



# Report of Development Application Pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979

## APPLICATION DETAILS

Application No.:	DA18/0262
Modification No.:	N/A
Council File No.:	D/2018/0262
Date of Lodgement:	29/05/2018
Applicant:	Paul Ludlow, Newton Fisher & Associates 11/1051 Pacific Highway PYMBLE NSW 2073 Paul Ludlow
Proposal:	Re-development of site to include 1 x 17 storey Residential Flat building with 3 levels of parking and 14 storeys of residential accommodation, 1 x 6 storey building with 1 level of commercial tenancies and 4 storeys of residential accommodation (total of 67 apartments with 91 car-parking spaces), linked landscaped podium and strata subdivision.
Description of Modification:	N/A
Development Cost:	\$21,263,361
Assessment Officer:	Amanda Gray
Determination Body:	Council - The determination of the application is reported to Council as it presents a matter of wider public interest being a development of strategic significance.
Other Approvals	General Terms of Approval - Natural Resource Access Regulator - s91 Water Management Act 2000
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Natural Resource Access Regulator (NRAR) Roads and Maritime Services (RMS) Environmental Protection Authority (EPA)

<p>Adjoining Owners Notification: Advertising: Owner's Consent Provided: Location:</p>	<p>Department of Planning, Industry &amp; Environment Essential Energy Local Police Internal Groups 9 October - 8 November 2019 9 October - 8 November 2019 yes Vacant land on the northern side of Sturt Street approximately 80 metres to the east of the junction with Fitzmaurice Street.</p>
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## SITE DETAILS

<p>Subject Land:  Owner:</p>	<p>11 Sturt St WAGGA WAGGA NSW 2650 Lot 12 DP 1237398 CRK Holdings Pty Ltd</p>
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## PLANNING CONTROLS / STATUTORY CLASSIFICATION

*Pursuant to Part 4*

<p><b>Environmental Planning Instrument:</b> <b>Zoning:</b> <b>Land Use Definition:</b>  <b>Statement of Permissibility</b></p>	<p>Wagga Wagga Local Environmental Plan 2010 B4 Mixed Use Residential Flat Building Commercial Premises Permitted with consent</p>
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## REPORT

### DESCRIPTION OF DEVELOPMENT

The application was originally lodged as a mixed use development that included one residential tower of 65 apartments with linkages proposed onto the levee bank to create areas of private open space. There were a number of concerns with the development as originally presented and the applicants sought a delay in determination whilst modified plans were prepared and a planning proposal was processed to remove height limitations across the subject site.

The proposal as amended is for a mixed use development that includes both commercial premises and residential apartments. One new building is proposed across the subject site consisting of a three storey podium building with two towers of residential accommodation. The base includes three commercial premises at ground floor level and parking across all of the three levels. Tower 1 fronts onto Sturt Street, it extends to a total of six storeys with a total of twelve 1 and 2 bedroom residential apartments. Tower 2 presents to both the river and Cadell Place, it extends to 17 storeys and includes a total of fifty-five 1, 2 and 3 bedroom apartments. A summary of the layout is included in the table below:-

Ground Floor	23 car-parking spaces and storage areas; three commercial premises with a total floor-space of 235sq.m; lobby area for both towers; lifts; bin stores;
Level 1a	29 car-parking spaces and storage areas
Level 1b	33 car-parking spaces and storage areas; residential apartments in tower 1

Level 2	residential apartments in tower 1 and tower 2; roof top garden and plaza area; community space
Levels 3-5	residential apartments tower 1 and 2
Level 6-15	residential apartments tower 2

The three level podium building extends to 10 metres in height, it is a red brick structure that provides parking for the residential apartments as well as internal space for bin stores, lobbies, lifts, mail boxes and maintenance areas. The building presents a commercial frontage to Sturt Street with two premises to be accessed via an arched walkway.

There is a zero setback to the building to the southern elevation (Sturt Street), this is consistent with the adjacent Romanos building. The upper three levels of the Sturt Street tower are setback from the podium edge by 3 metres to minimise the impact to the streetscape. This tower extends to 24 metres. The Sturt Street tower is separated from the riverside tower by an external landscaped plaza and communal areas of open space at level 2. This area includes open space, seating areas, pergola structures and barbeques, an internal communal space is also accessible from this area. The separation between the two towers at podium level is 15 metres. As the riverside tower increases in height there are additional staggered setbacks in the building to both reduce the bulk of the building and minimise overlooking and overshadowing. At its highest point the tower is 56 metres.

The western elevation of the building (that faces Cadell Place) is setback at the south-western corner of Sturt Street by 6m for a distance of 20m and then reduced to 1.5m to the north western part where it wraps around the existing electrical substation. The 1.2m setback is maintained for three storeys (Level 1a, 1b & 2). From levels 3 to 7 the setback of the Riverside tower from Cadell Place is 6 metres beyond which it is 9 metres up to the penthouse level where there is a further increased setback of between 15 and 25 metres.

The eastern elevation is setback 6.65m which is consistent with an existing right of carriage way easement that exists across the subject site in favour of Lot 11 to the east. The setback of the building reduces near the north eastern corner of the site where at its closest point it is 2.2m from the Green Apple dental building boundary. As with other elevations noted above the setback increases in a staggered finish as the building increases in height. The riverside or northern elevation of the building has a zero setback and this setback is maintained at each level of the building.

Vehicle access into the site is from Sturt Street via a 6.65 metres wide driveway. The driveway coincides with an existing 6.65m right of way in favour of the adjacent premises (dental practice). From the driveway vehicles will turn left into the car park which will be secured by an electronic gate, the gate will be set back by 6 metres to minimise any conflict between vehicles using the right of way. Access to the existing car park at the rear of the adjacent dental building will also be taken from the same driveway and two visitor parking spaces are sited adjacent to the car park entry point. Exit from the car-park is via the same driveway onto Sturt Street

A total of 85 car parking spaces are provided within the secure car park for use by residents only. Both lobby areas and lift towers are accessible from all of the car-parking levels and spaces. Forty-six bulk storage areas are provided within the car-parking area and will each be assigned to an apartment. Not all apartments will be assigned additional bulk storage.

A further four car parking spaces are provided along Cadell Place one of which is an accessible parking space. Pedestrian access to the building is taken from Cadell Place. A 1.5

metre wide setback to this elevation provides a secure walkway along Cadell Place to the levee bank walkway at the north of the site. A ramped access at the front of the commercial premises will provide direct access to the walkway. There are two residential lobbies one for each tower each containing a lift that provides access to the residential apartments. The lobby areas also include mail boxes.

The application includes the strata subdivision of all apartments and common areas. The strata titling will include the allocation of unit car parking spaces and storage areas.

The application is integrated development because it requires the approval of the Natural Resource Access Regulator for works close to the Murrumbidgee River.

### **THE SITE & LOCALITY**

The subject site is legally identified as Lot 12 DP1237398 and is known as 11 Sturt Street. The land parcel is vacant and is irregular in shape extending to an area of 2366m<sup>2</sup>. The land is situated on the northern side of Sturt Street approximately 80 metres to the east of the junction with Fitzmaurice Street.

Directly adjacent to the site to the east is a dental practice within an existing two storey masonry structure. Beyond the dental building is 'Kilnacroft' which is a seven storey, 19m high residential flat building.

The development site is bounded on the west by Cadell Place, which is a narrow laneway of approximately 4.85 metres in width that provides one way traffic flow from the north to the south. The western side of Cadell Place accommodates the rear of the Fitzmaurice street facing commercial premises. Romanos Hotel which is a pub with accommodation above is sited on the corner of Cadell Place and Sturt Street directly opposite the south-western corner of the subject site.

The site is bound at the north by the constructed levee on the banks of the Murrumbidgee River, the levee bank is utilised as a pedestrian corridor that is known as the Wiradjuri Walking Track.

The land subject to the development is located at the northern part of the Wagga Wagga civic precinct, east of the Fitzmaurice Street commercial area and is situated within the Wagga Wagga Heritage Conservation Area. There are a number of listed heritage items within proximity of the subject site.

The land has a mixed use zone and is surrounded by B3 commercial core zoned land to the west and south while R3 medium density residential land is to the south east. Land to the north is zoned in association with the waterway and open space recreational zone land along the banks of the river. The subject land is located within the Riverside Precinct for which a strategic Master Plan has been prepared.

### **Easements and Covenants**

The land is constrained by a number of easements and right of carriageways.

Lot 12 is constrained over part of the eastern boundary by drainage easements, and a right of carriageway benefitting the adjacent lot 11 (existing dental building). There is also an easement for a multi-purpose electrical installation located towards the northern end of the

western boundary and another easement to drain sewage at the allotment frontage. The development has incorporated all existing easements into the site design.

There is an easement at the north of the property that provides for maintenance purposes and access to the constructed levee. This easement will be extinguished after the completion of stage 2 levee works. A condition of consent will require this to be confirmed.

### **Previous Development Consents**

DA05/1052 - Proposed 10 Storey Unit & Commercial Development containing 3 Commercial Tenancies & 26 Residential Units Approved 13.2.06

ADA07/0031 - Amendment to conditions of DA05/1052. Approved 13.6.07

ADA09/0018 - Extension of time for consent of DA05/1052. Approved 13.5.09.

A condition to surrender the original consent will be included. Although no site works have commenced the preparation of investigation reports can be an indication of a development commencing and therefore the surrender is required.

DA13/0502 - Single Storey Office Building with car park. Deferred commencement issued 2.6.14. This consent was not finalised and has therefore lapsed.

DA16/0700 - Subdivision to separate the dental building from the subject site and creation of the right of way. Approved 12.5.17.

In September 2016 the land was rezoned from B3 Commercial Core to B4 Mixed Use to accommodate a higher density residential component along with a commercial land use. The proposal also sought to amend the Height of Building Map from O (16m) to T (25m) and the Floor Space Ratio map from T (2:1) to X (4:1). The rezoning proposal was a direct response from and sought to progress recommendations from the Riverside Master Plan (and Spatial Plan) for a landmark building to be developed on the site.

In April 2019 a planning proposal to remove the maximum height of building provisions was approved. The planning proposal was in direct response to the current development application which when first received sought a variation to the height provisions for a 29 metres high building. An independent urban design assessment of the application noted that “*A re-distribution of bulk and mass is required in order to achieve outcomes consistent with the apartment design guide.*”

The height limitation of 25 metres resulted in a bulky building design that did not provide an outcome consistent with the future vision of the Riverside Precinct or an adequate degree of overall community benefit. The removal of the height provision was proposed to enable the design of the development to be revised to redistribute the bulk of the building and to reduce overshadowing. The planning proposal noted that ‘Removing the height provisions of the LEP will maximise the sites’ potential and will assist in achieving the objectives of the Riverside Master Plan.’

### **MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)**

#### **Section 4.15(a)(i) - The provisions of any environmental planning instrument (EPI)**

##### **Wagga Wagga Local Environmental Plan 2010**

Under the provisions of the WWLEP2010, the development site is located within the B4 Mixed Use zone.

## 2.3 Zone objectives and Land Use Table

The objectives of the B4 Mixed Use zone are as follows:-

- *Provide a mixture of compatible land uses.*
- *Integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The development proposed includes two separate land uses being the commercial premises and the residential flat building component. Both of these land uses are permissible, subject to development consent and are considered to be compatible with the surrounding precinct. The development has been designed to integrate and provide for both uses in an accessible location close to transport facilities including taxis, buses and adjacent to a primary pedestrian corridor known as the Wiradjuri Walking Track.

The proposed development is consistent with the zone objectives.

### Part 2 Permitted or prohibited development Land Use

The land use comprises a *Mixed Used Development* that incorporates a *commercial premises* and a *residential flat building*. These land uses have the following meanings:  
*Mixed use development* means a building or place comprising 2 or more different land uses.

*Commercial premises* means any of the following:

- (a) business premises,
- (b) office premises,
- (c) retail premises.

