not unusual in the Cootamundra CBD (Thompsons, Elders and so on) it is not the predominate architectural style of Cootamundra, let alone this precinct. The wording and intention of the regional plan is vague and subjective and it could be argued either way that this proposed development is supported/not supported by the regional plan.

## **Cootamundra LOCAL ENVIRONMENTAL PLAN 2013:**

B3 – Commercial Core

5.10 - Heritage Conservation Area

6.4 – Groundwater Vulnerability

## **Gundagai LOCAL ENVIRONMENTAL PLAN 2011:**

N/A

## **Cootamundra-Gundagai Draft LOCAL ENVIRONMENTAL PLAN:**

N/A

## **Section 117 Directions:**

N/A

## **Model Provisions:**

N/A

## **Council Policy Considerations:**

Calculating Genuine Estimated Cost of Development

The declared estimated cost of development for this development is \$300,000. Assessing the proposed development in accordance with Council's policy, the development is estimated to realistically be in excess of one million dollars. As the cost of labour and materials can vary, the applicant was requested to provide either a quantity surveyor's report or quotes/receipts from a suitably qualified individual/company.

The applicant has provided a quote for the proposed building from Wide Span Sheds at \$161,000. No other quotes have been provided. Council is unable to determine the cost of labour to construct the building, the cost of the slab and associated fit out of the building.

Council is generally lenient regarding the cost of development, particularly as the cost of development applications and Section 94A contributions are calculated proportionally to the cost of the development and these costs can cause barriers to development; however in this case Council may be left substantially out of pocket particularly with regards to Section 94A contributions.

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Pursuant to the Environmental Planning & Assessment Act 1979  
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## Cootamundra Development Control Plan:

- Chapter 3 – Business and Industrial Development
- Chapter 5 – Car parking and Vehicle Access
- Chapter 7 – Heritage

## Traffic Generating Guidelines:

Clause 104 and Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2007 identify this type of development as being traffic generating and required referral to the RMS. As no traffic data or traffic impact assessment has been provided as a part of this application submission RMS referral has not yet been undertaken.

## Section 94 Contributions Policies:

N/A

## Section 94a Contributions Policies:

Based on the estimated cost of development declared on the development application form, section 94A contributions would be \$3,000.

## REFERRALS:

This application is required to be referred to the Roads and Maritime Services, however this has not occurred as Council was awaiting further information which is relevant to any assessment made by the Roads and Maritime Services.

Internal referrals to engineering and building were undertaken, however in order for these sections to make informed and relevant recommendations, further information was requested.

## SECTION 79C CONSIDERATIONS:

### Provisions of any Environmental Planning Instrument:

#### B3 – Commercial Core

The proposed development is defined as:

**hardware and building supplies** means a building or place the principal purpose of which is the sale or hire of goods or materials, such as household fixtures, timber, tools, paint, wallpaper, plumbing supplies and the like, that are used in the construction and maintenance of buildings and adjacent outdoor areas.

Hardware and building supplies are a type of retail premises. Retail premises or hardware and building supplies are not specified in item 2 or 4 of the B3 Zone, meaning that they are permitted with consent. However omitted land uses must meet the objectives of the zone. The objectives of the B3 Zone of the Cootamundra Local Environmental Plan 2013 are:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.

# DEVELOPMENT ASSESSMENT REPORT

Pursuant to the Environmental Planning & Assessment Act 1979  
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- To maximise public transport patronage and encourage walking and cycling.

These objectives encourage a wide range of development in a regional town. It should be noted however, that Mitre 10 which was in what is now the B3 zone moved to the IN2 zone on Hovell Street at the urging of former Cootamundra Shire Council; implying that the IN2 zone is more appropriate for this particular landuse.

## 5.10 - Heritage Conservation Area

The proposed development site is in the defined Heritage Conservation Area in accordance with Heritage Map 5A of the Cootamundra Local Environmental Plan 2013. Erection of a building in the Heritage Conservation Area requires development consent. In accordance with clause 5.10 of the Cootamundra Local Environmental Plan 2013, heritage assessment must be made as a part of the application. The application for this development did not have any heritage assessment and the applicant asks that their development be granted an "exclusion" with regards to clause 5.10 (letter dated 9 October).

As the Cootamundra Local Environmental Plan 2013 is an adopted legislative document of Council endorsed and regulated by the Department of Planning, Council does not have the power to grant an "exclusion" or vary the Local Environmental Plan and the following subclause must be met:

*(4) Effect of proposed development on heritage significance: the consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).*

The applicant has stated that due to the corporate colour scheme, regulation by H Hardware brand and cost they are unable to modify their development to be more in keeping with the Heritage Conservation Area. The applicant provided a booklet of H Hardware store frontages which demonstrates that there is no "one size fits all" in terms of bulk and architectural style, unlike Bunnings. Examples provided show that the Gin Gin and Cooma stores address their street corner location, minimising blank walls and are integrated into the landscape better.

While not every building in the Heritage Conservation Area would be considered as adding to the Federation era fabric of Cootamundra, it is important that all new development in the Heritage Conservation Area address clause 5.10. This was discussed at length in the prelodgement meeting, with Council staff offering a number of solutions and methods of addressing clause 5.10.

Council has a history of working with developers to encourage development which is in keeping with the Heritage Conservation Area. Council recently negotiated with Amcal Pharmacy to achieve a frontage to their new store which was both in keeping with the corporate colour scheme but also sympathetic to the Heritage Conservation Area.

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## 6.4 – Groundwater Vulnerability

This proposed development would have negligible impact on groundwater as the site is proposed to be fully impervious and surrounding stormwater infrastructure will direct runoff away from the site.

### Provision of any Draft Environmental Planning Instrument:

Amendments 5 and 6:

This application is not impacted by either of these amendments.

### Development Control Plans:

#### Chapter 3 – Business and Industrial Development

The proposed development does not comply with this chapter of the Development Control Plan as the proposed gross floor area is over 400m<sup>2</sup> of the site and car parking is not provided onsite at the rate specified in Chapter 5 (see below).

The proposed development does provide a loading area for delivery vehicles.

Disposal of waste materials can be mitigated and conditioned through conditions of consent. It is expected that waste from the operation of this development can be accepted into the Cootamundra Area waste collection stream.

#### Chapter 5 – Car parking and Vehicle Access

This chapter has five general requirements:

**1. The provisions of this chapter will be applied to new development.**

This application has been assessed against this chapter.

**2. Off-street car parking provision currently provided to existing developments shall be retained. Additional parking spaces required for any new development or redevelopment shall comply with the provisions of this chapter.**

Existing on street car parking will be depleted by this proposed development due to the proposal to create separate entry and exit points onto Wallendoon Street. Council staff estimate that this would necessitate the minimum loss of four car spaces from Wallendoon Street.

The provisions of this chapter are discussed below.

**3. In the case of a change in the use of an existing building, Council will apply the provisions of this Development Control Plan if it considers that the proposed new use will produce a substantially different parking requirement than those attributable to the existing use.**

There is currently no existing land use at this site as it has been disused for more than twelve months.

