

INDEPENDENT ASSESSMENT REPORT

REVIEW OF DETERMINATION OF DA21/0839 FOR SELF-STORAGE UNITS 43 Guttler Street, Uranquinty



Navigate Planning
27 October 2022

TABLE OF CONTENTS

1	INTRODUCTION.....	1
2	THE PROPOSED DEVELOPMENT	1
3	THE DETERMINATION	2
4	THE REVIEW REQUEST	2
5	LEGISLATIVE REQUIREMENTS.....	3
5.1	Part 8 of the Environmental Planning and Assessment Act 1979 – Reviews and Appeals	3
5.2	Part 12 of the Environmental Planning and Assessment Regulation 2021 – Reviews and Appeals	3
6	ASSESSMENT OF THE REVIEW REQUEST	4
6.1	The Development Application, Council's Assessment and the Review Request	4
6.2	The Reasons for Council's Determination	6
7	CONCLUSION	10

1 INTRODUCTION

Mark Hitchenson of Navigate Planning has been engaged by Wagga Wagga City Council (the Council) to undertake an independent assessment of a request to review the determination of a development application for self-storage units at 43 Guttler Street, Uranquinty.

The development application was determined at the Ordinary Meeting of Wagga Wagga City Council held on 8 August 2022. The determination was to refuse the application for the following reasons:

- the proposed development is not consistent with the objectives of the RU5 Village zoning as outlined in the Wagga Wagga LEP 2010.
- the proposed development conflicts with the residential amenity of the village as outlined in the Wagga Wagga DCP 2010.

It is noted that the Council's determination was not unanimous and that the Council staff recommendation was to approve the development application subject to conditions.

The applicant has requested a review of the determination under Section 8.2 of the *Environmental Planning and Assessment Act 1979*.

To undertake the independent assessment, Navigate Planning was provided with the following:

- Statement of Environmental Effects and all plans submitted with the development application,
- Copies of all submissions received to the notification of the development application,
- The Council's assessment report,
- The reasons for Council's determination,
- The revised Statement of Environmental Effects and plans submitted with the review request,
- Copies of all submissions received to the notification of the request for review of the determination,
- Photos of the site and surrounding land taken by Council staff, and
- The Stormwater Plan and Flood Impact Assessment relating to the approved development application for subdivision of the land.

Navigate Planning also referred to all relevant legislation, regulations, environmental planning instruments and Council documents in undertaking the review.

2 THE PROPOSED DEVELOPMENT

The proposed development in the original development application is the construction of a self-storage facility, consisting of 26 self-storage units in a single building at 43 Guttler Street, Uranquinty. Each unit is 20.4m² in size (3.4m by 6m) and the building measures 41.6m by 12m with an area of 499.2m². The building will be of steel construction with colorbond wall and roof cladding and roller doors.

A sealed driveway will surround the building providing vehicular access to each unit. Two parking spaces are proposed to be provided. Four trees are proposed to be removed (though approval is not required given the small size of these trees). New landscaping and fencing along certain boundaries was proposed.

Access to the facility is from Guttler Street, along a sealed battle-axe handle driveway. The land has frontage to the Olympic Highway, however no access is proposed from this frontage.

The proposed hours of operation are 8am - 6pm, 7 days a week. The facility will not be permanently staffed. An off-site manager will be contactable if required. Secure access to the site will be provided by an automatic gate with keypad control. No lighting is proposed. Signage is proposed as exempt development.

3 THE DETERMINATION

The development application was determined at the Ordinary Meeting of Wagga Wagga Council held on 8 August 2022. The determination was to refuse the application for the following reasons:

- the proposed development is not consistent with the objectives of the RU5 Village zoning as outlined in the Wagga Wagga LEP 2010.
- the proposed development conflicts with the residential amenity of the village as outlined in the Wagga Wagga DCP 2010.

4 THE REVIEW REQUEST

On 16 September 2022, the applicant submitted a request for a review of the Council's determination. A revised Statement of Environmental Effects (revised SEE) was submitted to support the review request. No changes were made to the development plans. No additional plans or reports were provided to support the review request.