*Residential flat building* means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The listed land uses are permitted with consent in the B4 zone.

### Part 3 Exempt & Complying Development

The proposed development is not Exempt or Complying Development. The application is seeking consent.

### Part 4 Principal development standards

#### 4.3 Height of buildings

*The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map*

There is no limitation to height on the subject site. A planning proposal to remove the maximum height provision has allowed for the development to be redesigned with greater bulk and height towards the river and lower height towards Sturt Street.

#### 4.4 Floor space ratio

*The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map*

On the Floor Space Ratio Map, the maximum floor space ratio for the land subject to the development is 4:1.

The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area. The architectural statement identifies the gross floor area of the development as 9037m<sup>2</sup> and the site area is the area of lot 12 which is 2366m<sup>2</sup>. The floor space ratio of the development is the ratio of 9037: 2366 that can be expressed as 3.82:1. and therefore does not exceed the maximum permitted.

### Part 5 Miscellaneous provisions

#### 5.10 Heritage Conservation

The site is within the heritage conservation area and within close proximity to listed heritage items accordingly the following provisions under Part 5.10 are of relevance.

- (1) *Objectives:*
- (a) *to conserve the environmental heritage of Wagga Wagga,*
  - (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
  - (c) *to conserve archaeological sites,*
  - (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The application proposes a new landmark building of significant height and of contemporary design. The development will be set within an area that is characterised by a mix of architectural styles and building heights and a number of listed heritage items. The buildings to the southern side of Sturt Street are identified as heritage items being the Wagga Wagga Courthouse, the Riverine Club and the former police station.

The overall character of the conservation area will be impacted by the introduction of a modern building that is over 50 metres in height. The building will be visible from many locations across the conservation area and will therefore affect existing views of heritage buildings. The precinct is identified within a Master Plan for high scale redevelopment and the proposed development is in accordance with that vision.

The design of the development has incorporated elements of neighbouring buildings into the façade of the podium building including materials, colours and arched colonnades. The division into two towers allows the visual impact from Fitzmaurice Street and Gurwood Street to be minimized and the staggering of building height reduces the overall impact to the streetscape.

There is a possibility that there are Archaeological remains on site that could be disturbed during groundworks. The remains would be from F.A. Tompson's residence 'Waterview' and associated store, offices and gardens. Tompson was one of the first settlers in the Wagga Wagga township and determined that no suitable accommodation existed so he constructed his own dwelling on the banks of the Murrumbidgee River prior to town allotments and the production of a town plan.

An archaeological assessment has recommended that further testing be undertaken prior to any ground disturbance to determine the existence of any relics on site. The preparation of this report will be secured by condition.

The development of the vacant site will benefit the whole area as investment into the heritage area is secured with a landmark building. The continuing investment into this precinct with the levee upgrades, the riverside master plan and this development can assist in securing important upgrades and maintenance of neighbouring buildings as the number of people using the area increases which is to the benefit of the whole conservation area. Historical investigations will also ensure that any archaeological relics are appropriately recorded.

Whilst the proposed development does have an impact it is not considered to have either an adverse or detrimental impact on the heritage significance and values of the Wagga Wagga Conservation Area. It is considered that the objectives of this clause are therefore satisfied.

- (2) *The applicable requirements for development consent under the clause are for any of the following works:*
- (a) *demolishing or moving a heritage item, an Aboriginal object or a building, work, relic or tree within a heritage conservation area,*
  - (b) *altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*
  - (c) *disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
  - (d) *disturbing or excavating an Aboriginal place of heritage significance,*
  - (e) *erecting a building on land on which a heritage item is located or that is within a heritage conservation area, or on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*
  - (f) *subdividing land on which a heritage item is located or that is within a heritage conservation area, or*

The development proposes a new building within a heritage conservation area. The lodging of the development application satisfies this clause.

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

The redevelopment of a vacant and prominent site with a landmark building will add to the context of the conservation area and introduce a modern building of importance in the history of the precinct. The significance of the surrounding heritage buildings is varied but many of the buildings demonstrate Wagga's historical importance as a regional centre including the Courthouse, (former) Police Station and former school (Riverine Club). The number of large buildings previously occupied by banks and the post office further demonstrates the significance of this locality as a civic precinct.

The re-development of the site will allow for the historical and aesthetic values of the whole precinct to continue to be enjoyed by future generations without detriment to the existing significance of the area.

(5) *Heritage assessment*

*The consent authority may, before granting consent to any development (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

A Statement of Heritage Impact has been prepared in support of the application. The report provides an assessment of the development against key criteria such as character, scale, form, siting, materials and detailing.

The impact upon the historical character of the area is unavoidable due to the sheer size of the proposal. However, the proposed design will effectively mitigate the impact, reducing the bulk and mass of the building in a staggered manner across the site. The adjacent site on Sturt Street is a seven storey high residential building therefore the impact at streetscape level is minimal and complementary to the existing buildings within this part of the conservation area.

The heritage advisor has no objection in principle to the proposal given that there is an existing masterplan and planning proposal that supports a large scale building on the subject site. The advisor has noted that the updated drawings are a significant improvement on the original plans and include many recommendations that were raised in earlier discussions in particular the splitting up of the building into two towers to enable a development that responds to the Sturt Street streetscape to be achieved.

With regards to scale although the proposal will have an adverse effect upon the heritage character of the precinct by virtue of being significantly taller than all other buildings, causing some overshadowing and impacts to view and vistas, this impact is not assessed as having a detrimental impact to the heritage values and significance of the heritage items and the Conservation Area. This has been addressed in design features that include reduced setbacks to the building at the upper levels, siting of the larger tower to the riverside and maintenance of an established façade height to the Sturt Street streetscape.

The siting and the form of the development will have limited impact on the wider heritage area. The setting of each of the existing heritage items allows for established curtilages such as roadways that will not be changed as a result of the development. The Sturt Street Podium addresses the street in the same manner as adjoining buildings as well as activating Cadell Place with entrances and walkways. The ground floor colonnaded arches, horizontal elements, solid balconies and arched windows all contribute to an acceptable outcome.

Materials identified for the development include red brickwork to the podium and lower three storeys of the tower and modern neutral tones of white, beige and black to the Riverside. The design will incorporate materials and finishes of high quality and will not imitate the form of details of any existing buildings. The use of face brick is keeping with the character and form of the surrounding heritage buildings and conservation area.

In respect to Aboriginal objects, the land is within a traditional riparian area close to the Murrumbidgee River where there is the potential for Aboriginal objects to be found whether or not any are currently recorded on the Aboriginal Heritage Information Management System database. Because the site has been previously developed and occupied for many years and

also disturbed through site audit investigations the likelihood for disturbing relics is low. Notwithstanding this, a condition is proposed that includes the requirement to stop work in the event of any unexpected find on site.

The impact on the heritage significance of the heritage items has been assessed as suitable subject to conditions of consent and therefore satisfies this section of the LEP.

## Part 6 Urban Release Areas

The proposal is not within an Urban Release Area.

## Part 7 Additional Local Provisions

### 7.1A Earthworks

(1) The objectives of this clause are as follows:

(a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*

(b) *to allow earthworks of a minor nature without requiring separate development consent.*

(2) *Development consent is required for earthworks unless:*

(a) *the work is exempt development under this Plan or another applicable environmental planning instrument, or*

(b) *the work is ancillary to other development for which development consent has been given.*

(3) *Before granting development consent for earthworks, the consent authority must consider the following matters:*

(a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*

(b) *the effect of the proposed development on the likely future use or redevelopment of the land,*

(c) *the quality of the fill or the soil to be excavated, or both,*

(d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*

(e) *the source of any fill material and the destination of any excavated material,*

(f) *the likelihood of disturbing relics,*

(g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

The development will involve some excavation, pile driving and filling to accommodate the building and its interface with the levee crest. The earthworks proposed are necessary to support the development.

A geotechnical report has been prepared which comments on the site's geology, soil resources and groundwater resources. There remain potential risks to public health and the environment as a result of contamination of soil and groundwater resources and this is discussed elsewhere in the report and supported by required conditions of consent.

### 7.2 Flood planning

(1) The objectives of this clause are:

(a) *to minimise the flood risk to life and property associated with the use of land,*

(b) *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*

(c) *to avoid significant adverse impacts on flood behaviour and the environment.*

- (2) *This clause applies to:*
- (a) *land that is shown as “Flood planning area” on the Flood Planning Map, and*
  - (b) *other land at or below the flood planning level.*
- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
- (a) *is compatible with the flood hazard of the land, and*
  - (b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
  - (c) *incorporates appropriate measures to manage risk to life from flood, and*
  - (d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
  - (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

Due to its proximity to the Murrumbidgee River the land subject to the development is identified as flood prone and subject to this clause. The water level across the site in a 1% event is minimal with a low hazard level. There are ongoing works to the levee bank across the city to build it up to a height above the flood planning level, on completion of these works the subject site will be protected to the 1:100 year flood event.

The Riverside Master Plan encourages and promotes the potential transformation of the precinct through ‘high rise’ developments but also acknowledges the risk of structural damage and potential loss of life from uncontrolled levee breaching. The ongoing works to the levee bank to both raise the height and strengthen the levee bank include extending the existing concrete walls and capped sheet piling. These works have recently been completed within close proximity to the subject site.

The application includes certification from a structural engineer that the building will not be affected by a flood event as follows:-

*The proposed building is a 15 storey concrete framed structure. We have been provided with four flood plans from WWCC and, based on plans for the 1:100 and 1:100 2014 future levee flood level estimates, the building will not be subject to flood forces. However, the MOFFS 2017 flood estimates the backwater flood depth over a section of the site to be 0-0.5m. We certify that the building will be structurally designed to resist the backwater flood forces and effect of debris loads imposed on the structure for a 1:100 year flood event*

Conditions of consent will enforce the need for the building to be designed and certified in accordance with flood and engineering controls.

The proposed building has no residential properties on the first two levels and will be built to withstand the forces of floodwater. The development is compatible with the existing hazard and there is no anticipated risk to life or property associated with the development. The assessment of this application has shown that the development meets the relevant objectives and considerations of this clause.

## **7.5 Riparian Lands and Waterways**

This clause applies to land identified as “water” on the Water Resource Map. The eastern portion of the subject site is covered by this layer and therefore the application is subject to assessment under this clause as follows:

*Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:*

- (a) any potential adverse impact on any of the following:
  - (i) water quality within the waterway,*
  - (ii) aquatic and riparian habitats and ecosystems,*
  - (iii) stability of the bed, shore and banks of the waterway,*
  - (iv) the free passage of fish and other aquatic organisms within or along the waterway,*
  - (v) habitat of any threatened species, population or ecological community,**
- (b) whether or not it is likely that the development will increase water extraction from the waterway for domestic or stock use and the potential impact of any extraction on the waterway,*
- (c) proposed measures to ameliorate any potential adverse impact.*

The proposed new buildings are sited within proximity of the Murrumbidgee River to the north and north-east of the site. Between the subject site and the river bank is the raised levee bank protecting the city from flood impacts. The development is not anticipated to impact upon the waterway or threaten any habitats or ecological communities.

The development has been assessed by NRAR due to the proximity to the waterway who have raised no objection to the development.

## **7.6 Groundwater Vulnerability**

Clause 7.6 of the WWLEP 2010 relates to groundwater vulnerability. The subject site is identified as sensitive on the Water Resources Map and as such this clause applies. The objective of this clause is to protect and preserve groundwater sources. It is not anticipated that there will be any adverse impacts on groundwater as the use is not identified under this clause as impacting on groundwater sources and the works are all associated with an existing building.

## **7.9 Primacy of Zone B3 Commercial Core**

Clause 7.9 states that development consent must not be granted to development on any land unless the consent authority is satisfied that the development maintains the primacy of Zone B3 Commercial Core as the principal business, office and retail hub of Wagga Wagga.