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**4. The total number of on-site parking spaces provided in association with new development will be determined in accordance with the recommended ratios set out in this Chapter; subject to any qualifications or exceptions which may be applicable in the circumstances of the case. In this regard, parking proposals that provide less parking than required by this Chapter will be required to be supported by a parking study.**

The proposed land use is not individually listed in the ratio table. As the development would occur in a commercial precinct and is a subset of retail development (in accordance with the land use table) the best description is "bulky goods retail store" which states "comparisons should be made with similar developments". In the case of the Cootamundra Development Control Plan, a comparable development would be commercial premises which at a rate of 1 car park / 40m<sup>2</sup> Gross Floor Area means that this development requires 50 car spaces.

Council recognises that minimum car parking requirements can be excessive and a barrier to development. However, there must be a minimum standard – the RMS has an adopted minimum standard for car parking in *Guide to Traffic Generating Developments: Version 2.2*. For this sort of development (3.6.8. Bulky Goods Retail Stores) it is 1 car park / 100m<sup>2</sup> Gross Floor Area resulting in 20 total car spaces as a minimum. The applicant has proposed 6 standard car spaces onsite in the trading area. These spaces are likely to be underutilised as it would be expected that people will use trailers and may have small pickup trucks which would take up more than one car space.

Council staff provided a solution to the applicant in that 12 off street car spaces and 1 disabled car space be provided from the laneway at 90 degrees. This would involve the use of 1.5m of the Hovell Laneway and 3.9m of the development site. Additionally to preserve Wallendoon Street car parking it was suggested that the trading area be redesigned to have a single lane entry from Wallendoon Street and exit onto the Hovell Laneway. This would also minimise traffic impacts of cars entering Wallendoon Street. While this would reduce the total size of the building, it would reduce the area required for car movements in the trading area and would actually result in a net increase in usable commercial floor space.

The applicant decided to stay with their proposed car parking arrangements as per provided plans.

It must also be highlighted that it would be expected that staff will drive to work and park their vehicle for the duration of the shift. With a minimum of four staff working at any one time, four car spaces will always be utilised during operating hours.

**5. Where there is an inconsistency between this Chapter and an Australian Standard, the Australian Standard will prevail.**

The Australian Standard (AS/NZS 2890.6-2009) requires one disabled car space per 50 car parking spaces or part thereof for a Class 6 building. No disabled car parking is proposed by the applicant and letter dated 9 October 2017 requests that Council provide a disabled car space in front of the development (on street). Notwithstanding the significant cost to Council to construct a disabled car space and the fact that on street car parking will already be reduced due to access requirements for the site, the construction and cost involved in

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providing a ramped path (noting the gradient of the gutter) and redirecting stormwater from the disabled car park to the proposed entry point would be significant.

**Comment:** Application to vary the Development Control Plan's car parking requirement is something Council staff support, however it must be justified and assessed on merit as these are the adopted standards of Council and the Community. The applicant has not provided any justification except to request a "practical variation" to the Cootamundra Development Control Plan (letter 9 October). Without definition, Council staff propose that a "practical variation" is to provide car parking in accordance with RMS standards and AS/NZS 2890.6-2009 meaning that 20 car spaces and 1 disabled car space should be provided onsite.

## Chapter 7 – Heritage

Requirement for Consideration	Comment
General Requirements	Analysis of the Cootamundra Heritage Conservation Area is not undertaken in the information provided with this application. The design of the proposed development has been undertaken in isolation of heritage consideration.
Corner Allotments	This proposed development does not address the street corner and proposes a blank wall façade to Hovell Street which is some 40m in length and measuring 7.445m high at the peak.
Commercial and retail development	This development would dominate the landscape, particularly from Hovell Street due to the bulk and lack of break up elements (colours and/or materials).  The concept of a big shed is reflected across Wallendoon Street (Thompsons), however on the northern side of Wallendoon Street the White Ibis building is a visually dominant structure reflecting period architectural elements which could be incorporated in the design of any new development. This approach was embraced with the recent planning proposal for a liquid fuel depot and service station on Hovell Street, which proposes painting murals reflective of the railway corridor and Cootamundra Wattle to break up bulk and be more in keeping with the landscape.

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Signs	The signs proposed as a part of this development are in keeping with the style of the proposed shed building, however are visually jarring and dominate the landscape.
Colours	There is no single colour palette at this end of Wallendoon Street, with khaki, royal blue and reds contributing to the character of the area. The proposed colour scheme of yellow and black would not dominate the landscape and may even add to the character of the area, particularly if landscaping is used to soften its affects.
Setting	The proposed development is in keeping with the zero setback of surrounding buildings and is a proposed commercial building in a commercial precinct.
Roof	The roof does not have any architectural features and is to be of colorbond.
Scale, mass and form	The building form from Wallendoon Street is less intrusive and the scale, mass and form would be considered appropriate for this street. From Hovell Street the structure is of a large form which would dominate the streetscape.
Proportion	The proposed building is not in proportion to Hovell Street.
Facade	The façade lacks any architectural elements which might soften the impact of the building. Aside from the entry doors and two roller doors there are no windows or change in plane, colour or material which would be in keeping with commercial development generally and the Heritage Conservation Area.
Doors and windows	No windows are proposed, but there are three roller doors proposed; two double entry doors (front and the garden centre) and two fire doors. These elements are in keeping with the proposed style of shed and have no elements of significance.
Detailing	In relation to the context and setting of the proposed development, the proposed plans demonstrate a lack of detail. This could be rectified by the addition of an awning (similar

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to the H Hardware of Batemans Bay) and landscaping such as street trees. An additional option would be for the applicant to apply to Council for a permit to utilise some of the footpath for the sale of seasonal plants and other hardware.

**Comment:** Without justification for variation of controls in Chapter 7, it is difficult for Council staff to form a recommendation as the majority of comment and analysis is assumptive and suggestive. The option of ignoring Chapter 7 completely, would set a legal precedence which needs to be carefully considered by Council (see below).

#### Matters Prescribed by Regulations:

N/A

#### Likely Impact of Development:

##### Context and Setting:

The proposed development is not in keeping with the Heritage Conservation Area, does not address the corner location and is located in an area with a noted car parking deficiency. Similar land uses (Mitre 10) and bulky goods outlets are located in industrial areas.

#### Access, Transport and Traffic:

The proposed entry and exit point will result in the loss of a minimum of four on street car parks in Wallendoon Street. Exit onto Wallendoon Street would be in proximity of four intersections within 60 metres. At the sign posted speed limit of 50km/h, a person exiting the proposed development site would have 5.04 seconds to react to another vehicle having entered Wallendoon Street from Sutton Street and 2.88 seconds to react to another vehicle having entered Wallendoon Street from Hovell Street. Because of this, it would be imperative that exit from the site onto Wallendoon Street be left turn only, with physical works undertaken to restrict right turn movement.

Alternatively, exit from the Hovell Laneway would disperse traffic either north or south, reducing traffic entering Wallendoon Street; however consideration has to be given on what the impact this may have on the residents who use the laneway also.

#### Public Domain:

This site forms part of the visual gateway to Cootamundra from the designated highway. The proposed development proposes a largely blank wall (eastern elevation). From an aesthetic stand point, while this is not a desirable outcome, this façade can be mitigated with medium to large street trees.

#### Utilities:

The site is serviced.

#### Heritage:

The site is located in the Heritage Conservation Area. This is discussed at length above.