The revised SEE refers to landscaping along the Olympic Highway frontage, but provides no details of the proposed landscaping. The revised SEE also refers to the fencing along the Olympic Highway frontage potentially changing to open, rural style fencing (consistent with the recommended condition in the Council staff assessment report).

In response to the Council's reasons for the determination to refuse the application, the revised SEE provides the following statements:

- *The proposed development is not inconsistent with the village character, in our opinion. It is situated on a large approved lot and the proposed building is of a similar scale to a comparable dwelling on the site. The height is of a domestic scale, the landscaping will screen the development and the use is a low impact use that is compatible with adjoining residential uses, noting the location adjacent to the Olympic Highway, the main highway between Wagga Wagga and Albury and on to Melbourne.*
- *A survey of a similar facility "indicates that self storage units are not frequented often by their tenants. The impacts of the development are explored in greater detail later in this report however we interpret the information we have found about the activity at self storage units as indicating that the premises would maintain the rural village character of Uranquinty".*
- *"The building has been designed at the same scale as the predominant buildings in the vicinity. The lot is a battle axe design therefore the building will not be visible from Guttler Street. From the highway on the northern side of the lot, only the roof will be visible above the fence and this will be screened by the vegetation that is required as part of the covenant over the site. Signage is proposed to be minimal, with a small identification sign at the entrance. We consider, therefore, that the development will maintain the visual and aesthetic character of the rural village".*

In relation to fencing and landscaping along the Olympic Highway frontage, the revised SEE states that *"fencing to the Olympic Highway is proposed to be Colorbond to match existing fencing in this subdivision. Council planners requested a preference for open or rural style fencing to the highway and this can be accommodated by the proponent, noting that the boundary will be landscaped and views to the self storage units will be restricted once the landscaping is established"*.

5 LEGISLATIVE REQUIREMENTS

5.1 Part 8 of the Environmental Planning and Assessment Act 1979 – Reviews and Appeals

Section 8.2 (1) (a) of the Environmental Planning and Assessment Act 1979 provides for the determination of an application for development consent by a council to be reviewed, upon the request of the applicant under Section 8.3 (1) of the Act. A request has been made to review the determination of the subject development application.

Section 8.2 (3) of the Act states that a determination or decision reviewed under this Division is not subject to further review under this Division.

Section 8.3 (2) (a) of the Act states that the request for a review must be made within the time period for an appeal to be made to the Land and Environment Court. The request has been made within the required timeframe.

Section 8.3 (3) of the Act states that the applicant may amend the proposed development as part of the request for a review, providing the development remains substantially the same. The applicant has not amended the development application.

Section 8.3 (6) of the Act states that the review of a determination or decision made by a council is to be conducted by the council and not by a delegate of the council.

Section 8.4 of the Act states that after conducting its review of a determination or decision, the consent authority may confirm or change the determination or decision.

Section 8.5 (2) of the Act states that the functions of a consent authority in relation to a matter subject to review under this Division are the same as the functions in connection with the original application or determination.

Section 8.5 (6) of the Act states that a decision after the conduct of a review is taken for all purposes to be the decision of the consent authority.

Division 3 of Part 8 of the Act contains provisions for an appeal to the Land and Environment Court against the determination of development applications. Subject to these provisions, the applicant has the option to appeal the decision of Council on the review of this development application.

5.2 Part 12 of the Environmental Planning and Assessment Regulation 2021 – Reviews and Appeals

The regulation contains provisions with regard to the lodging of review requests on the Planning Portal, the fees for a review request and the notification of review requests and the Council's determination of the review.

The review request has been lodged in accordance with the regulation and the relevant fee has been paid. The review request has been notified. In undertaking the notification, Council informed those who were notified that all previous submissions to the notification of the development application would be considered in the review.

Six submissions were received to the notification of the review request.

6 ASSESSMENT OF THE REVIEW REQUEST

In undertaking the assessment of the review request, I have firstly considered the details of the development application, the Council's assessment report and the details of the review request in Section 6.1. Secondly, and most importantly, I have considered the reasons for Council's determination in Section 6.2. While not addressed specifically in this report, I have read and considered all submissions received to the notification of the original development application and the notification of the review request.