The scale of development that is proposed is not of a form that would be permitted anywhere within the B3 zone. The location of the subject site is directly adjacent to the B3 zone with direct pedestrian linkages available to access the existing commercial premises across the city. The introduction of residential accommodation in this location is anticipated to have a positive impact on the CBD area by contributing to both the vitality and the viability of the city. There are no anticipated detrimental impacts to the primacy of the CBD as a result of this application.

## **7.11 Airspace Operations**

The objectives of this clause are to provide for the effective and ongoing operation of the Wagga Wagga Airport by ensuring that such operation is not compromised by proposed development that penetrates the Obstacle Limitation Surface (OLS) for that airport, and to protect the community from undue risk from such operation.

The height of the building does not penetrate the OLS. A precautionary condition is included that the lighting of cranes during construction adheres to the requirements of the Civil Aviation Safety Authority.

### **State Environmental Planning Policies (SEPPs)**

#### ***State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development;***

This SEPP aims to improve the design quality of residential apartment development in New South Wales. It applies to *development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:*

- (a) the development consists of any of the following:*
  - (i) the erection of a new building,*
  - (ii) the substantial redevelopment or the substantial refurbishment of an existing building,*
  - (iii) the conversion of an existing building, and*
- (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and*
- (c) the building concerned contains at least 4 or more dwellings.*

The SEPP applies as the development is for the erection of a new building that is more than 3 storeys high and contains 4 or more dwellings.

*Clause 6A of the policy provides that any provisions in a development control plan regarding visual privacy, solar and daylight access, common circulation and space, apartment size and layout, ceiling heights, private open space and balconies, natural ventilation and storage have no effect.*

The controls within Councils DCP that fall under these headings have not been assessed.

Clause 28 outlines the process for the determination of applications to which this SEPP applies.

- (1) After receipt of a development application for consent to carry out development to which this Policy applies (other than State significant development) and before it determines the application, the consent authority is to refer the application to the relevant design review panel (if any) for advice concerning the design quality of the development.*
- (2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*
  - (a) the advice (if any) obtained from the design review panel, and*
  - (b) the design quality of the development when evaluated in accordance with the design quality principles, and*
  - (c) the Apartment Design Guide.*

There is no design review panel and therefore the application was not referred. An assessment of the design quality of the proposal against the nine design quality principles of SEPP 65 and the Apartment Design Guide has been completed. The assessment is included as an Appendix to the report and is found to be satisfactory.

Clause 30 of the Policy provides that:-

*(1) If a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:*

- (a) If the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,*
- (b) If the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,*
- (c) If the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.*

*Note. The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.*

*(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:*

- (a) the design quality principles, and*
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.*

*(3) To remove doubt:*

- (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and*
- (b) the design criteria specified in subclause (1) are standards to which section 4.15 (2) of the Act applies.*

The assessment against the ADG concludes that the parking complies with the requirements and therefore the application cannot be refused on this matter (see (a) above).

The internal area for each apartment exceeds that recommended under the ADG and therefore the application cannot be refused on this matter (see (b) above).

The ceiling heights for the building comply with the ADG and therefore the application cannot be refused on this matter (see (c) above).

The assessment against (2) above has been carried out and is included as an appendix. The conclusion drawn in the assessment against SEPP65 is that whilst strict compliance with every objective and principle has not been achieved, 'adequate regard' has been given to the design quality principles and the objectives within the ADG.

Section (2) of Clause (30) of SEPP 65 is therefore considered to have been satisfied.

### **State Environmental Planning Policy 55 - Remediation of Land**

Clause 7 of SEPP 55 states the following:

*(1) A consent authority must not consent to the carrying out of any development on land unless:*

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

*(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

*(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

*(4) The land concerned is:*

*(a) land that is within an investigation area,*

*(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried*

A review of aerial photographs shows that even before 1944 (first available image) the land had been substantially developed and used for industrial purposes. The predominant use was as a motor vehicle repair station and garage that included underground fuel tanks and fuel dispensing facilities. That land use has been a major contributing factor to in situ contamination of soil and groundwater resources that exists on the site and potentially in the vicinity.

Due to the previous use of the land historical approvals for the site have included conditions requiring the provision of a site contamination report and an independent assessment of the suitability of the site by an accredited site auditor. These reports have previously been prepared as detailed below:-

A detailed Environmental Site Assessment was prepared in March 2005 by Coffey GeoSciences. This report concluded that there is a low risk to human health and the environment from the soil test results.

The above assessment was reviewed by NSW EPA accredited Site Auditor Mr Chris Jewell. Additional reports and analysis were prepared to satisfy the auditor. A Site Audit Statement/Site Audit Report (SAS/SAR) was issued in January 2009. The conclusions of this report are detailed below:-

*The Site Auditor considers that the major environmental issues on this site, resulting from storage and use of hydrocarbon fuels on and adjacent to the site, have been substantially resolved by detailed investigation and hotspot remediation. Underground fuel storage tanks were previously present beneath the footpath (owned by City of Wagga Wagga Council) located immediately to the south of the site. These tanks are understood to have been removed, but the Site Auditor is unable to confirm this as the area is now inaccessible because numerous underground services are present.*

*It is clear that some soil contaminated by petroleum hydrocarbons remains in this area. This contaminated soil is a continuing source of groundwater contamination but it cannot be removed because the area is inaccessible. Because the groundwater beneath the site is contaminated by volatile hydrocarbons, hydrocarbon vapour poses some risks to future users of the site. However, these risks are manageable. The Auditor considers that the site can be made suitable for the proposed use (commercial use on ground floors, and commercial or residential use on upper floors, with minimal*

*opportunity for access to soil in external areas) subject to appropriate building design.*

*The Auditor has thus concluded that it is appropriate to issue a Site Audit Statement that certifies that the site can be made suitable for commercial and industrial use, with residential use on upper floors, subject to:*

- Preparation of a building design that incorporates a passive vapour barrier (for example a polymer membrane), review of that design by a site auditor, and construction in accordance with the design.*
- Pavement of all of the northern part of the site and at least 90% of the external area of the remainder of the site with concrete, asphalt or equivalent material, and maintenance of that pavement in sound condition. The final pavement design must be reviewed by a site auditor.*

*The Auditor further noted that a short-term Site Environmental Management Plan (SEMP) is required for the management of the site during construction works. The short-term SEMP particularly should address the continued presence of contaminated fill material at depth within the northern part of the site; Any soil that is removed from the site should be appropriately classified in accordance with the Waste Classification Guidelines (DECC,2008); Any soil imported to the site should first be assessed as being suitable for use on site.*

The author of the above report Chris Jewell has confirmed that “this site audit statement remains valid unless superseded by a later site audit statement for the same site. A number of NSW Environment Protection Authority (EPA) guideline documents, particularly the Guidelines for the NSW Site Auditor Scheme (revised 2017) and the National Environment Protection (Assessment of Site Contamination) Measure 1999 (revised 2013) have changed substantially since 2009, and any reissue would require a fresh audit to be completed. The original site audit should be acceptable for DA purposes provided that there have been no significant changes to the site.”

A short term Environmental Management Plan has been prepared and provided with the current DA together with a summary of the historical investigation reports. In addition a more detailed review of all contaminated reports associated with the development site has been completed and certified by a NSW EPA accredited person, Adam Sullivan, that concludes (in summary) as follows:-

*The site has been effectively vacant and unused since 2009; only being used for informal car parking. It is apparent that activities with the potential to cause contamination are limited only to car parking, no activity of any significance has occurred onsite that would cause the SAS/SAR to become invalid on this basis.*

*A number of guidelines have been amended since the SAS/SAR was issued. As such, a new SAS/SAR would be needed for the site under existing regulations to account for current methods of assessing health risks to onsite/offsite human and ecological receptors. This point was also raised by the Site Auditor in his letter. A new SAS/SAR would require additional sampling in the form of a Detailed Site Investigation (DSI) such that documented site conditions would be current. All new and old environmental sampling data would have the benefit of being compared to revised/updated investigation levels. Collection of new environmental sampling data and a new SAS/SAR should be deferred and considered as a condition of consent.*

*Although the current building design and layout may be different to the 2009 version, the intended use remains relatively identical as car parking and commercial use on the*

*ground floor with residential living apartments from Level 1b and above. As such, there has been no material change to the sensitivity of the site use or receptors.*

*The 2009 SAS/SAR was conditioned on the building design to include a passive vapour barrier to mitigate any potential for vapour intrusion into the building. At that time there were no generic threshold concentrations for assessing risk from vapours; therefore, a health risk assessment was performed to 'predict' vapour concentrations and characterise risk in that regard. A significant advancement in site characterisation has occurred since 2009 for assessing vapour risk from petroleum hydrocarbons. My initial evaluation of the existing results using petroleum hydrocarbon fractions whilst limited in nature, suggest that vapours emitted from groundwater/soil sources may fall below current Health Screening Levels. In my opinion the SAS/SAR was conservative by prescribing a passive vapour barrier system as a direct result of the limitations of generic investigation levels used at that time.*

*It must be considered when assessing the vapour risks, the origin of petroleum vapours is from contaminated groundwater residing at a relatively deep 8.0-10.0m below the ground surface. The ASC NEPM 2013 allows for attenuation of vapours to be considered when assessing risk from this source of contamination. It should be considered then in this regard that petroleum vapours may attenuate before reaching the ground surface.*

*If a vapour risk is apparent at the site after collection of new/updated sample results, then an amendment to building design plans would be needed to incorporate a system of vapour mitigation, whether that be a barrier layer or passive ventilation. The testing regime and subsequent design documentation would form part of the approval phase of the development.*

*I am satisfied that the short-term Site Environmental Management Plan (SEMP) is appropriate and properly addresses contamination for the purpose of construction. The SEMP provides the essential elements to safeguard construction workers and the environment from any inadvertent exposure to residual contamination during construction phases on the assumption that sample results from 2009 reflects actual site conditions at this time. Understanding that organic compounds do attenuate over time, it is probable that concentrations of hydrocarbon impacts detected in soil and groundwater in 2009 may have reduced on this basis. New sampling data would confirm otherwise. The SEMP can be revised and issued as a stand-alone document as part of the approval phase and prior to construction to expand on items such as an unexpected findings protocol and roles and responsibilities during construction.*

*I am satisfied that any residual contamination left on the site after the site has been developed in accordance with the design plans would not pose an unacceptable health risk. The design effectively prevents access to underlying soils that may contain contamination, whilst the contaminated groundwater plume is confined within the site boundary and at a depth of greater than 8.0m from the ground surface. If a vapour mitigation system is required, on the basis of new environmental data, then the building design can be amended to incorporate such a system.*

*While the existing Site Audit Statement (SAS) remains valid, given the release of new and revised guideline documents, we recommend that a new SAS be prepared by a NSW EPA accredited Site Auditor. The SAS boundary should include all of the site to be developed (Lot 12). A detailed site investigation (DSI) should be undertaken over all of the subject land to fill possible information gaps and assist the Site Auditor to*

*understand current conditions of soil and groundwater given the timeframe that has elapsed since previous sampling in 2008. Considering that the existing SAS (2009) remains valid and existing soil and groundwater sampling shows the land can be made suitable for the proposed mixed-use development (Lot 12), any further investigation of land contamination could be deferred and addressed as a condition of consent.*

The content and the conclusions provided with regard to historical site investigations on the site have been reviewed and the following comments are made:-

- The author of the report is suitably qualified to have prepared and submitted the report;
- There is no evidence on Council's files to suggest that the author of the report has overlooked any other activity that may indicate the potential for the land to be contaminated;
- To the extent of information that Council has access to, it is satisfied that the content of the report is accurate;
- It is satisfied that the report meets the minimum requirements of SEPP55 and the associated "Managing Land Contamination Planning Guidelines.