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## Other Land Resources:

N/A

## Water:

N/A

## Soil:

N/A

## Air and Microclimate:

Disturbance to air and microclimate during construction can be mitigated through conditions of consent. Disturbance to the air and microclimate is expected to be negligible during the use and occupation of the site.

## Flora and Fauna:

N/A

## Waste:

Waste produced as a by-product of construction will be collocated on site and disposed of in accordance with conditions of consent. Any waste generated during the use and occupation of the site will be dealt with through the Cootamundra Area waste stream.

## Energy:

The building is not solar passive and it is expected that lighting and climate control will be required year round. Energy Efficiency provisions of Section J of the Building Code of Australia in terms of building fabric, glazing, air-conditioning and lighting will need to be complied with as Construction Stage.

## Natural Hazards:

The site is neither bushfire nor flood prone.

## Social Impact and Locality:

The proposed development will be positive in that it will utilise a disused site, increase employment opportunities and provide competition for hardware supplies. The proposed development is adjacent to a hotel and function centre and within proximity to the arts centre. Thompsons Rural Supplies is directly opposite the proposed development. It is difficult to define an overwhelming character of the area, however it is a precinct of urban renewal with a number of boutique outlets having opened in recent years. In such a context, a hardware store may be viewed as inconsistent with the locality.

## Economic Impact and Locality:

The proposed development would have a positive economic impact on the locality utilising local labour for construction, providing ongoing employment for local people and increasing the range and availability of retail services in Cootamundra.

## Site Design and Internal Design:

The proposed development is orientated south with both pedestrian and vehicle access proposed from Wallendoon Street. While the building is constructed 3.5m from the northern

# DEVELOPMENT ASSESSMENT REPORT

*Pursuant to the Environmental Planning & Assessment Act 1979  
Section 29C (as amended)*



boundary, this area is still considered as a part of the gross floor area as it is to be utilised as a part of the garden centre.

## **Construction Matters:**

To be addressed as a part of a construction certificate application.

## **Submissions:**

This application was not notified – however such an application would have ordinarily been notified.

## **Public Interest:**

This application was not notified – however such an application would have ordinarily been notified.

## **FINANCIAL IMPACTS:**

This application has the potential to severely affect Council financially in its current form should it be approved. Loss of car parking in an already under provided for precinct will require Council to either utilise existing land to construct a decked car park/roof top car park or acquire land for the provision of car parking in the future. Unlike most Councils, Cootamundra-Gundagai Regional Council does not collect a levy for development which does not meet the minimum car parking requirements (average cost of \$23,000 per space for regional areas). This means that any future car parking construction would need to be funded from general revenue.

Council staff do not have confidence in the estimated cost of development, meaning that contributions collected under Section 94A fall short of what ordinarily would be required. Funds from Section 94A are utilised to provide whole of community assets such as parks, playgrounds, Council building works and so on.

## **POLICY IMPACTS:**

Modifying or varying the Development Control Plan should always be based on merit. It needs to be established that in order to vary the Development Control Plan a certain development is meeting an identified community need, has met development criteria in other ways or is an exception to ordinary development. To vary without justification sets a precedent that the Development Control Plan only applies to those who comply with the standards.

As variations to the Development Control Plan must be determined by Council, it would be expected that Council will receive a significant volume of development applications to be determined at each Council meeting. Noting that Council meetings are once a month, turnaround times will diminish and Council may not meet its statutory obligation to determine development applications within 40 days.

## **ORGANISATIONAL IMPACT:**

N/A

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## **RISK MANAGEMENT IMPACTS:**

Determination of this application prior to assessment being completed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979 will place Council in a position which may result in auditing by the Department of Planning and/or legal action in the Land and Environment Court.

## **LEGAL ISSUES:**

This application has not been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979, which limits the options for recommendation by Council staff. Council has not received sufficient information in which to make an informed decision in relation to this application. In accordance with the Environmental Planning and Assessment Act 1979, Part 4, Division 2, Section 80, Council can only issue a General Determination (either granting consent or refusing consent), deferred commencement or partial consent. Council does not have sufficient information to grant consent, issue deferred commencement consent or grant partial consent. In terms of determining the application, the only option available to Council is to refuse consent.

As the application stands, Council could assess a concept development application, however Council can only do so upon request of the applicant (EP&A 1979, Part 4, Division 2A, Section 83B(3)).

## **CONCLUSION:**

Commercial development in Cootamundra is a priority of Council, with the Council seeking to encourage potential developers to look to Cootamundra for development opportunities, however while Council is flexible certain legislative requirements such as assessment in accordance with the Environmental Planning and Assessment Act 1979, the Cootamundra Local Environmental Plan, Australian Standards and Disability Legislation are not standards Council controls or has the authority to ignore.

The Development Control Plan, which Council may vary, should only be done so after consideration is given to the precedence such a variation would establish.

The proposed development is permissible in the zone, however it does not address Clause 5.10 of the Cootamundra Local Environmental Plan 2013. It does not adhere to Australian Standards and is generally inconsistent with the Cootamundra Development Control Plan. Plans provided to Council are not to scale and limited information is provided with regards to the operation of the site.

Many of these issues can be resolved with a response to further information requested and possible redesign of the proposed development; however as this matter has been requested for determination based on information provided Council staff can only provide a recommendation of refusing consent.

## **RECOMMENDATION:**

That DA2017/82, application for a hardware store, be refused consent.

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Pursuant to the Environmental Planning & Assessment Act 1979  
Section 79C (as amended)



DEVELOPMENT ASSESSMENT SIGNING OFFICER:

A handwritten signature in blue ink, appearing to read 'Grace Foulds'.

Grace Foulds  
Town Planner

12 October 2017

Date

## ATTACHMENT 1:

### STATEMENT OF ENVIRONMENTAL EFFECTS

The following information needs to be provided with a Development Application so that Cootamundra-Gundagai Regional Council can meet the requirements of the Environmental Planning and Assessment Act 1979 when evaluating the application.

**This guide is not applicable for complex developments where additional information may be required.**

**A Simple yes/no answer will not be sufficient.** The following is not an exhaustive list, but a guide only and should be expanded upon where appropriate in the form of a separate written statement.

If you require more space, please attach extra comments to the form.

Some applications will require this to be provided by specialist consultants.

**Provide a clear description of the type of development you intend to carry out.**

~~Erection of building to be used as hardware store~~

see Attachment 1

#### Environmental Impacts

Describe the existing environment of the subject site and the surrounding land.

Vacant land that has been cleared and levelled for construction as per DA 2017/75

eg. slope, vegetation, natural features such as water courses, adjoining land uses etc.

What impact will the proposed development have upon the local environment (for example flora, fauna, Aboriginal land, and use of water)? And how will these impacts be overcome or managed?

40,000L of rain water tanks will catch rain water to be slowly released and/or used on site.

eg discharges into a natural water system, emission of fumes, steam, vapour, dust or the like removal of/or injury to existing native flora and fauna.

How do you propose to reduce the soil erosion and/or sedimentation problems that may occur from site works?

Site erosion control measures will be incorporated during construction. Seepage and surface water will

be diverted clear of the building site.

Explain the design characteristics of the development? Describe how the development will be in character with other developments in the locality.