6.1 The Development Application, Council's Assessment and the Review Request

The development application is described in Section 2 above and the review request in Section 4. Council staff prepared a report on the assessment of the development application. The report recommended approval of the development application subject to conditions.

It is considered that the assessment report accurately describes the proposed development, the site and its location, and properly considers the relevant legislative requirements and the submissions received to the notification of the application.

However, the assessment report makes a number of concessions with regards to issues with the development application and proposes conditions to address these issues.

The issues with the application and the assessment are addressed below.

1. Landscaping and non-compliance with restriction on title number 10(b)

The original site plan submitted with the development application indicated a row of deciduous trees along the boundaries of the property with adjoining residential lots. The proposed building was partly outside of the building envelope on the land. The plans were subsequently amended to relocate the building to be wholly within the building envelope and the row of trees was removed from the plans. I note that the trees remained shown on the building elevation plans.

No detailed landscape plan was submitted with the development application.

The restriction on title 10(b) requires a 5m landscaped buffer along the Olympic Highway frontage. Wagga Wagga City Council is named as the authority to which this restriction benefits and therefore only Council can waive or amend this restriction. The provision of a landscaped buffer along the Olympic Highway frontage is central to the issue of maintaining the rural village character.

There are numerous inconsistencies in the Statement of Environmental Effects (SEE) submitted with the development application with regards to this issue, as follows:

- The SEE refers to the restriction but does not identify any proposed landscaping along the boundary with the Olympic Highway in the description of the development.
- The SEE states that the restrictions on title will be complied with.
- The SEE states that the boundaries will be landscaped with deciduous trees that will screen the development without imposing deep shade in winter.

The development plans do not show any landscaping along the Olympic Highway frontage. Two car parking spaces and a drainage line are shown in this location.

In relation to landscaping along boundaries with residential lots, the assessment report states as follows:

"The removal of the landscaping is considered unreasonable by Council as landscaped screens and buffers will be necessary to address amenity issues discussed in this report particularly in relation to adjoining residential properties. As a result, a condition of consent will require a Landscape Plan to be submitted and approved by Council prior to the issues of a Construction

Certificate. An additional condition will require the ongoing maintenance of the landscaping as part of an operation management plan to be developed and implemented."

In relation to the Olympic Highway frontage, this issue is proposed to be resolved by a condition requiring a 2m wide landscaped buffer. The assessment report states that a 2m wide buffer can achieve the same result as a 5m wide buffer while allowing for a sufficiently wide aisle for vehicular movement. While the applicant proposed deciduous trees where landscaping was to be provided, the recommended condition in the assessment report required evergreen plantings for the full length of the boundaries that forms a continuous screen/buffer with a minimum foliage width of 2 metres and height of 2.5 metres.

It is also noted that the assessment report recommends a condition requiring the fencing along the Olympic Highway frontage to be open, rural style fencing.

In general, there is no objection to the use of conditions to address the issues of landscaping and fencing. However, given the inconsistencies in the SEE and plans, and the critical nature of this issue to maintaining village character and residential amenity, I am of the view that a detailed landscape plan should have been provided to support the development application and considered as part of the assessment. In the absence of a detailed landscape plan, I am not satisfied that the development will not have a detrimental impact on the character and amenity of the area.

I am also not satisfied that a 2m wide landscaped buffer will suffice to maintain the rural village character, particularly given the requirement for open, rural style fencing, and that such a buffer will be compromised by the car parking spaces and drainage line.

2. Flood Planning, finished floor levels and finished site levels

The subject land is affected by flooding. The SEE states that the development will comply with the finished floor level outlined in the Section 88B instrument and the development application for subdivision that created the subject lot (DA17/0036.01). The minimum finished floor level (for a dwelling on the lot) is 208.14 AHD. According to the Stormwater Plan by MJM Consulting Engineers approved as part of the development consent for subdivision (and relied upon for this development application), the levels of the subject land range from 206.7m to 207.6m. This would require filling of the land by between 540mm and 1.44m. The extent of filling would necessarily be greater than the building footprint and would also exceed the nominated building envelope on the land to include the sealed driveway area, ensuring level access to the storage units.