In accordance with the recommendations provided a condition of consent is proposed that requires updated reports to be prepared and any necessary design changes incorporated into the construction drawings. Subject to the completion of the updated investigation reports Council can be satisfied that the land is suitable for the purpose for which the development is proposed to be carried out and therefore in accordance with the requirements of SEPP55.

#### **State Environmental Planning Policy (Infrastructure) 2007**

In accordance with clause 45 of the policy, the proposal was referred to Essential Energy due to the proximity of electrical infrastructure to the development. The following comments were received:-

*Essential Energy has safety concerns in relation to the proximity of the development to Essential Energy's padmounted substation. Any development will need to maintain at least 6 metres clearance from the closest point of the padmount.*

*Development in proximity to Essential Energy's infrastructure should comply with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. A copy of this guideline can be located at <https://energy.nsw.gov.au/sites/default/files/2018-09/ISSC-20-Electricity-Easements.pdf>.*

*If the applicant believes that the development complies with ISSC20 then please provide plans (showing distances from the proposed development to Essential Energy's infrastructure) together with any other relevant information for further consideration.*

*Council's and the development applicant's attention is also drawn to Section 49 of the Electricity Supply Act 1995 (NSW). Relevantly, Essential Energy may require structures or things that could destroy, damage or interfere with electricity works, or could make those works become a potential cause of bush fire or a risk to public safety, to be modified or removed.*

The applicant is aware of the comments raised and will ensure compliance during construction stage. This will be secured by condition.

Although proposing more than 50 car spaces, the mixed use development is not a traffic generating development by virtue of Clause 104 of this SEPP because access to the site is not within 90 metres of a classified road. The proposal was however referred to the NSW Roads and Maritime Services for their general comment. Responses are noted later in the report.

### **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The development is a BASIX affected building under the NSW Environmental Planning and Assessment Regulation 2000 and the requirements of the BASIX SEPP apply. As such, a BASIX Certificate 1030742M was prepared as part of the development application documentation which identifies that the development achieves the required water, thermal comfort and energy target ratings.

### **Section 4.15(1)(a)(ii) - Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority**

A number of state environmental planning policies are currently subject to review, including some which have involved consultation and notification.

Of these the only one of material significance and relevance to the proposal is the Remediation of Land SEPP. The Policy is being reviewed to consider recent changes to the Site Auditor Scheme and the strengthening of current controls in respect to the assessment of contaminated land. The notified changes do not affect the considerations and conclusions already discussed above in relation to the subject lands suitability for development and for which updated studies are required to determine and confirm the suitability of land for development.

### **Section 4.15(1)(a)(iii) - The provisions of any development control plan**

#### **Wagga Wagga Development Control Plan 2010**

The proposed development complies with the development standards of the Wagga Wagga Development Control Plan 2010 as follows:

#### **Section 1 - General**

##### *1.10 Notification of a Development Application*

The application was advertised and notified to adjoining neighbours from 9 October to 8 November 2019 in accordance with the provisions of the DCP.

Nineteen submissions were received during the notification period. This are discussed in section (d) of this report.

#### **Section 2 - Controls that Apply to All Development**

##### 2.1 - Vehicle Access and Movements

*C1 Access should be from an alternative secondary frontage or other non-arterial road where possible;*

Vehicular access is proposed from Sturt Street via a new 6.65 metres wide driveway that will access the new internal car-park. This same driveway will be used by the adjacent dental practice by both staff and customers to access the existing rear car park at the back of their building. An existing right of way in favour of the dental practice allows for this movement. The new driveway will result in the loss of existing angled car-parking spaces on Sturt Street, however the reinstatement of the former driveway to the subject site that also fronts Sturt Street will allow for new (replacement) spaces to be provided in this location.

Servicing vehicles in particular waste collection will occur from Cadell Place. A designated stopping area is included within the site directly adjacent to the building and the lobby entrance to tower one. This area allows for deliveries and for waste to be collected without vehicles blocking the free flow of vehicles along Cadell Place.

The development will result in increased activity along Cadell Place by both servicing vehicles, cars and pedestrians. It is proposed to pave the section of Cadell Place adjacent to the subject site to identify the area as one where vehicles should slow down due to the increased presence of pedestrians. It is also recommended that a form of traffic calming be introduced such as a raised speed cushion at the northern point of the site to further assist in slowing vehicles down in this area.

*C2 A Traffic impact Study may be required where adverse local traffic impacts result from the development. The Traffic Impact Study is to include the suitability of the proposal in terms of the design and location of the proposed access, and the likely nature, volume or frequency of traffic to be generated by the development;*

A Traffic Impact and Parking Assessment (TIA) was prepared for the development. The TIA found that the maximum trip generation during the morning peak is estimated at 16 vph leaving the site to Cadell Place and during the afternoon peak 22 vph approaching the site from Sturt Street. The TIA concluded that the development would have no material effect on the road network including nearby intersections.

The proposed development was reported to the Traffic Committee in November 2019. Recommendations from the meeting have been provided to the applicant which consisted of the following:-

- That use be made of textured road seal on Cadell Place adjacent to the development,*
- speed cushions or a similar device be installed at the north-west corner of the development site and at the mid-point along the western side of the building in Cadell Place.*
- The developer should be asked to address the specific issue of sight distance towards the west for drivers who will be leaving the building's driveway into Sturt Street when angle-parked vehicles are standing at the northern kerb adjacent to the driveway.*
- The installation of a narrow raised median in Sturt Street between Tarcutta Street and the development driveway entry point; to ensure that drivers who are turning right into the development from Sturt Street do so in the correct turning alignment.*

In response to these matters the applicant has confirmed that there is no issue with the use of a textured road seal. The use of a speed cushion is questioned given that garbage trucks and other service vehicles use this thoroughfare and a reduced speed limit is suggested. Council do not have the authority to change speed limits (this is an RMS function) and therefore a condition for a speed cushion has been included to assist in the slowing down of all vehicles as they pass alongside the development site that is to be used by both vehicles and pedestrians.

The use of a 'stop' sign or parking restrictions adjacent to the driveway are suggested by the applicant as a means of addressing sight distances for vehicles exiting the driveway. The removal of car-parking is not ideal in this locality however this may be the required outcome to ensure standards for sight distances are compliant. The building footprint is not flexible and the final design solution will therefore be secured by condition.

Finally the request for the raised median is seen, by the applicant, as a potential hazard for motorists parking in Sturt Street and suggest that a painted median is a more appropriate response. Given that the concern of traffic committee was to slow vehicles down this solution is not acceptable and a condition requiring a raised median is to be included. Again given the limited sightlines referenced above for vehicles leaving the driveway, the importance of slowing down vehicles entering the driveway becomes more critical.

*C3 Vehicles are to enter and leave in a forward direction unless it can be demonstrated that site conditions prevent it;*

Vehicles enter the site from Sturt Street and exit via the same driveway in a forward direction. Vehicles will also all exit Cadell Place in a forward direction.

*C4 Provide adequate areas for loading and unloading of goods on site. The loading space and facilities are to be appropriate to the scale of the development.*

The proposal provides that access for servicing, waste collection and deliveries is to be from Cadell Place. A designated loading area is provided on site within the south-western corner of the site adjacent to the Cadell Place and Sturt Street junction. Waste bins will be moved from the internal storage area to the servicing zone each week to await collection which is anticipated to be early in the morning.

By providing the servicing area on the subject site as opposed to in the roadway, the use of Cadell Place as a primary pedestrian corridor linking to the river levee can be realised in accordance with the riverside master plan for this precinct.

*C5 Access driveways are to be located in accordance with the relevant Australian Standard*

*C6 Ensure adequate sight lines for proposed driveways.*

The new driveway in and out of the car-park is anticipated to have limited sightlines due to the presence of parked cars along the street. As part of the construction drawings specific detail as to how adequate sightlines will be achieved must be provided. This may result in the deletion of existing on-street car-parking spaces.

The existing exit from Cadell Place onto Sturt has the same sightline restrictions and relies upon a 'stop' sign at the end of the thoroughfare to protect both pedestrians and cars as they move out onto Sturt Street. The presence of this intersection with poor sightlines does not justify another one especially as it will be for two-way vehicle movements unlike Cadell Place that is one-way.

## 2.2 Off-street parking

*C1 Parking is to be provided in accordance with the Table below. For uses not listed, similar land uses should be used as a guide in assessing carparking requirements*

*C4 For mixed Use Development the parking required is the total for each use with variations being able to be considered where it can be demonstrated that the peak demand for each land*

*use component is staggered or that development as a whole generates less parking than separable parts.*

As noted earlier in the report SEPP65 and the Apartment Design Guide (ADG) reference the minimum off-street car parking requirements as set out in the *Guide to Traffic Generating Developments (GTTGD)* and note that where the development complies with Part 3 J of the ADG it cannot be refused on those grounds.

There is a technical note prepared by the Department of Planning and Environment that confirms the manner in which this document applies. Specifically to this development Wagga Wagga is a nominated regional centre and in these areas the Metropolitan Subregional Centre rate should be applied. The documentation provided with the application has applied the Metropolitan Regional Centre rates suggesting that the Wagga CBD is an employment and public transport hub and reduced parking rates should apply due to reduced reliance on car based transportation. The assessment does not agree with this conclusion and has applied the sub-regional rates below, these rates do represent a lower figure than the adopted DCP and are as follows:-

0.6 spaces/ 1 bedroom unit @ 10 units = 6  
0.9 spaces / 2 bedroom unit @ 29 units = 26.1  
1.4 spaces / 3 bedroom unit @ 28 units = 39.2  
1 space / 5 units for visitors @ 67 units = 13.4

The total number of spaces required for the residential apartments is 85 (84.7). There are 85 internal secure spaces provided across the three levels of car-parking.

Commercial car-parking requirements are to be provided in accordance with this section of the DCP at a rate of 1 space/45sq.m of gross floor area. The three commercial tenancies have a total GFA of 235sq.m equating to a need for 6 spaces. The development includes four spaces on Cadell Place and two spaces directly adjacent to commercial unit one that are accessed from the driveway off Sturt Street. These additional six spaces satisfy the demand for commercial parking.

Notwithstanding the above compliant car parking assessment the details of the application show that the one bedroom apartments will not be assigned a car parking space, the two bedroom apartments will be assigned one space each (29) and the three bedroom apartments will be assigned two spaces each (56) totalling 85 spaces. The 85 spaces within the secure parking area will therefore be for residents only and will each be assigned to a certain apartment. The layout of the car park does include tandem car parking spaces, these are to be assigned to the three-bedroom apartments only. There is no objection to how spaces are assigned as long as the tandem spaces are assigned to one unit and this will be secured by condition.

The remaining six external spaces on site can be used by both visitors to the apartments and the commercial premises. It is assumed that most visitors will be short term and at a time when demand for commercial parking is low. There is short term on-street parking that could also be utilised by visitors during periods of low demand.

The parking numbers required by legislation are satisfied but the proposed use of those spaces by the developer will result in minimal on site visitor parking. Given the accessible location of the subject site and the likely variation in peak demand for commercial and visitor parking the car parking provision is considered acceptable.

*C2 The design and layout of parking is to be in accordance with the relevant Australian Standard*

*C3 Parking spaces are to be provided for disabled persons. Accessible parking spaces to comply with the relevant Australian Standard*

Parking spaces are to be laid out in accordance with the applicable standards and this will be secured by condition. The manoeuvring to and from all spaces within the car park has been identified on the plans and is satisfactory. As noted above the tandem spaces will only be used by the residents from the three-bedroom apartments who will be assigned both spaces.

There are no requirements for accessible parking within the residential apartments. One accessible parking space is provided to Cadell Place for use by visitors to the apartments or users of nearby commercial premises.

### 2.3 Landscaping

The site audit conclusions about site contamination and the associated requirement to pave most of the site minimises the opportunity for landscaping at ground level.

A landscaping plan has been prepared in support of the application that identifies the core landscaping for this development provided on the podium roof within the communal open space area.