The development will be constructed from steel and will be clad with either colorbond custom orb, or

colorbond trimdek. Colours are predetermined by chosen branding "H Hardware". We have no say in

these colours as they are the chosen colours of the "H Hardware" brand. There is a shed of similar

construction across Wallendoon st. There is a shipping/container yard across Hovell st.

eg. height, scale, density, materials etc.

## STATEMENT OF ENVIRONMENTAL EFFECTS

If the site is affected by hazards such as bushfire, flooding, landslip, high wind or any other risk factor, how do you propose to overcome such hazards?

NA

What are the likely economic or social effects of the proposed development on the locality?

Development will bring 6-10 jobs to the region.

What amount of traffic will be generated by the proposed development? How do you intend to gain access to the site? What off-street parking has been provided?

Traffic will increase. Staff parking will be available in "loading area". There will be internal customer parking in the trade area.

eg. existing access existing, three on site parking spaces are proposed, number of expected customers and staff vehicles

Explain how the proposed development impacts on the existing and likely future amenity of the locality? How do you propose to address these impacts?

There will be over shadowing on "The Valley B&B" in the morning. By mid morning the shadowing will move to the road.

eg. over shadowing, loss of privacy, visual amenity, streetscape or increased noise.

The streetscape will be greatly improved over the existing construction.

What solid and liquid waste will be generated? How will these wastes be disposed of? What toxic chemicals, if any, are involved in the proposal?

Stormwater and sewage only.

specify quality and quantity.

If filling of the land is required, demonstrate how you propose to overcome any adverse impacts on adjoining properties?

The site will not require filling.

## STATEMENT OF ENVIRONMENTAL EFFECTS

What other matters considered relevant should Council be advised of that will support your proposal?

The proposed construction will be vast improvement over the existing construction.

The proposed use of the building will create local jobs.

### Land Contamination

Please specify all land uses to which the site has been subject, which may have contributed to contaminated land issues, including the current use.

NA

refer to Councils contaminated land map

Is the proponent aware of the uses to which properties adjoining the site have been put? If so, please specify.

residential, and a pub/resturant/b&b

Do any of the uses correlate with potentially contaminating activities?

No

If yes, has there been any testing or assessment of the site and, if so, what were the results?

Is the proponent aware of any contamination on the site?

No

What remediation work, if any has been taken in respect to contamination which is or may have been present on the site?

NA

Work carried out voluntarily or ordered by a government agency.

## Attachment ①

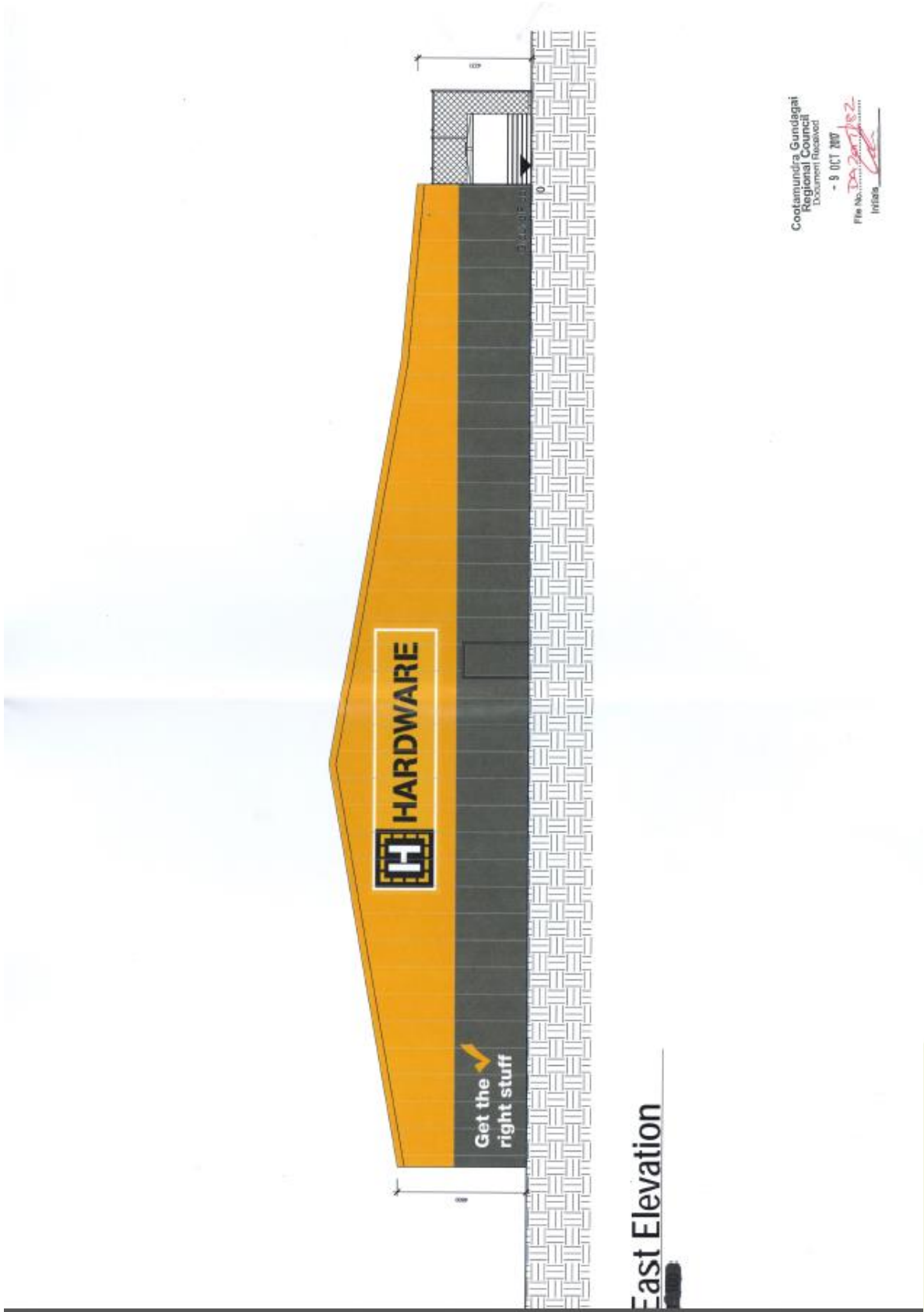
- New steel framed industrial hardware retail building consisting of
  - 1095sqm retail area for shelving and items
  - 600sqm trade area for timber and building supplies
  - 100sqm garden area
- Parking provided internally via drive in drive out as per plan
- Staff parking in loading area (4)
- Four staff within the building at any given time.
- Total staff 6-10
- Two disabled toilets + amenities
- Building coloured as per "H Hardware" branding.
  - Woodland grey
  - Pantone 130c
- Gable to face Howel st
- 4.8m eaves. Approx 7m at peak
- Main entry from wallenden st for vehicles and pedestrian