The SEE makes no statements about any land filling required and the development plans suggest a completely level site. No existing or finished site levels are referred to in either the SEE or the development plans.

The SEE states that *"the building will be constructed to satisfy the controls for development in flood prone areas and are not likely to adversely affect flood behaviour in the vicinity, given the size of the development. There is adequate height and space within the development to accommodate flood free storage"*.

I am not satisfied that the statements in the SEE are accurate given the absence of detail and discussion regarding existing and proposed site levels. I am also not satisfied that the development, as proposed, is wholly within the building envelope, as the proposal to comply with the finished floor level outlined in the S88B instrument would require filling of land outside of the envelope.

The assessment report states that the proposal is acceptable in relation to flood impact in part because the development would be wholly located within the building envelope if the floor and site levels were not raised. The assessing officer chose not to impose a floor level in the recommended conditions of consent as:

1. the building is neither a dwelling nor an outbuilding,

2. the imposition of a floor level would have implications on the surface level of the surrounding vehicular movement area. If a raised floor level was imposed, then the surface level of the surrounding driveway would also need to be raised to service the building which would therefore impact those areas outside the building envelope and this would potentially cause stormwater impacts on adjoining properties, and
3. there is no Council policy for a floor level on a commercial building in Uranquinty.

Given the above, there was no requirement for a specific condition restricting filling outside of the building envelope. However, proposed condition C.16 states as follows:

"All earthworks, filling, building, driveways or other works, must be designed and constructed (including stormwater drainage if necessary) so that at no time, will any ponding of stormwater occur on adjoining land as a result of this development."

The absence of conditions relating to floor levels and a specific restriction on filling outside of the building envelope means that the details in the development application would be approved.

Given the application proposed a raised floor level, significant filling would be required within and outside of the building envelope. I am therefore not satisfied that the development as proposed would not have detrimental impacts on flood behaviour.

3. Stormwater drainage

No stormwater management plan was submitted with the development application. The SEE refers to the stormwater plan submitted and approved with the development consent for subdivision of the land. No details of the volume of additional stormwater generated by the development or the location of its discharge have been provided. A drainage line is shown on the plans along the Olympic Highway frontage, and an easement to drain water is located in the western corner of the lot, but it is unclear if and how the whole of the proposed roofed and sealed areas drain to the easement.

The assessment report states that the site will be serviced with suitable stormwater infrastructure and Council Engineers have deemed the stormwater disposal satisfactory. No specific condition relating to stormwater drainage was recommended.

I am of the view that the stormwater generated by the development will be significantly greater than that generated by a dwelling and outbuildings on the land and that reliance on the stormwater plan prepared for the subdivision is not appropriate. In the absence of a development specific stormwater management plan, I am not satisfied that the development will not have a detrimental impact on adjoining properties.

Given the above issues, I do not support the Council Officer's recommendation to approve the development application subject to conditions.

6.2 The Reasons for Council's Determination

6.2.1 *Is the proposed development consistent with the objectives of the RU5 Village zoning as outlined in the Wagga Wagga LEP 2010?*

The objectives of the RU5 Village zone are as follows:

- *To provide for a range of land uses, services and facilities that are associated with a rural village.*
- *To protect and maintain the rural village character of the land.*

In relation to the first objective, the key question is whether a self-storage facility is a land-use, service or facility that is associated with a rural village. It is not necessary to consider the location, design or impact of the proposed facility under this objective (as that is a matter for consideration under the second objective and the second reason for refusal of the development application, which I will deal with later).

A self-storage facility is a land use specifically listed in the land use table as permitted with consent in the RU5 Village zone. It therefore must be concluded that, when the LEP was drafted, a self-storage facility was anticipated to be a land use that could be granted consent in a rural village (zoned RU5). This does not guarantee consent will be granted, but is at least an indication of an appropriate type of land use.

However, the land use table applies to all land zoned RU5 in the Wagga Wagga LGA and there are many rural villages so zoned, including Tarcutta, Galore, Collinguille, Oura and land at North Wagga Wagga (amongst others). Each of the rural villages are varying in size, population, land use and character. A self-storage facility may be an appropriate land use in Tarcutta, being the largest of the villages, but not at Galore, being one of the smallest.