The plan incorporates native species of shrubs and perennials that are suited to the local climatic conditions. Planting occurs across the podium within raised boxes to provide a softened impact to the residential towers above. The roof location limits the opportunity for any deep root plantings and only ornamental flowering trees are to be used in this area. Two new street trees are proposed to Sturt Street.

The design also includes activation spaces around the site particularly the walkway along Cadell Place that leads to a commercial space (potential café) and ramped linkage to the levee bank walkway.

### 2.4 Signage

The development application does not include details of any signage.

### 2.5 Safety and security

In accordance with the DCP, a crime risk assessment was prepared for the development and the proposal was referred to NSW Police to comment on the proposal, Comments received from the police are included within section (d) of this report.

Crime Prevention Through Environmental Design relies on principles of natural surveillance, access control, territorial reinforcement and space management. An assessment of these criteria resulted in an overall crime risk rating of low.

The development is within a highly visible location with natural surveillance to and from the building throughout the day based on the surrounding commercial precinct. Entries are clearly visible and identifiable from the street and the car park uses visually permeable materials to ensure that there are no concealed areas for anti-social behaviour. Lighting is provided to all communal areas and sensors will be used to control this.

## 2.6 Erosion and Sediment Control Principles

Erosion and sediment controls will need to be implemented for the development. Given the condition of soils on the site and the requirements to manage imported and exported soils, it is recommended that an erosion and sediment control plan providing for temporary and permanent controls to adequately protect soil and water quality be prepared as part of any Construction Environmental Management Plan prepared for the development.

## 2.7 Development Adjoining Open space

The objectives for developments adjoining open space are to ensure that the impacts of the development are managed within the site and do not rely on the open space and to ensure beneficial visual and physical relationships between public and private land.

The residential apartments will not be accessed from the adjacent public levee bank. A ramped access to the levee is planned within the development for public use. This integration with the levee is one of the objectives of the Riverside Master Plan and is supported.

The design, scale, massing and materials of the proposed building have been considered within the Apartment Design Guide assessment which has considered impact on amenity, views and outlook.

## **Section 3 - Heritage Conservation**

The land is situated within the Wagga Wagga heritage conservation area and located adjacent to and close to significant items of built heritage. The following clauses are of relevance to the proposed development.

Currently, the National Parks and Wildlife Act 1974 (NPW Act) provides that a person who exercises due diligence in determining that their actions will not harm Aboriginal objects has a defence against prosecution if they later unknowingly harm an object without an Aboriginal heritage impact permit. Although an AHIMS search was carried out it does not mean that objects or relics are not present on the site, even though the previous use and development of the site makes this unlikely. Given this, a condition is proposed that includes the requirement to stop work in the event of an unexpected find.

### 3.2.4 Development in the vicinity of a heritage item

Development in the vicinity of a heritage item can have an impact upon the heritage significance of the item, in particular through an impact on its setting. The proposed development is classed as development in the vicinity of a heritage item because of the nearby Court House, Riverine Club and former police station.

This section encourages development in the vicinity of a heritage item to be designed and sited to protect the significance of the heritage item.

The location of the development on a vacant site adjacent to the levee bank does not significantly impact upon views to the existing heritage items from the north as this consists of the river and open rural land. Direct views of the heritage items are also not impacted as the front of each heritage item faces onto streets opposite the site. The development will impact angled views from the south and east where the new buildings will be visible in the background of each of the nearby heritage items. The presence of the new landmark building within the conservation area provides a contemporary design that respects features from existing

buildings without trying to copy and therefore does not adversely affect the significance of each item.

### 3.3.1 Fitzmaurice commercial precinct

Whilst the development does not front onto Fitzmaurice Street it is within the precinct identified in the DCP. The controls generally relate to works to existing buildings and new buildings along Fitzmaurice Street. General controls for infill development are as follows:-

C1 Design infill and replacement buildings to reflect the general historic character of the precinct and nearby characteristic and heritage buildings.

C2 Maintain a two storey building height at the street frontage, constructed with a nil setback.

C3 Where sites are amalgamated use articulation to reflect the former subdivision pattern.

C4 Maintain a balance of solid area over void. Large areas of plate glass curtain walls are generally not suitable and will not be supported.

C5 Use awnings and verandahs to reduce the bulk and scale of buildings.

C6 Use of articulation in facades such as string courses, cornices, pilasters and other features that break up the scale of facades is encouraged.

C1 Colour schemes are to reflect the period and detail of the building, particularly where a building is identified as a streetscape reference building or contributes to the character of the conservation area.

In response to the above controls the impact on the character of the area has been discussed earlier in the report and is considered acceptable. The development has a nil setback but proposes a height of greater than two storeys to the street frontage. The height of the Sturt Street frontage is consistent with neighbouring buildings. The bulk and scale of the building is reduced by increased setbacks as the height increases and the facades are all broken up by glazing and different materials on each elevation.

The development is consistent with the controls in this section.

## **Section 4 - Environmental Hazards and Management**

Section 4 of the DCP requires that the design and construction of development should understand and account for environmental hazards and constraints of the site.

### 4.1 Bushfire

The controls of the section apply to bush fire prone land. The subject site is not mapped as bush fire prone.

Land along the riverbank is vegetated and is approximately 25 metres from the subject site. This area together with the river forms the buffer zone to bushfire prone land on the northern side of the river. The bush fire prone land on the far side of the river is over 100 metres from the subject site and therefore no further assessment is required with regard to this matter.

### 4.2 Flooding

The land is situated within Central Wagga that is protected by the levee and presents a low flood risk. The objectives are to minimise the public and private costs of flood damage, minimise risk to life and ensure development and construction is compatible with the flood hazard and consistent with the principles of the Flood Plain Development manual. The

minimum floor level is required to be 225mm above the natural ground level.

As concluded in section 7.2 of the WWLEP above, the proposed building has no residential properties on the first two levels and will be built to withstand the forces of floodwater. The development is compatible with the existing hazard and there is no anticipated risk to life or property associated with the development. The assessment of this application has shown that the development meets the relevant objectives and considerations of this clause.

### **Section 5 - Natural Resource and Landscape Management**

The subject site is covered by the Natural Resources Sensitivity layers 'groundwater' and 'riparian lands and waterways' on the LEP maps. As noted under the LEP section of this report the development is not anticipated to result in any adverse impacts to the waterway or to groundwater.

The development is located within 40m of the Murrumbidgee River and thus requires approval of the integrated authority being the Natural Resource Access Regulator (NRAR) whose role is to consider the effect on the matters specified within the DCP. NRAR have raised no objection and have issued their general terms of approval.

### **Section 6 - Villages**

Section 6 is not applicable to this development.

### **Section 7 - Subdivision**

The proposal includes the strata subdivision of the residential flat building sole occupancy units.

Section 7.2 of the DCP provides that strata subdivision shall comply with the fire safety provisions of the Building Code of Australia.

Appropriate conditions have been included.

### **Section 8 - Rural Development**

Section 8 is not applicable to this development.

### **Section 9 - Residential Development**

Many of the controls for residential development are considered within the ADG assessment. Clause 6A of SEPP 65 provides that the following aspects of the ADG prevail over any similar provision in a DCP; Visual privacy; Solar and daylight access; Common circulation and space; Apartment size and layout; Ceiling heights; Private open space and balconies; Natural ventilation and storage. Based on the above, only the following sections of the DCP are relevant for consideration.

#### **9.2.1 Site Layout**

The only relevant control under this section would be to 'integrate access, landscaping and services in the site layout'. The development makes optimum use of the site by incorporating roof top landscaping and private open space on the podium. Access and servicing arrangements are split across the site and utilise existing rights of way and carriageways

### 9.2.2 Streetscape

Whilst not a section that prevails over this section of the DCP, streetscape has been assessed under the ADG's. This section of the DCP has no relevant controls but has the following relevant objectives:

- O1 Encourage compatibility with existing built form.
- O2 Encourage attractive streetscapes.
- O3 Ensure a strong street edge with good definition between the public and private domain.

The subject site effectively has three frontages presenting to Sturt Street, Cadell Place and the river. The development has been designed to respond to each 'streetscape' in a different way with height, scale, and bulk increasing with setbacks from the roads but maintaining a nil setback to the river. As the existing built form is so varied the development is compatible as it presents a mix of both contemporary and historic building materials and provides a strong street edge.

The proposal is supported by Council's strategic documents with there being no maximum building height in this location. Inevitably, the redevelopment of this site is going to include a building of significant height that may appear out of character and may dominate the visual character of the area.

The proposal is consistent with the listed objectives.

### 9.3.6 Front setbacks

The controls under this section relate to 'residential development' and not mixed use developments. With business/retail space at ground floor and the site being located within the business zone these controls would not be considered relevant.

### 9.4.2 Material and finishes

The relevant objectives and controls of this section are as follows:

- O1 Encourage the use of external materials and finishes that are suited to their location and support consistent quality streetscapes.*
- O2 Encourage use of materials that have good thermal performance.*
- O3 Promote the use of materials that are climate responsive and contribute to innovative building design.*
- O4 Discourage corporate colours in building facades*
  
- C1 Select materials for their environmental performance, durability, detail and appearance to achieve quality appearance.*
- C2 Avoid large unbroken expanses of any single material.*
- C3 Minimise use of highly reflective or glossy materials on building exteriors.*
- C4 Use contrasting materials in combination with design elements for features such as corner elements.*
- C5 For larger developments, use recessive colours for the upper levels to help minimise building bulk.*

The use of brick for the façade treatment of the podium links the development to surrounding buildings and complements the dominant pattern within the streetscape. This also helps in articulating the building mass. The variety of materials including significant glazing breaks up the built form and helps to reduce the bulk and scale at upper levels. The applicant has submitted a compliant BASIX Certificate and a Nationwide House Energy Rating Scheme Certificate with a 7.0 star rating, there are no concerns from an environmental performance perspective. The proposal would be considered to appropriately address the objectives of this

section.

#### 9.4.5 Site facilities

This section relates to the ability of the site to provide adequate areas for bin storage, external drying space and appropriate location of mail boxes. All of these issues have been addressed in the design.

### Section 10 - Business Development

The land is within the Fitzmaurice Street commercial precinct as shown in Figure 10.1.1a and the Wagga Wagga Riverside Masterplan is required to be considered.

The design principles include:

- P1 Consolidate activity along Baylis Street and improve links to supporting activities on the eastern and western edges*
- P2 Reinforce the character and function of the Fitzmaurice Street precinct as an economically viable precinct and integrate with the emerging character of Baylis Street precinct and the adjacent residential areas*
- P3 Use opportunities for civic and landscape improvements to increase legibility through the centre for pedestrians and achieve improved environmental conditions.*
- P4 Improve the urban design of the centre and encourage quality built form.*

These principles have been considered in the assessment of the development application. There are opportunities presented for civic and landscape improvements, pedestrian connection links and improved urban design and quality built form.

The objectives for the Fitzmaurice street precinct are to support the economic viability of the precinct and its development as a distinctive retail, restaurant and café area and to support the application of heritage controls including the conservation of distinctive facades.

*C1 Comply with the requirements of Section 3.3.1 of the DCP*  
Refer to section 3 heritage

*C2 Maintain the 2/3 storey street wall to Fitzmaurice Street. Where upper levels are proposed provide a nominal setback behind the parapet line*  
N/A The development is not located along Fitzmaurice Street

*C3 Maintain a 2 storey street wall to Cadell Place and provide opportunities for upper levels to enjoy outlook over the Murrumbidgee River by providing an increased setback as shown in Figure 10.1.3*  
N/A This appears to apply to the land on the western side of Cadell Place.

*C4 Comply with Section 12.10 of the DCP-Wagga Wagg Riverside Masterplan*  
Refer to Section 12.