Hours Approx: mon-fri 7:30 - 5:30

sat-sun 8:00 - 5:00

- Awning over front entry.  
Approx 1.5m x 6m



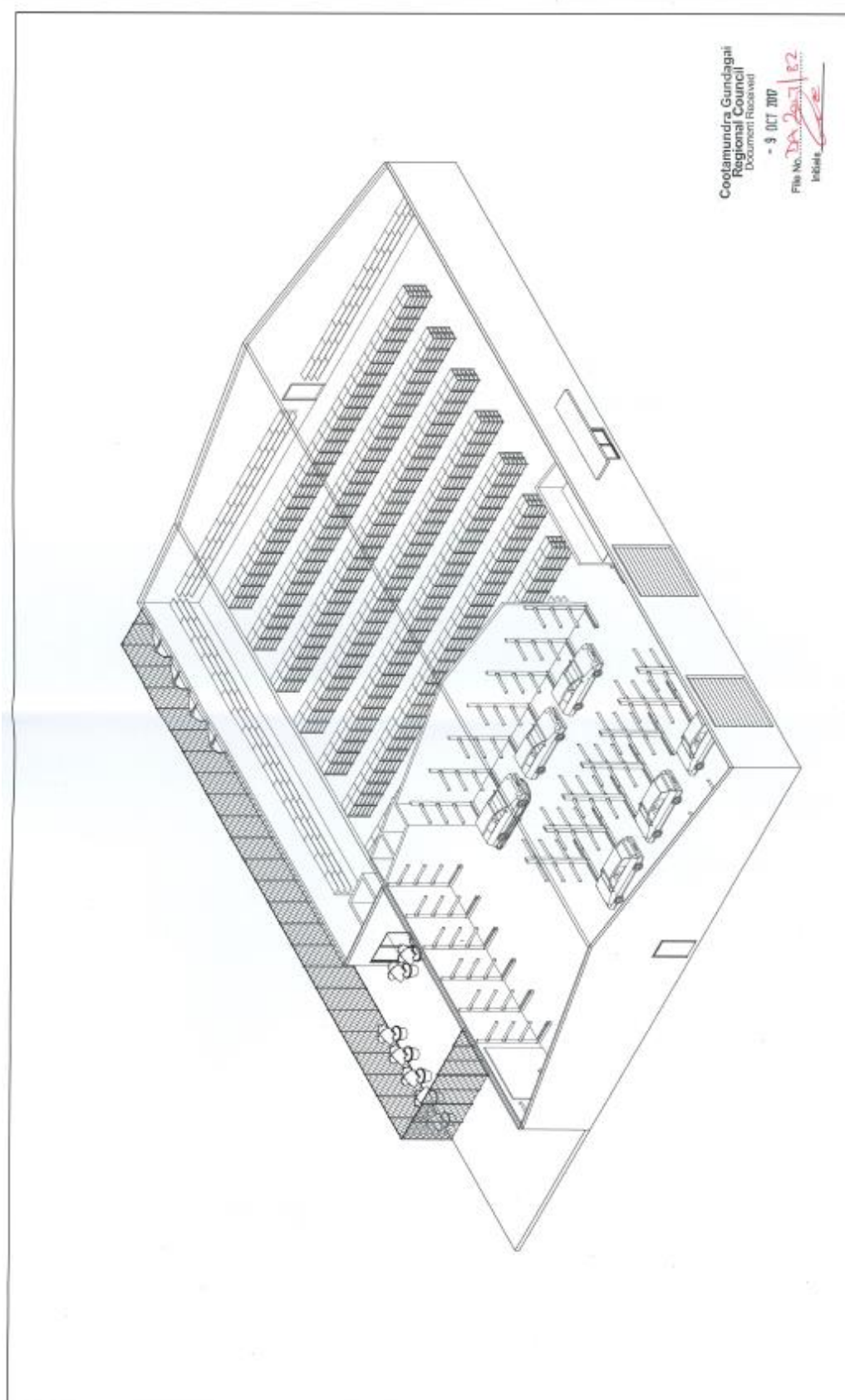


Cootamundra Gundagai  
Regional Council  
Document Received

- 8 OCT 2017

File No. DA 2017/12  
Infra





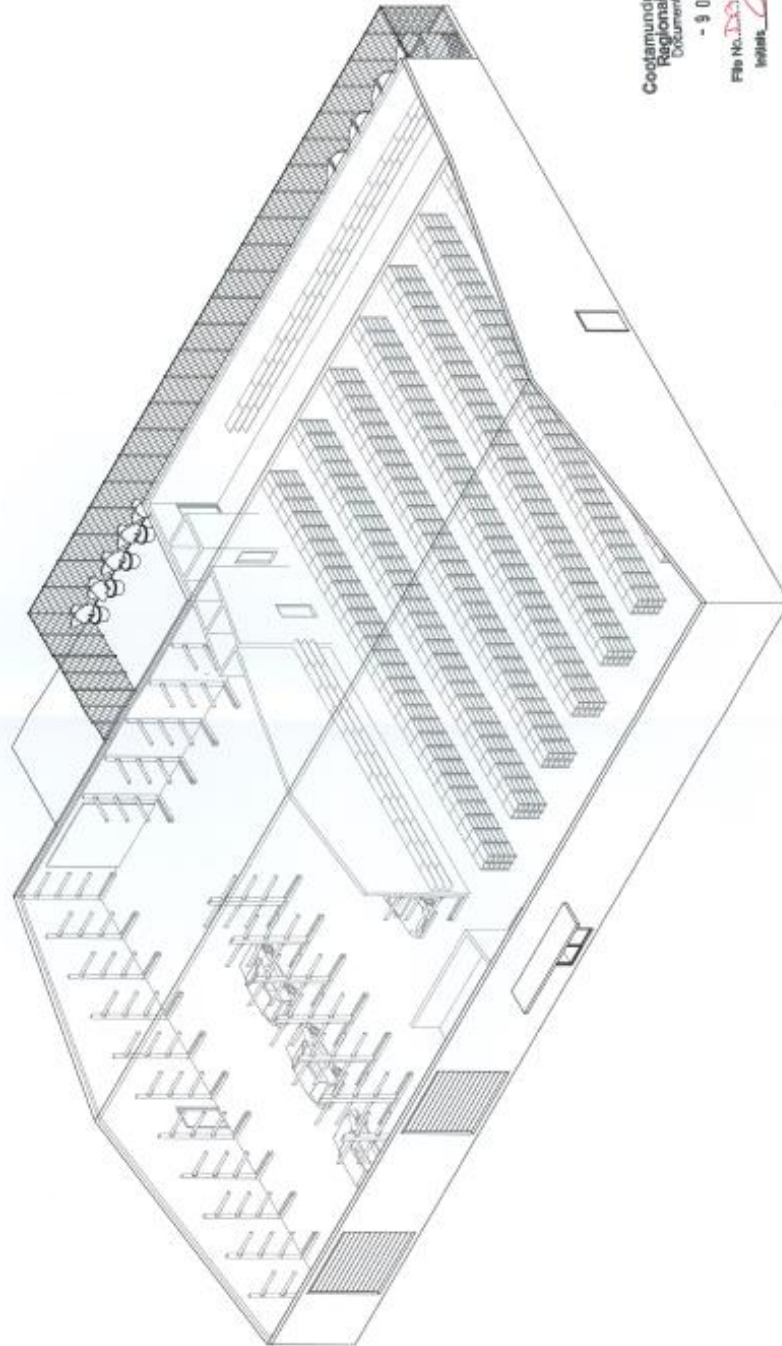
Cootamundra Gundagai  
Regional Council  
Document Received

- 9 OCT 2017  
File No. DA 2017/102  
Initials

<b>ISOMETRIC VIEW 1</b>			
Project number	1108/2017	Scale	A102
Date		Drawn by	NM
		Checked by	