It is uncommon to find self-storage facilities in small rural villages. I am not familiar with any small rural village in NSW that has a self-storage facility. The applicant refers to similar self-storage facilities in Lockhart and Gundagai. Neither Lockhart nor Gundagai can be described as small rural villages. Both of these towns are major population and business centres in their respective LGAs. While the town of Lockhart is mostly zoned RU5, the self-storage facility is located on land zoned IN1 General Industrial adjoining the town. The self-storage facility in Gundagai is located in the B2 Local Centre zone.

Having regard to the above, I am of the view that a self-storage facility is consistent with the first zone objective, but this does not mean that such a use is appropriate in the rural village of Uranquinty. Consideration of this matter is relevant to the second zone objective and the second reason for refusal of the development application.

In relation to the second zone objective, consideration must now be given to the specific rural village character of the land and whether the proposed development protects and maintains this character.

The Wagga Wagga DCP 2010 contains a character statement for Uranquinty and a village plan. These are provided in full in Section 6.2 below. One of the key extracts of the character statement that relates to the rural character of the land is addressed below.

"The entry from the north is framed by mature trees that define the village boundary and give a sense of arrival."

The subject land sits near the northern edge of the village and has frontage to the Olympic Highway, being the "entry" road from the north. The mature trees are scattered along the highway, particularly on the opposite side of the highway to the subject land, as there is a transmission line running parallel to the highway on the south-western edge of the road reserve. Prior to arrival in the village, the land is open farmland.

The subject land is currently vacant and visible from the highway. Through the site and to the south, the key visual features are colorbond fences and single storey dwellings.

The applicant argues that new landscaping along the Olympic Highway frontage will visually screen the development and that the proposed building is similar in scale to a comparable dwelling. The applicant also proposes a wall sign on the north-eastern fence (as exempt development, therefore no details are provided with the development application). It is presumed the operator of the facility would want the sign on the fence to be visible to passing traffic.

It is noted that it is not just the roofs of existing dwellings that are visible from the Olympic Highway. As the dwellings have been raised to ensure finished floor levels are above the flood planning level, a significant portion of the dwellings are visible above the fence line. It will be the same with the proposed development (if it is built to the required finished floor level for a dwelling on the land, as is proposed in the development application), resulting in a long row of roller doors and a long single pitched roof being visible from the Olympic Highway.

The applicant's claim regarding landscaping along the Olympic Highway frontage is not matched by the proposed development plans, that show no such landscaping. No landscape plan was prepared and submitted with the review request to demonstrate how landscaping will screen the development. The applicant does not specify or detail the width of the proposed landscaping.

I am not convinced that landscaping along the Olympic Highway frontage will adequately screen the development. Landscaping will take some time to establish, can deteriorate over time if not adequately managed and at best will provide some softening of the visual impact of the development. It is noted that the entire frontage to the Olympic Highway will not be landscaped as two car parking spaces are proposed to be provided along this frontage. There is also a drainage line that may limit the nature of landscaping able to be provided.

I do not agree with the statement that the proposed development is similar in scale to a comparable dwelling. It is only comparable in relation to height. It is not comparable in relation to the length of wall, the lack of articulation and simplicity in the roof form.

Based on the above, I do not consider that the proposed development will protect or maintain the rural character of the village with respect to its visual impact from the northern entry to the village.

6.2.2 Does the proposed development conflict with the residential amenity of the village as outlined in the Wagga Wagga DCP 2010?

The following character statement for Uranquinty is provided in the Wagga Wagga DCP 2010:

Uranquinty was proclaimed a village in 1888, but known by the name of Glenrouth. The village name altered to Uranquinty in 1899, and then to Uranquinty in 1966. Uranquinty is a Wiradjuri word meaning "plenty of rain" and "yellow box tree".

The entry from the north is framed by mature trees that define the village boundary and give a sense of arrival. The entry from the south is marked by the bridge and bend in the road. The shops and commercial uses on the east side of the Olympic Highway/Morgan Street, and silo, memorial and park adjacent to the railway line, reinforce the sense of place.