### 10.2 Mixed Use Development

As they relate to the current application, the objectives for mixed use development are to ensure a high level of amenity for all users, encourage active street frontages and ensure the built form is appropriate to its context

*C1 All developments on sites and consolidated sites larger than 1 ha within the B4 zone are required to be in accordance with an urban design based on a Masterplan approved by*

*the Council and Controls C2 to C9 will apply.*  
N/A The site is less than 1ha

*C2 Locate commercial and retail uses at ground level. Any residential component should be on upper level floors*

The development's commercial component is proposed at ground level and the residential component is proposed at the third floor and above.

*C3 Provide a ground floor frontage that is compatible with the form, rhythm, scale and character of the adjoining developments or the intended future built character for the area. For example in an area characterised by smaller shop fronts locate larger uses or commercial spaces within the building or on upper levels;*

The frontage to Sturt Street includes two commercial premises with a red brick frontage that is compatible with the adjacent Romano's Hotel building and other historic buildings nearby. Furthermore the recessed entry within an arched walkway utilises aspects of other buildings within the vicinity especially listed items on Fitzmaurice Street. Higher ceilings are provided to the two commercial premises.

The ground floor frontage to Cadell Place activates the corridor by both the introduction of residential entry points to the apartments and the pedestrian walkway to the levee bank. There are two main entry lobbies into the building from Cadell Place for use by owners, visitors and deliveries. Whilst this is not characteristic of Cadell Place that currently presents more back of house buildings this increased activity is in accordance with the strategic direction for this area and is supported.

*C4 Provide separate entrances to the residential and non-residential components*

Separate entrances are provided for both pedestrians and vehicles. Vehicle access to the residential apartments is via the new private driveway and car park only and the commercial premises are accessed via Cadell Place and/or Sturt Street. Pedestrian access to the apartments is via two large lobbies that open onto Cadell Place, these entrances access lifts to both of the towers. Pedestrian access to the commercial entrances is also via Cadell Place but each commercial premises has its own entry.

*C5 Onsite parking should be provided in basement parking levels or otherwise concealed from view from the façade to the primary street frontage*

On site parking is provided on the ground, first and second floors behind the commercial component and concealed from the primary street frontage of Sturt Street. The car park levels to Cadell Place and the levee will include louvred openings to break up the brick frontage and allow air to circulate through the parking levels. The louvres allow for permeability through the car park resulting in natural surveillance from within looking out and vice versa.

*C6 Access to basement parking levels is to be from one entry point*

There is no basement parking, parking is at ground level and above.

*C7 Residential parking areas are to be secure and separate from non-residential parking and servicing areas*

The residential parking is within a secured area and accessible to residents only via a gated entry from the new drive off Sturt Street. Servicing occurs via Cadell Place. A designated delivery and waste collection area is included in the south west corner of the site adjacent to Romano's Hotel.

*C8 The residential component is required to comply with relevant provision of Part 9 for solar access, private open space and privacy;*

N/A - The controls for visual privacy, solar access and open space within the DCP are overridden by those within the Apartment Design Guide.

*C9 Minimise expansion of blank walls and provide articulation and materials to create visually interesting street elevations*

The design includes significant articulation with the use of different materials and glazing. The streetscape to Sturt Street is characterised by the recessed entry through an arched walkway and the Cadell Place façade benefits from two major lobby entries and louvred coverings to the car-park levels.

## **Section 11 - Industrial Development**

Section 11 is not applicable to this development.

## **Section 12 - Specific Uses and Developments**

### 12.10 Wagga Wagga Riverside Master Plan

This section of the DCP supports the objectives of the Riverside Master Plan that was adopted by the Council on 27 May 2010.

The one control in this section of the DCP is that any development within the Riverside Wagga Wagga - Strategic Master Plan project boundaries shall demonstrate consistency with the objectives, strategies and design principles of the Riverside Wagga Wagga - Strategic Master Plan.

The Riverside Master Plan sets out a strategic vision for the riverside precinct with a long term implementation plan. The plan aims to reinforce the relationship between the Murrumbidgee River and the City by encouraging a mix of recreational, cultural, commercial and residential development uses that will revitalise and reactivate the river precinct and promote community resilience and viability with an enhanced quality of living for the community.

The Master Plan considers three distinct precincts and the development site is located within the 'Hampden Terraces' Precinct. The applicable objectives of this precinct are to improve connectivity / interaction of the levee and the adjacent built form, and to improve relationship between city and the river. The subject site is recognised as a great opportunity to integrate built form with the levee. The proposed development provides the opportunity for a ramped access to the levee walkway activating the linkage between the river and the city. This design does not limit the connection to the residential apartments only which is a preferable outcome for this precinct.

The master plan seeks to utilise space for increased activity and housing choice with key actions identified such as mixed-use or residential uses on vacant sites, increased floor space ratios and densities and activity along Cadell Place and interaction with the levee. The development is consistent with the desired actions listed above presenting both increased densities of accommodation as well as a building of significant height.

The Riverside Regeneration map identifies the area as a regeneration opportunity where the vision is for a new and invigorated arts, culture and entrepreneur precinct. Providing a new energy to Fitzmaurice Street and the riverside through the promotion and provision for arts, leisure and small scale business activities supported by accommodation and housing. The residential accommodation that is the subject of this application supports the wider regeneration of the area. The activation of the Cadell Place to the development site will assist

in stimulating further activation of this thoroughfare to the rear of existing premises that front onto Fitzmaurice Street.

The development achieves many of the opportunities that are identified in the Riverside plan such as reducing pedestrian and vehicle conflict, works to Cadell Place to widen pedestrian paths and integration of a café or coffee plaza element with the levee.

The development satisfies the overall objectives and actions of the Riverside Master Plan.

### **Section 13 - Bomen Urban Release Area**

The subject site is not within the Bomen urban release area. Section 13 is not applicable.

### **Section 14 - Boorooma Urban Release Area**

The subject site is not within the Boorooma urban release area. Section 14 is not applicable.

### **Section 15 - Lloyd Urban Release Area**

The subject site is not within the Lloyd urban release area. Section 15 is not applicable.

### **Section 16 - Gobbagombalin Urban Release Area**

The subject site is not within the Gobbagombalin urban release area. Section 16 is not applicable.

### **Section 4.15(1)(a)(iiia) - Planning Agreements**

There are no planning agreements associated with the development.

### **Section 4.15(1)(a)(iv) - any matters prescribed by the regulations**

The Environmental Planning and Assessment Regulations prescribe certain matters that consent authorities must consider in determining a development application.

Clause 50 of the regulations includes the following:

*(1A) If a development application that relates to residential apartment development is made on or after the commencement of the Environmental Planning and Assessment Amendment (Residential Apartment Development) Regulation 2015, the application must be accompanied by a statement by a qualified designer.*

*(1AB) The statement by the qualified designer must:*

*(a) verify that he or she designed, or directed the design, of the development, and  
(b) provide an explanation that verifies how the development: (i) addresses how the design quality principles are achieved, and (ii) demonstrates, in terms of the Apartment Design Guide, how the objectives in Parts 3 and 4 of that guide have been achieved.*

This information was lodged with the application.

All other matters prescribed by the *Environmental Planning and Assessment Regulation 2000* have been addressed in the application. The building will be subject to number of performance solutions under the building code which is to be expected for the building of this complexity.

**Section 4.15(1)(b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,**

**Context and Setting**

The proposed design provides a landmark architectural building within the centre of the city. The subject site interfaces with the riverfront, Sturt Street and Cadell Place. The character of Sturt Street is defined by a variety of built form elements ranging from historic properties to a multi-storey apartment block (Kilnacroft). Front setbacks within Sturt Street are varied, ranging from nil to between 6m and 10m. Existing street trees that flank the southern verge provide some shade and visual amenity, compared to the northern verge where there is limited greenery.

The subject site is at the interface between a more intense commercial and civic area with a quieter residential area. The site benefits from the fact that there is not one strong characteristic or building form within this locality and is therefore considered a strategic redevelopment site given its proximity to the CBD and the riverside.

The building's bulk and scale is completely different to any other building in the city and significantly larger than the buildings within the site setting but it is consistent with the desired future outcomes for the area. The design of the building in terms of materials and articulation has addressed the surrounding context and is considered acceptable.

The redevelopment of this site is consistent with the riverside master plan and is a positive outcome for the context and setting.

**Streetscape**

Although the proposed development is higher than the existing built form scale in Sturt Street, it respects the surrounding streetscape by setting back the main tower from the building frontage. Further, it will provide a transition in scale between 7 Sturt Street (Kilnacroft), with 7 storeys and 81 Fitzmaurice Street (Romano's Hotel), with 5 storeys in height.

The built form fronting Sturt Street is articulated in its massing through a 2.5m setback at the upper 2 storey, expressing the eave of the Romano's Hotel to ensure continuity of key built form elements defining the streetscape. Also the sides have been setback of this massing block to further reduce its bulk and reflect the eavelines along Cadell Place. The setback at the corner of Cadell Place and Sturt Street creates a plaza type space that leads pedestrians towards the riverside of the property.

Between the main tower and the 6 storey building fronting Sturt Street is a central shared communal outdoor space, defining the top of the podium. This open space visually articulates the built form and provides some spatial relief and visual permeability. The built form of the tower has been articulated through a series of setbacks at the 8th, 10th, 12th and 16th storeys. These setbacks are consistent with the ADG and visually break down the bulk of the built form. In addition, the introduction of outdoor terraces and balconies further articulates the massing of the building.

An arcade has been incorporated into the Sturt Street frontage to provide additional streetscape amenity and to articulate the bulk of the podium at street level. Commercial spaces front Sturt Street to help activate the streetscape and add interest. The setbacks along Cadell Place are consistent with the ADG and are considered consistent with the overall

streetscape character.

### **Traffic, access and parking**

The development has been assessed against the applicable controls in both the Apartment Design Guide and the WWDCP2010. See earlier in the report for discussion of these matters.

The application has been reported to Traffic Committee and recommendations from that meeting have been included as conditions of consent.

### **Public Domain**

The subject site benefits from connection to the public domain on three separate sides of the site. The front of the site connects the new commercial premises to Sturt Street in the form of an arched recessed walkway that respects other historical buildings in the locality and provides shelter from varying weather conditions. This area also provides a thoroughfare for those using the two carparking spaces that front onto the new driveway.

Cadell Place provides the main pedestrian entry into the development and includes entry points into both lobby areas. The application includes a textured seal treatment to Cadell Place that will define the area as one that is used by both vehicles and pedestrians and along which speed should be reduced. The use of Cadell Place as a useable thoroughfare as opposed to a back of house service lane is realised by this development with a linkage to the rear of the site being provided.

The ramped linkage to the levee bank walkway adjoining a commercial space provides a clear interaction with the riverside and allows for increased interaction between the two areas. The building will be a dominant feature for those using the riverbank and the ability to link into the site is a positive outcome.

### **Utilities**

The site is currently serviced by connection points to in-street water, natural gas and sewer services located in Cadell Place.

An investigation into the services has shown that there are not expected to be any significant impediments to servicing the proposed development in terms of physical limitations for water reticulation and sewer. The existing sewer lines immediately downstream of the site have had their capacity checked based on estimated existing tenement numbers and proposed new tenements. This check showed that there is adequate capacity in the existing sewer lines for the additional tenements from the proposed development. Both sewer and water services can feasibly be connected to the site. However, in terms of cost, there will be a developer capital outlay toward the water main service replacement across Sturt Street.

An existing stormwater main traverses part of the site at the north western corner and extends along Cadell Place. Stormwater is proposed to be constructed in the shared accessway along with a drainage pit and connected to the existing Sturt Street stormwater system.

There is an essential energy substation directly adjacent to the site on the western side and development within proximity of this infrastructure is subject to the satisfaction of the energy provider. The applicants are aware of the requirements of the utility provider and the required compliance will be secured by condition. There are also existing street lights on the western side of the site adjacent to Cadell Place, the proximity of these to the new building and any

necessary relocation will form part of the applicants application to Essential Energy for power supply.