**1-5 Wallendoon St,  
Cootamundra**  
JAMES CHILDS

No.	Description	Date



Cootamundra Gundagai  
Regional Council  
Document Received

- 9 OCT 2017

File No. *D2017000182*  
Initials *JCS*

**ISOMETRIC VIEW 2**

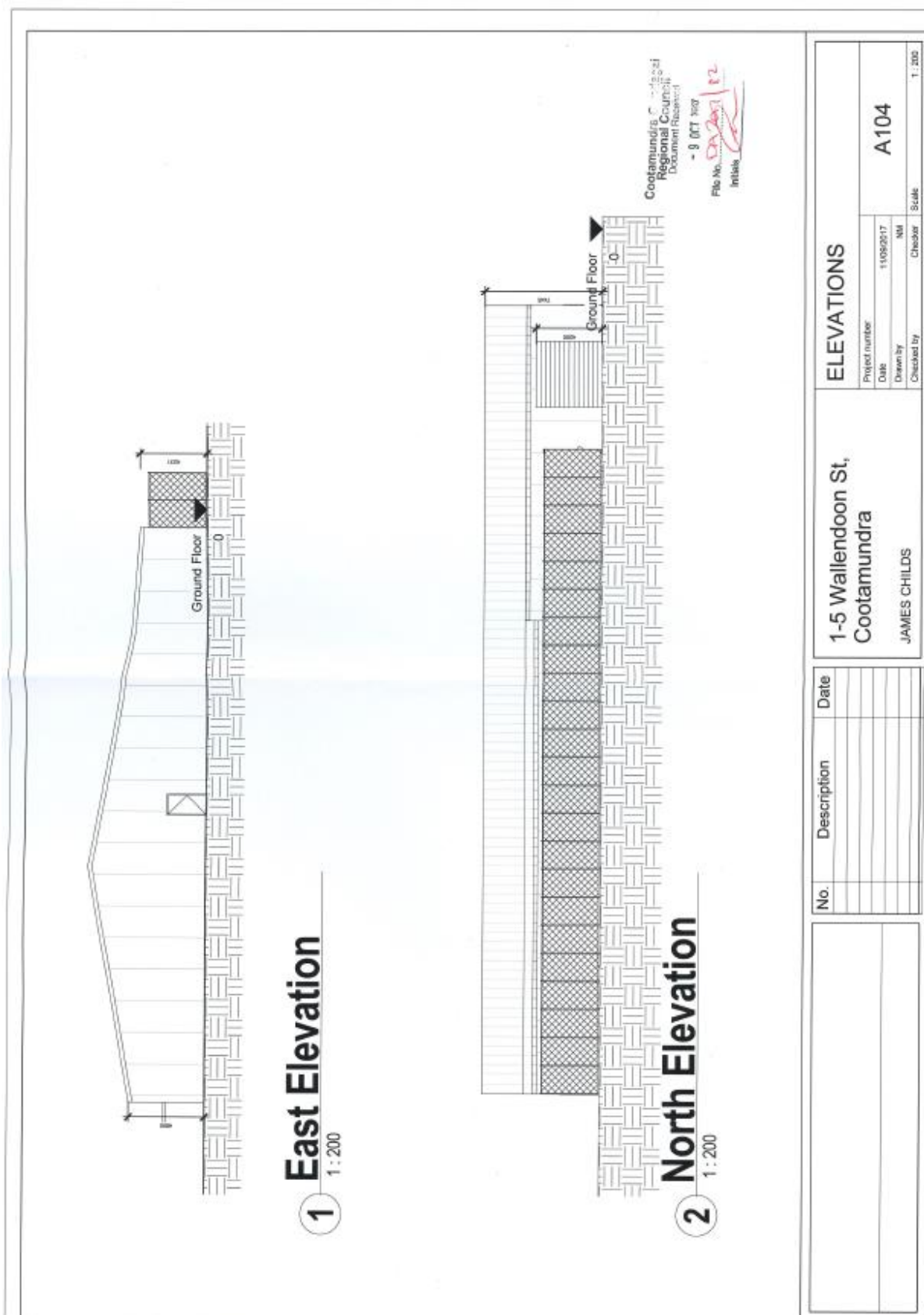
Project number  
Date: 11/09/2017  
Drawn by: NM

**A103**

**1-5 Wallendoon St,  
Cootamundra**

JAMES CHILDS

No.	Description	Date



**1** East Elevation

1 : 200

**2** North Elevation

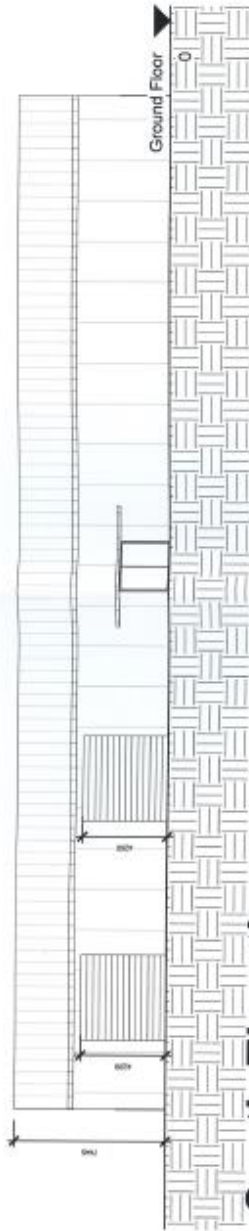
1 : 200

Cootamundra-Gundagai  
Regional Council  
Document Received  
- 9 OCT 2017  
File No. 2017/12  
Initials

ELEVATIONS	
Project number	A104
Date	11/05/2017
Drawn by	NM
Checked by	
Checker	
Scale	1 : 200

1-5 Wallendoon St,  
Cootamundra  
JAMES CHILDS

No.	Description	Date



1 South Elevation  
1:200



2 West Elevation  
1:200

Cootamundra Gundagai  
Regional Council  
Document Received  
- 9 OCT 2017  
File No. 132  
Initials

ELEVATIONS	
Project number	A105
Date	11/09/2017
Drawn by	JH
Checked by	
Checker	
Scale	1:200

1-5 Wallendoon St,  
Cootamundra

JAMES CHILDS

No.	Description	Date

## 4.2 CORPORATE SERVICES DIVISION

### 4.2.1 FINANCIAL MANAGEMENT

#### 4.2.1.1 REFERRAL TO AUDIT OF 2016-17 FINANCIAL STATEMENTS

REPORTING OFFICER	Kate Monaghan
ATTACHMENTS	The draft Income Statement, draft Statement of Financial Position and draft Statement of Performance Measurement follow this report
RELEVANCE TO COMMUNITY STRATEGIC PLAN	To be included from July, 2018 following adoption of new CSP
FINANCIAL IMPLICATIONS	The report includes information about the financial position and performance of Council for the reporting period ended 30 June 2017.
LEGISLATIVE IMPLICATIONS	<p>Section 413 of the Local Government Act requires a resolution of Council to refer the draft financial statements to audit.</p> <p>Section 413 (2c) requires a resolution of Council that the annual financial statements have been prepared in accordance with;</p> <ul style="list-style-type: none"><li>- The Local Government Act 1993 (as amended) and the Regulations made there under</li><li>- The Australian Accounting Standard and professional pronouncements,</li><li>- The Local Government Code of Accounting Practice and Financial Reporting.</li></ul> <p>And that, to the best of their knowledge and belief, the financial statements present fairly the operating result and financial position, and accord with Council's accounting and other records.</p> <p>Section 418 of the Act requires that as soon as practicable after Council receives a copy of the auditor's report, it must fix a date for a meeting to present the audited financial statements to the public, and it must make the financial statements available for public inspection for at least seven days prior to the meeting date.</p>
POLICY IMPLICATIONS	Accounting Policies are detailed within the Financial Statements.