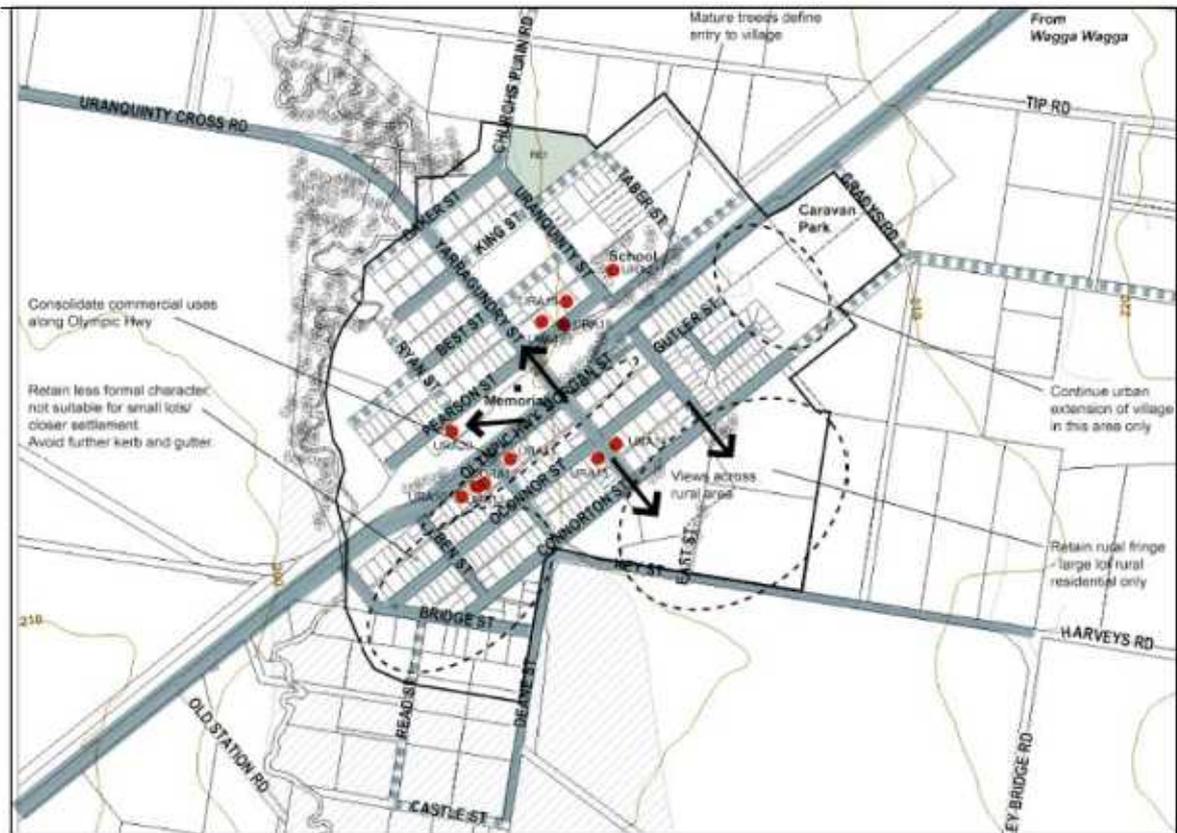
The early section of the village was generally south of Uranquinty Street. More recently the village has grown to the north, including the extension of Gutler Street towards the Caravan Park. The newer subdivisions are more closely settled than the older sections of the village, and are more suburban in character having smaller frontages and urban road formations.

The southern section of the village retains a less formal character, despite sections of kerb and guttering in a number of roads. The western side of the village also retains a more traditional village character.

Uranquinty has a number of heritage items, most of which are public or community buildings. Exceptions include the Uranquinty Hotel and general stores on the main road. The heritage buildings help to define a unique streetscape along Morgan Street, and establish strong parameters for future development.

The village zone extends across a large area to the east of Connorton Street. The rural character of this area gives the village a well defined eastern edge. Land to the east of the village is subject to drainage constraints which will reduce the potential for close settlement. The village plan recommends that any future development in this area comprise large lots that retain the rural character.