Telecommunications infrastructure on Sturt Street is within the vicinity of the new driveway and will require relocation. A condition of consent will require the developer to confirm the works that will be required with the service provider.

### **Historic and Built Heritage**

The development has been assessed against the applicable controls in both the WWLEP and the WWDCP2010. See earlier in the report for discussion of these matters.

Conditions of consent are included to ensure compliance with recommendations included in specific heritage reports.

### **Landscaping**

The proposal will not involve the removal of any vegetation.

Because of the contamination that exists on site there is limited potential to landscape the site. Some trees have been included at the Sturt Street frontage and landscaping is proposed across the communal private open space at the podium level. The treatment of Cadell Place with textured seal is considered as a form of hard landscaping treatment and contributes to the amenity of this thoroughfare.

The landscaping proposal is considered acceptable.

### **Waste**

A waste management plan has been prepared for the development. The residential component will be serviced by two garbage disposal chutes that discharge to a waste disposal area on the ground floor. Each disposal area will have two chutes and diverter. One chute for recyclables and another for general waste and FOGO which is electronically separated by the individual disposing of the rubbish selecting the required chute.

The total required waste storage volume is estimated as 19800L. with a minimum storage area of 9900L per waste station in the form of removable 660L and 1100 L moveable bins collected on a weekly basis by SUEZ Waste collection is from a designated bay setback from the Cadell Place frontage. Bins will be placed in the area for collection on a weekly basis. Waste collection vehicles will not block Cadell Place, the design includes a designated area for collection.

The commercial premises are proposed to have separate waste arrangements through the Council commercial pick up.

### **Energy**

A valid BASIX Certificate was submitted with the application as well as a Nationwide House Energy Rating Scheme Certificate with a 7.0 star rating. An assessment of criteria within the ADG such as solar access, natural cross ventilation, apartment and balcony sizes all satisfy minimum targets. The overall design of the development has addressed energy efficiency and will be required to further demonstrate compliance with these details under a Section J report during the construction period.

## **Noise**

An acoustic assessment has been prepared in support of the application. Existing ambient noise levels were measured at Unit 14, 7 Sturt Street, the measured existing ambient Leq, day, evening and night noise levels are 54 dBA. These noise levels are contributed to by the surrounding existing environment, including, but not limited to, road traffic noise, local fauna and the nearby commercial core.

In consideration of the above the Acoustic Engineer has recommended the installation as a minimum of 6.38 mm thick laminated (minimum Rw 28) glass in all external windows and doors to reduce the external noise levels to an acceptable internal noise level, i.e. 35 dBA in bedrooms during the night and 40 dBA in all living areas during the day. The 6.38 mm laminated glass, in combination with standard building construction, will reduce external noise levels by at least 20dB, as required above.

Operable windows and doors should have acoustic seals installed at all peripheries.

Compliance with the recommendations of the acoustic report will be secured by condition.

## **Natural Hazards**

As noted earlier in the report the site is within the city centre and protected by the levee bank. The upgrade works to the levee to protect the city from the 1:100 year flood event are ongoing but have recently been completed within this precinct. The building will be required to be designed by a structural engineer to confirm that the building can withstand floodwaters and this will be secured by condition.

Despite the proximity of the river and current flood zoning in the city development has not been prohibited rather appropriate design solutions have been considered and applied where necessary. This site like all other sites across the city would have the benefit of a significant warning ahead of any floodwaters impacting the city and if necessary can be evacuated.

The site is not mapped as bush fire prone.

## **Man-Made Hazards**

The site has previously been identified as contaminated. A review of the site investigation reports and recommendations was discussed earlier in the report under SEPP55

## **Hours of Operation**

At this stage the use of the commercial floor space has not been identified but it could include a shop, restaurant, business or office premises. Commercial uses are suitable within the B4 zone and within this location and late night trading is acceptable subject to impacts on the amenity of the residential properties above and on neighbouring sites. A condition is proposed that will require any food and drink premises to be subject to a further development application to ensure that all necessary impacts can be suitably assessed.

## **Economic Impact in the Locality**

The proposed development will result in significant investment into the Wagga Wagga economy from both local and national investors. Direct economic impacts will include employment generation during the construction period, new employment within the

commercial premises and investment by purchasers of the residential apartments.

The redevelopment of the site is anticipated to have positive economic flow on effects as other developments take place in the area and linked spending occurs in the CBD. Investment into the residential properties will have a further positive economic impact on the wider economy of Wagga Wagga.

### **Social Impact in the Locality**

The redevelopment of the site has a number of positive social impacts. The close proximity of the site to commercial, retail and recreational pursuits has positive impacts for residents and users of the site and the accessibility of the site by alternative modes of transport is seen as great value. The introduction of new employment opportunities within the new tenancies will also have positive social impacts.

The redevelopment of a prominent site within the city that has been vacant for a number of years gives a positive message to the community in terms of investment into the city. The proposal introduces an increased number of residents adjacent to the CBD including a number of licenced premises. The Local Area Command have reviewed the application and recommend the preparation of a site safety management plan and this will be secured by condition.

### **Site design and internal design**

The site design is largely dictated by existing conditions being a vacant block that is surrounded by existing buildings, roadways and the Murrumbidgee River. Strategic planning documents have also dictated the fact that this site is anticipated to be occupied by a landmark building that provides connectivity to the river from the CBD and this has been achieved. The history of contamination across the site requires the building footprint to effectively cover the site and not include any form of landscaping and this has also been achieved.

Internally as many apartments as possible have been orientated towards the river to maximise the views across the river and beyond as well as the solar access from the northern orientation.

### **Overlooking an overshadowing**

Shadow diagrams have been provided in support of the application and the details addressed within the attached Apartment Design Guide assessment. The adjacent residential development known as Kilnacraft has north facing living areas that are not impacted by the new development. Whilst there will be increased shadow across the locality during the winter much of it will be across commercial premises and this will be mainly in the morning.

The main tower is situated to the northern end of the development site. This ensures that the predominant overshadowing occurs on the site itself, minimising impacts to the surrounding properties. Due to the site's north-west / south-east axis, overshadowing would be limited and well within acceptable limits. The Romano Hotel, would be mostly affected in the morning hours, whilst the heritage properties along the southern verge of Sturt Street would experience a minimal impact.

### **Construction**

Conditions of consent will control hours of construction and associated impacts such as dust and noise, ensuring they are kept to an acceptable level. A Construction Management Plan

will be required to be prepared prior to any construction works and will include the necessary details for all on site developers and contractors to adhere to.

### **Private Open space**

Each of the residential apartments is afforded a private balcony in accordance with the requirements of the ADG. In addition to the individual balconies the development includes a communal area of private open space on the roof of the podium that connects the two towers. The open space is accessible from both towers and includes a mix of furniture arrangements, bench seating and kitchen areas together with planter boxes, shade structures and lighting. The area is secure and accessible and offers a variety of areas to be used by different groups or individual residents.

The development does not impact upon any existing areas of private open space surrounding the subject site.

### **Accessibility**

Fourteen of the apartments (styles C and H) have been designed in accordance with the Liveable Housing Guidelines and incorporate the silver level universal design features. Universally designed apartments are safer and easier to enter, move around and live in. They benefit all members of the community, from young families to older people, their visitors, as well as those with permanent or temporary disabilities.

The apartments include greater circulation space, as well as internal doors and corridors, toilets, showers, kitchen and laundry spaces all being specifically laid out to aid accessibility. Switches, power points, taps and door handles are also all positioned in accessible locations.

All apartments are accessible via lifts, accessible parking is provided on Cadell Place directly adjacent to the lobby entries.

### **The Principles of Ecologically Sustainable Development**

1. The precautionary principle: It is considered that the facilities will not cause serious or irreversible damage to the environment.
2. Intergenerational equity: The proposed development is not likely to reduce the health, diversity and productivity of the environment for future generations.
3. Conservation of biological diversity and ecological integrity: As the site is an urban development utilising an existing site, it is not considered to impact on biological diversity or ecological integrity.

The proposed development is situated in a heavily modified commercial precinct and is not considered to have any adverse impact on matters such as the conservation of biological diversity or other principles of Ecologically Sustainable Development.

The development is considered satisfactory in relation to the aforementioned principles.

### **Section 4.15(c) - the suitability of the site for the development**

The subject land is considered to be suitable for the proposed mixed use development being a vacant, prominent site directly adjoining both the commercial core and the riverbank. The site has been identified within strategic planning documents for redevelopment and the height limitation that previously existed was recently removed under a planning proposal in 2019.

The introduction of a building that extends to a maximum height of 56 metres will be visually prominent and impact upon levels of amenity in this precinct but those impacts are seen as positive impacts as the site generates continued investment and upgrades throughout the locality.

The use is permissible in the B4 zone and the standards of the applicable SEPP have been satisfied.

Existing, historical site conditions have been examined and whilst the site has been confirmed as suitable for redevelopment additional updated reports will be completed prior to works commencing on site.

#### **Section 4.15(d) - any submissions made in accordance with the Act or the regulation**

##### **Referrals**

Internal referrals within Council has resulted in a number of suggested conditions. There were no objections to the proposed development.

##### **Notification**

In accordance with the Council's advertising and notification provisions outlined in Section 1.10 of the WWDCP 2010 the application was advertised and notified between 9 October and 8 November 2019. Nineteen submissions were received during this period. There were two letters of objection, 16 letters of support and one letter that made comments of both objection and support.

The details of the submissions are summarised as follows:-

##### **Objections**

*1. The height of the tower is inappropriate for the CBD and will dominate the riverside location and historical buildings in the vicinity. The development should be limited to the same as nearby buildings.*

Comment: A planning proposal to remove the height limitation on the site was specifically to allow a development of significant height. Whilst the building is much higher than any other building this location is suitable for such a landmark and will be a positive regeneration trigger for this precinct of the city.

*2. The scale of the development would be a visual blight on the area which will worsen if the building does not age well or is poorly built. Such a detrimental impact on the visual character of the area is not consistent with Council's Riverside master plan.*

Comment: The scale of the development will represent positive investment into the riverside with linked spending likely to occur within the vicinity. The selection of materials, being a mix of glass, hebel wall panels and cladding will offer an enhanced visual impact all along the levee walkway that has been recently completed in this area.

*3. Over development of the site will result in congestion in nearby streets.*

Comment: The required parking for the development has been provided on site in accordance with the legislative controls. Any impacts to on street parking would more than likely be from visitors during off-peak times.

*4. How will inner city recreation facilities cope with this large increase in population.*

Comment: The city is predicted to grow significantly over the next 20 years, the inclusion of

an additional 67 city centre apartments is the type of development that will enable the population target to be achieved. There are many different forms of recreation facilities within the city accessible to a variety of user groups and an increased number of users is a positive outcome.

*5. Increased risks to users of the adjoining dental practice from vehicle movements and to the security of the rear car park.*

Comment: The significant increase in residents and comings and goings to the new development is considered to offer increased natural surveillance and hence safety to users of the dental practice. The premises is currently quite remote and the new driveway to the rear car park will offer improved security as it will only be used by patients and staff of the practice.

*6. Lack of parking will result in the use of adjoining spaces to the rear of the dental practice by residents and visitors as well as persons attending the Courthouse.*

Comment: The provision of on-site parking is satisfied as detailed earlier in the report. The car park at the rear of the dental practice is existing and is accessed via a right of way over the subject site. Unauthorised use of this area is not anticipated to increase as a result of the development, moreover the clearly defined entry into the residential apartments will stop persons from entering what would present as a private entry driveway.

*7. Existing spaces on Sturt Street can be reconfigured with the removal of existing driveways resulting in additional provision.*

Comment: The management of on street car parking spaces is separate to the development application. Following the completion of the development the re-marking or lining of spaces will be determined by Traffic Committee. The sightlines out of the new driveway may also necessitate a demand for the spaces on the street to be re-marked.