#### Introduction

#### **RECOMMENDATION**

- 1. Council's Financial Statements be referred to audit in accordance with section 413(1) of the Local Government Act.**
- 2. Council note that the financial statements have been prepared in accordance with:**
  - The Local Government Act 1993 (as amended) and the Regulations made thereunder**
  - The Australian Accounting Standards and professional pronouncements**
  - The Local Government Code of Accounting Practice and Financial Reporting**
- 3. Council note that the financial statements present fairly the operating result and financial position and accord with Council's accounting and other records.**
- 4. Council is not aware of any matter that would render the financial statements false or misleading in any way.**
- 5. In accordance with section 413(2)c the Mayor, one Councillor and the General Manager sign the Statement by Members and Management in the financial statements.**
- 6. The General Manager be delegated authority to issue the financial statements upon receipt of the audit report.**

As required by legislation Council is required to refer the annual financial statements to the Council's auditor, Mr Chris Clayton of the NSW Audit Office.

#### Discussion

The financial statements for the reporting period ended 30 June 2017 have been completed to draft stage and are ready for audit. Pursuant to section 413(1) of the Local Government Act, Council is required to refer the draft statements to audit. The Audit Office have been onsite from this Monday 16 October to commence the audit work.

Once the audit has been completed, the Audit Office will present their detailed audit observations to the November Council meeting.

The Draft Income Statement, Draft Statement of Financial Position and Draft Statement of Performance are attached to this report. These are the first set of general purpose reports prepared for the new Council, and cover the 415 day period from 12 May 2016 to 30 June 2017. The year resulted in a net operating surplus of \$5,059,000 and a deficit after capital activities of \$6,293,000. The operating results were impacted by a series of significant one-off events that should be taken in to account when reviewing the results.



During the reporting period, Council revalued its water and sewer assets, resulting in a net reduction in the value of the water and sewer networks \$6.9 million, or 7.8% of the opening gross value. Council revalues all classes of its assets every 5 years on a rolling cycle so that asset valuations are always materially reflective of current value. Council is required to report the amount of the valuation decrease as an expense – unless it has previously had a valuation increase in a previous year that can be used to offset the “loss”. As this is Council’s first year of operation, there are no previous year valuations that can be used to offset the decrease.

Included in the operating result is a depreciation expense of \$9.3 million, or 73% of Council’s income from rates and annual charges. As Council continues to revalue its assets and develop its Asset Management Plans, it will improve the accuracy of the depreciation expense and has an opportunity to achieve better value infrastructure services.

In addition to the significant one-off adjustments listed below, it should be noted that the first year of operations was not a “normal” operating year, with Council dealing with a major restructure across all areas, and Council’s expenditure was higher than would be expected to continue in future years.

The following summary shows Council’s operating result, adjusted for significant events.

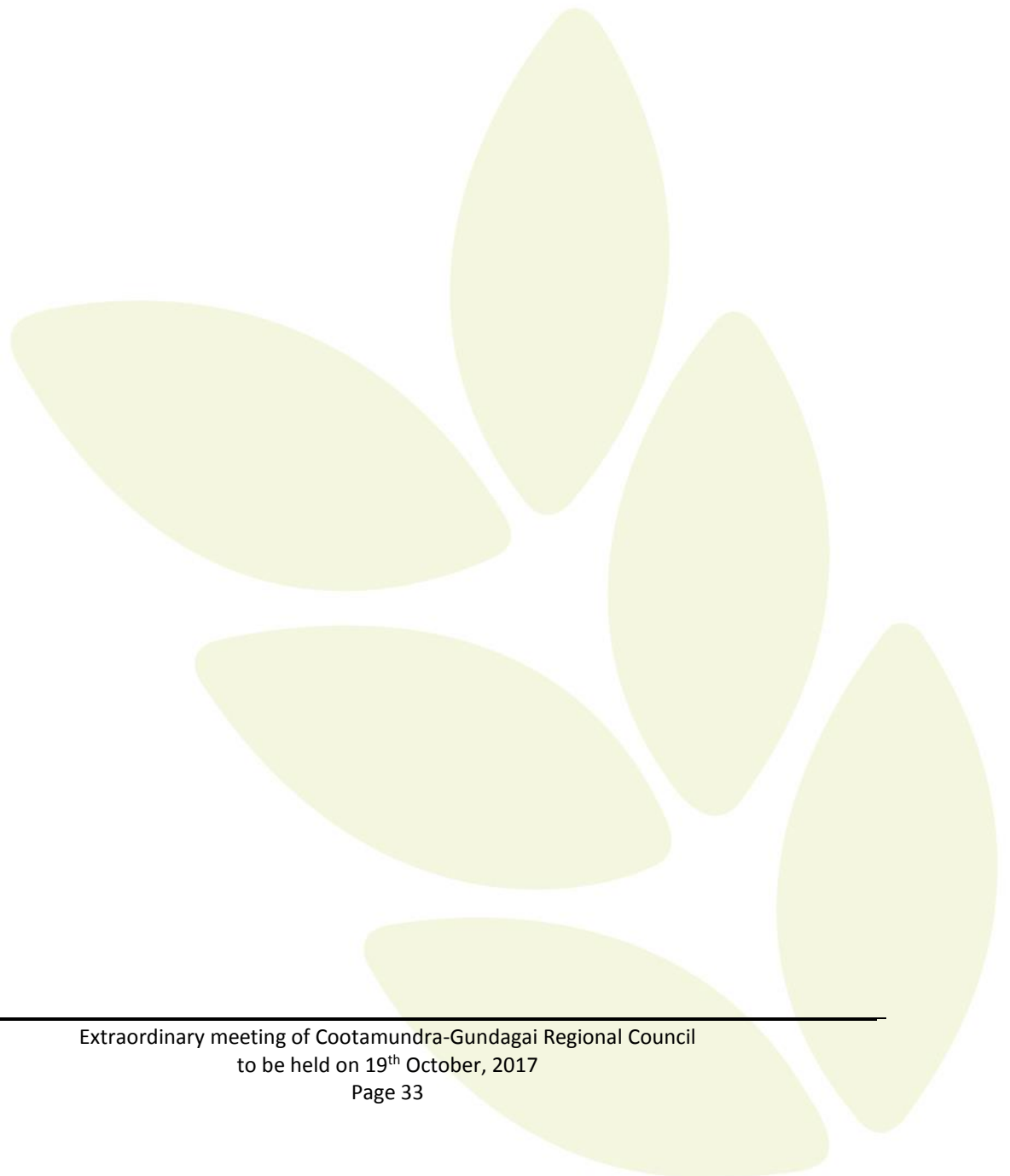
<b>Operating result for the year</b>	<b>5,089,832</b>
<b>Adjustments for one-off events:</b>	
Operating result for the additional 7 weeks included in this reporting period	1,285,808
Early payment of Financial Assistance Grant	(2,422,943)
Amalgamation Grants	(15,000,000)
Amalgamation Expenditure	1,301,683
Stronger Communities Grants paid out	1,079,741
Revaluation decrement recognised as an expense (water and sewer assets)	6,933,575
<b>Adjusted Operating result</b>	<b>(1,732,304)</b>
Less capital grants and contributions	(1,163,973)
<b>Adjusted operating result excluding capital grants and contributions</b>	<b>(2,896,276)</b>

The adjusted operating result is a net operating deficit of \$1,732,000 and a deficit after capital activities of \$2,896,000.