The village plan provided in the DCP is copied on the following page.



Uranquinty Village Plan

One key element of the Uranquinty Character Statement relating to the subject land was addressed in Section 6.2.1 above. The second key element of the character statement is addressed below.

“More recently the village has grown to the north, including the extension of Guttler Street towards the Caravan Park. The newer subdivisions are more closely settled than the older sections of the village, and are more suburban in character having smaller frontages and urban road formations.”

The subject land was created as a result of the northern extension of Guttler Street referred to above. The key reference in the above statement in relation to character is the term “suburban”. The term suburban relates to the residential character of this part of the village.

The applicant argues that, because the lot is a battle-axe, the proposed building will be to the rear of existing dwellings and will therefore not be visible, having no impact on the suburban streetscape character.

While this is a fair and reasonable argument, I am of the view that consideration of the suburban character is not limited to the Guttler Street streetscape. The suburban character also relates to the type of land uses, the nature and volume of traffic using the streets, the type of signage and landscaping, amongst other matters. The suburban character should also be considered in relation to the views from private land. The views from living room windows and private open space areas should also maintain a suburban residential character.

As noted above, the applicant argues that the proposed building is similar in scale to a residential dwelling. I do not agree with this assessment. The proposed building will have an industrial form and appearance and will not present a suburban character when viewed from adjoining properties.

The applicant relies on a row of deciduous trees along property boundaries with adjoining dwellings to argue that the development will be adequately screened. I do not agree that one row of deciduous trees will provide adequate visual screening of the development. I also note that the plans submitted with the review request do not show this row of deciduous trees.

The Council staff assessment report acknowledges the same concern with the use of deciduous trees and includes a recommended condition requiring evergreen trees. However, as I have previously indicated, in the absence of a detailed landscape plan, I am not satisfied that the development will not have a detrimental impact on the character and amenity of the area.

It is uncommon to find self-storage facilities in, or accessed from, suburban streets. The applicant has provided evidence to support the argument that the development will not generate excessive traffic volumes. I have no objection to the assessment in relation to the volume of traffic, but I do not accept that the nature of traffic generated (for a commercial business) is appropriate in a residential street.

While it is reasonable to expect that furniture removal trucks will access the street from time to time when residents move in or out of the dwellings, but this will be a very infrequent activity. The self-storage sheds will increase the frequency of furniture removal trucks accessing the street.

I also note that the security gate for the site is located at the end of the battle-axe handle driveway. Should any truck access the site after the proposed hours of operation, it will either have to reverse along the driveway with the associated beeping, or stay in place until the manager remotely opens the gate. Either way, this will generate additional noise at the premises beyond the levels expected in a residential area. The applicant's proposed limit to hours of operation is therefore not a guarantee that there will be no unacceptable noise.

Self-storage facilities are commonly accessible 24 hours a day. The fact that there is a need to limit the hours of operation of this proposed facility is itself an indication that the site is not suitable for the development.

Based on the above, I do not consider that the use of the subject land as a self-storage facility is consistent with the suburban residential character of Guttler Street.

7 CONCLUSION

Mark Hitchenson of Navigate Planning has undertaken an independent assessment of a request to review the determination of Wagga Wagga City Council to refuse a development application for a self-storage facility at 43 Guttler Street, Uranquinty.

The assessment required an understanding of the proposed development, the site and its context, the legislative requirements and the issues raised in submissions.

The assessment supports the decision of Council to refuse the development application for the reasons stated. Further, the assessment finds significant deficiencies and inconsistencies in the development application that should have been addressed by the applicant. Some of these issues were identified in the assessment report prepared by Council staff and conditions of consent were recommended to address those issues. However, I am not satisfied that the conditions are sufficient to overcome the deficiencies in the application or the potential impacts of the development.

It is noted that the applicant did not take the opportunity to address these issues in the review request by for example providing a detailed landscaping plan to demonstrate how the development will be adequately screened from the Olympic Highway and adjoining properties.

It is therefore recommended that Council resolve to not change its original determination to refuse the development application.