As at 30 June 2017, Council holds current assets of \$45.7 million. This amount is made up of cash and investments, and current receivables and inventory. The inventory includes Council’s land held for resale at the Bourke Estate, Bartley Street residential subdivision and Turners Lane industrial land held for sale.

The Statement of Performance includes the financial indicators that are used to compare NSW Councils, and that are mandated by the Office of Local Government. These have been reported against a benchmark rate, and are based on the consolidated position of Council's General, Water and Sewer Funds. Council meets the benchmark for all the performance indicators, except for "Own Source Funding", that is about not being heavily reliant on government grants and funding. It requires 60% of Council's revenue to be from rate and annual charges, and fees. As Council received \$25.7 million in grant funding during the year, it fell short of the 60% benchmark at 44.24%.

Further information and analysis will be provided when the audit is finalised and the completed financial statements are presented to Council at the November Council meeting, including a presentation by the Audit Office.



## Cootamundra-Gundagai Regional Council

## Income Statement

for the period 13 May 2016 to 30 June 2017

\$ '000	Notes	Actual 13/5/16 to 30/6/17
<b>Income from continuing operations</b>		
<i>Revenue:</i>		
Rates and annual charges	3a	12,875
User charges and fees	3b	6,576
Interest and investment revenue	3c	1,350
Other revenues	3d	609
Grants and contributions provided for operating purposes	3e,f	15,602
Grants and contributions provided for capital purposes	3e,f	11,382
<i>Other income:</i>		
Net gains from the disposal of assets	5	241
Net share of interests in joint ventures and associates using the equity method	19	-
<b>Total income from continuing operations</b>		<b>48,635</b>
<b>Expenses from continuing operations</b>		
Employee benefits and on-costs	4a	12,093
Borrowing costs	4b	185
Materials and contracts	4c	9,927
Depreciation and amortisation	4d	9,322
Impairment	4d	-
Other expenses	4e	12,019
Interest and investment losses	3c	-
Net losses from the disposal of assets	5	-
<b>Total expenses from continuing operations</b>		<b>43,546</b>
<b>Operating result from continuing operations</b>		<b>5,089</b>
<b>Discontinued operations</b>		
Net profit/(loss) from discontinued operations	24	-
<b>Net operating result for the period</b>		<b>5,089</b>
<b>Gain on local government amalgamation</b>		
Assets and liabilities transferred from former councils	29	400,400
<b>Net result for the period</b>		<b>405,489</b>
Net operating result attributable to Council		405,489
Net operating result attributable to non-controlling interests		-
<b>Net operating result for the period before grants and contributions provided for capital purposes</b>		<b>(6,293)</b>

This statement should be read in conjunction with the accompanying notes.

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## Cootamundra-Gundagai Regional Council

## Statement of Financial Position

as at 30 June 2017

\$ '000	Notes	Actual 2017
<b>ASSETS</b>		
<b>Current assets</b>		
Cash and cash equivalents	6a	10,556
Investments	6b	30,825
Receivables	7	3,148
Inventories	8	1,163
Other	8	1
<b>Total current assets</b>		<b>45,693</b>
<b>Non-current assets</b>		
Investments	6b	-
Receivables	7	-
Inventories	8	826
Infrastructure, property, plant and equipment	9	369,324
Investments accounted for using the equity method	19	-
Intangible assets	25	299
Other	8	112
<b>Total non-current assets</b>		<b>370,561</b>
<b>TOTAL ASSETS</b>		<b>416,254</b>
<b>LIABILITIES</b>		
<b>Current liabilities</b>		
Payables	10	2,342
Income received in advance	10	-
Borrowings	10	410
Provisions	10	3,026
<b>Total current liabilities</b>		<b>5,778</b>
<b>Non-current liabilities</b>		
Payables	10	-
Income received in advance	10	-
Borrowings	10	3,049
Provisions	10	271
<b>Total non-current liabilities</b>		<b>3,320</b>
<b>TOTAL LIABILITIES</b>		<b>9,098</b>
<b>Net assets</b>		<b>407,156</b>
<b>EQUITY</b>		
Retained earnings	20	405,489
Revaluation reserves	20	1,667
Other reserves	20	-
Council equity interest		407,156
<b>Total equity</b>		<b>407,156</b>

This statement should be read in conjunction with the accompanying notes.

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## Cootamundra-Gundagai Regional Council

## Notes to the Financial Statements

for the period 13 May 2016 to 30 June 2017

## Note 13a. Statement of performance measurement – indicators (consolidated)

\$ '000	Amounts 2017	Indicator 2017	Benchmark
<b>Local government industry indicators – consolidated</b>			
<b>1. Operating performance ratio</b>			
Total continuing operating revenue <sup>(1)</sup> excluding capital grants and contributions less operating expenses	400	1.08%	>0.00%
Total continuing operating revenue <sup>(1)</sup> excluding capital grants and contributions	37,012		
<b>2. Own source operating revenue ratio</b>			
Total continuing operating revenue <sup>(1)</sup> excluding all grants and contributions	21,410	44.24%	>60.00%
Total continuing operating revenue <sup>(1)</sup>	48,394		
<b>3. Unrestricted current ratio</b>			
Current assets less all external restrictions <sup>(2)</sup>	28,981	8.28x	>1.5x
Current liabilities less specific purpose liabilities <sup>(3,4)</sup>	3,500		
<b>4. Debt service cover ratio</b>			
Operating result <sup>(1)</sup> before capital excluding interest and depreciation/impairment/amortisation	9,907	17.17x	>2x
Principal repayments (Statement of Cash Flows) plus borrowing costs (Income Statement)	577		
<b>5. Rates, annual charges, interest and extra charges outstanding percentage</b>			
Rates, annual and extra charges outstanding	607	4.04%	< 5% Metro <10% Rural
Rates, annual and extra charges collectible	15,039		
<b>6. Cash expense cover ratio</b>			
Current year's cash and cash equivalents plus all term deposits	41,381	16.29 mths	> 3 mths
Payments from cash flow of operating and financing activities	2,540		

## Notes

<sup>(1)</sup> Excludes fair value adjustments and reversal of revaluation decrements, net gain/(loss) on sale of assets and the net share of interests in joint ventures and associates.

<sup>(2)</sup> Refer Notes 6-8 inclusive.  
Also excludes any real estate and land for resale not expected to be sold in the next 12 months.

<sup>(3)</sup> Refer to Note 10(a).

<sup>(4)</sup> Refer to Note 10(a)(ii) – excludes all payables and provisions not expected to be paid in the next 12 months (incl. ELE).

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