*8. The use of red brick and archways to link the development to existing buildings in the vicinity is likely to result in a mismatch of styles, a better outcome would be all modern.*

Comment: Considerable discussions occurred with the developers, Council and the heritage advisor to ensure the best possible design outcomes for the landmark development. The transition of brick to more contemporary materials as the building increases in height allows the development to respect existing buildings and the heritage area whilst still presenting a very modern development at the higher levels.

The following matters raised in support of the application are noted.

1. As a local business owner it is felt that the development will further enhance our viability and longevity, it is a huge step forward for Wagga Wagga.
2. The development is an opportunity to further enhance the northern business precinct around Fitzmaurice Street. Apartment living will introduce new people and new clients to the local businesses.
3. Wagga has been lagging behind in terms of taking advantage of the beautiful setting of the Murrumbidgee River this is an exciting progressive development.
4. Developers should be congratulated for thinking outside the square on what the city needs and Council for facilitating such a project.
5. The apartments will stand out and add the WOW factor to the river precinct and the northern end of town.
6. The calibre of this development will attract investors from our major cities.
7. The site has been an eyesore for our city and to see the development proposed is exciting, it will also provide a huge bonus for the community during construction.

The comments in support of the development are acknowledged and noted

## External referrals

### Natural Resource Access Regulator (NRAR)

General Terms of Approval (GTAs) have been issued and included as conditions of consent. The GTAs issued by NRAR do not constitute an approval under the Water Management Act. Following the issue of consent the applicants are required to apply for a controlled activity approval from NRAR.

This requirement has been secured by condition.

### Roads and Maritime Services

The road network surrounding the development site is classed as local roads under the provisions of the Roads Act. The subject site is remote from the classified road network. Notwithstanding the above Transport for NSW does have an interest in all signalised intersections. Due to the location of the development site within the local road network access to the development will utilise the nearby traffic signals at the intersections of Fitzmaurice and Gurwood Streets and Johnson and Tarcutta Streets. The resultant traffic generation from the proposed development is not anticipated to impact detrimentally on the performance of these 2 signalised intersections.

Transport for NSW has assessed the Development Application based on the documentation provided and would raise no objection to the development proposal as the proposed development would not represent a significant impact on the classified road network or other assets concerning Transport for

### NSW.Department of Planning, Industry & Environment - Crown Lands

No objections to the proposed development as no impacts to the adjoining Crown land have been identified.

### Essential Energy

*Essential Energy has safety concerns in relation to the proximity of the development to Essential Energy's pad mounted substation. Any development will need to maintain at least 6 metres clearance from the closest point of the pad mount.*

*Development in proximity to Essential Energy's infrastructure should comply with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*

Comment: The applicants are fully aware of the requirements of Essential Energy and have noted minor amendments that may be required to ensure that the 6 metres clearance is achieved in all directions. Notwithstanding the above, without a development approval no application to Essential Energy for supply can be made. The applicants have stated that "Given the size of this project and close proximity to an existing substation supply, the authority may be looking at replacing, upgrading or even relocating the substation depending on our application, current and forecast supply, so we really will not know their requirements until an application was made and they were made aware of our supply needs."

A condition of consent will require compliance with the above referenced guideline.

### NSW Police Riverina Police District

*The development appears to have good aesthetics and will certainly make a significant improvement to the neighbourhood by building on the vacant block at the location. Improved passive surveillance of the river walkway will be improved by the commercial space fronting the walkway and a number of the apartments overlooking the footpath.*

*I found the 'Statement of Environmental Effects' lacking in respect to crime related issues associated with and in the vicinity of the development. The nature and intended purpose of the development tends to suggest there will be minimal impact on crime, however, the possibility of the development playing a role in an increase in crimes such as domestic related violence, property theft and break and enters should not be discounted.*

*Another area of concern is how residents will be impacted by noise from nearby licensed premises and future events in Cadell Lane. The noise report in the 'Statement of Environmental Effects' appears to focus on how the development will not impact the neighbourhood with noise, but does not address how noise from nearby licensed premises will impact on residents. Mitigation measures like double glazing, concrete walls etc, will lessen the impact of such noise on residents, however, this should be clearly expressed in the application. This issue is also important from a legislative viewpoint, there is on-going discussions and industry pressure in respect to legislation concerning noise from licensed premises impacting on residential areas.*

*Overall the development is a positive for the area, it will bring residents close to nearby business which will benefit financially from the introduction of increased residents in the neighbourhood. It will also provide the opportunity to have a positive impact on the cities carbon footprint if residents live and work in the area.*

*The commercial and public spaces will benefit from the implementation of a Safety Management Plan, this will ensure the amenity of the area is maintained and the risk of crime is minimised through the use of appropriate crime prevention strategies.*

Comment: A condition of consent will require the preparation of a Safety Management Plan. The applicants have confirmed the use of a minimum 6.38 mm thick laminated (minimum Rw 28) glass in all external windows and doors to reduce the external noise levels to an acceptable internal noise level together with acoustic seals installed at all peripheries to operable windows and doors.

### Riverina Water

No objection subject to standard conditions regarding water supply and Certification.

### Heritage Advisor

No objection in principle to the proposal given that there is an existing masterplan and planning proposal that supports a large scale building on the subject site.

The updated drawings are a significant improvement on the original plans and include many recommendations raised in earlier discussions.

Concerns were raised regarding the treatment of the Cadell Place façade, the potential use of glazed balustrades and potential reduction in car parking to limit levels of parking. The recommendations from the Statement of Heritage Impact were supported and recommended

to be included as conditions of consent.

The heritage advisor comments were provided to the applicants who nominated to maintain the design as identified on the plans.

#### **Section 4.15(e) - the public interest**

The public interest is best served by the consistent application of the requirements of the relevant planning controls and by Council ensuring that any adverse effects on the surrounding area and the environment are avoided.

The proposal presents a significant opportunity to deliver a landmark building within a strategic and prime location and for which there is considerable community support. There are impacts associated with the proposal that are predominantly visual but these can be seen as positive and in the public interest. The enhanced riverside precinct and new levee walkways will increase the number of people in this area, the building will become a focal point for users and be far more pleasant than walking past a vacant development site.

The development site is directly adjacent to a commercial zone where greater intensification of existing sites may also occur. The revitalisation of this area with increased residences within walking distances of work, recreation and services is also considered to be within the public interest. As the city continues to grow the demand for different forms of housing in accessible locations will increase and this type of development will assist in satisfying that demand.

#### **Other Legislative Requirements**

##### **Section 1.7 of the EPA Act 1979 and Part 7 of the *Biodiversity Conservation Act 2016* (Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats)**

On 21<sup>st</sup> November 2017, certain zones of the WWLEP 2010 achieved Biodiversity Certification under the *Biodiversity Conservation Act 2016*, including all Business, Industrial, Residential and Special Infrastructure Zones that were in place at the time of the making of the *Biodiversity Conservation Act 2016*. The subject site falls within an area subject to the Biodiversity Certification Order.

The effect of the Biodiversity Certification, as set out by Section 8.4 of the *Biodiversity Conservation Act 2016* is that:

*An assessment of the likely impact on biodiversity of development on biodiversity certified land is not required for the purposes of Part 4 of the Environmental Planning and Assessment Act 1979.*

*A consent authority, when determining a development application in relation to development on biodiversity certified land under Part 4 of the Environmental Planning and Assessment Act 1979, is not required to take into consideration the likely impact on biodiversity of the development carried out on that land.*

Therefore, no further consideration of these matters is required.

##### **Section 733 of the Local Government Act 1993**

Section 733 of the *Local Government Act 1993* provides that Councils will not incur liability for decisions or omissions concerning flood liable land or land subject to the risk of bushfire.

Where required, a risk assessment has been completed and Council will be able to demonstrate that it has acted appropriately in its decision making when defending claims in liability or in circumstances where administrative decisions are challenged.

### **Flooding Risk Assessment**

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. The site is affected by flood and this has been discussed earlier in the report. The recent upgrade works to the levee bank, the provision of the structural soundness of the building and the ongoing support for development in the CBD contribute to the assessment findings that there are not anticipated to be any adverse impacts resulting from this development.

### **Bush Fire Risk Assessment**

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. A risk assessment is not required as the development is not mapped as being on Bushfire Prone Land.

### **Developer Contributions - Section 7.11 Environmental Planning & Assessment Act 1979 and Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000**

Section 7.11 of the Environmental Planning & Assessment Act 1979 and the City of Wagga Wagga's Local Infrastructure Contributions Plan 2019 - 2034 enable Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. A Section 7.11 contribution of \$561,454 applies and will be put towards the provision of high quality and diverse public facilities to meet the expectations of the residents of the city. The contribution is based on the number of residential apartments, the contribution rate is determined by the number of bedrooms as follows:-

\$5,776 /1 bed dwelling x 10 = \$57,760  
\$7,702 /2 bed dwelling x 29 = \$223,358  
\$10,012 /3 bed dwelling x 28 = \$280,336

Total contribution of \$561,454. As the contributions plan was adopted in the current financial year there is no CPI payable on this figure at this time. Conditions of consent will clarify the need for CPI increases dependent on when the contribution is paid.

Section 64 of the Local Government Act 1993, Section 306 of the Water Management Act 2000 as well as the City of Wagga Wagga's Development Servicing Plan for Stormwater 2007 / Development Servicing Plan for Sewerage 2013 enable Council to levy developer charges based on increased demands that new development may have on sewer and/or stormwater infrastructure. A Section 64 contribution of \$231,568.95 is payable for this development as a source of funding towards sewerage and/or stormwater infrastructure within the urban area.

### **Sewer**

Sewer calculations are calculated based on the increased impact to infrastructure as a result of the development. Standard ETs contained in the Water Directorate guidelines are as follows:-

1ET / 3 bed dwelling x 28 = 28ETs  
0.75ET / 2 bed dwelling x 29 = 21.75ETs  
0.5ET / 1 bed dwelling x 10 = 5ETs  
0.01ET / commercial floorspace (235 sq.m) = 2.35ETs

Total ETs: 57.1 x 3538 = \$202,019.80  
Plus CPI 115.2/100.5 = \$231,568.95

#### Stormwater

The subject site has previously been fully developed with hardstand. There is not considered to be any increase to the hardstand footprint on site and therefore no stormwater contribution payable.

#### Other Council policies

No Council policies raise any issues additional to those already covered within the assessment report

#### Other Approvals

General Terms of Approval have been issued by the Natural Resource Access Regulator in accordance with s91 of the *Water Management Act 2000*.

#### CONCLUSION:

This assessment has given consideration to the matters listed where relevant. This assessment was undertaken in accordance with section 4.15 of the Environmental Planning and Assessment Act 1979.

The proposed mixed-use development represents a unique opportunity to develop a strategically significant site in accordance with the endorsed strategic directions of the city and immediate local Riverside Precinct Masterplan and Fitzmaurice Street heritage precinct.

The proposal responds appropriately to the existing urban fabric and preferred future character of the area. It will greatly contribute to urban consolidation and invigorate the CBD's vibrancy. The development also aims to respect the heritage character of the area through the use of compatible design, materials and building articulation.

The proposal has positive social, economic and environmental outcomes for the wider benefit of the city and local residents and is consistent with the applicable legislative controls.

The application is recommended for approval subject to the listed conditions of consent.

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## RECOMMENDATION

It is recommended that application number DA18/0262 for Re-development of site to include 1 x 17 storey Residential Flat building with 3 levels of parking and 14 storeys of residential accommodation, 1 x 6 storey building with 1 level of commercial tenancies and 4 storeys of residential accommodation (total of 67 apartments with 91 car-parking spaces), linked landscaped podium and strata subdivision. be approved, subject to the following conditions:-

## A. SCHEDULE A – Reasons for Conditions

The conditions of this consent have been imposed for the following reasons:

- A.1 To ensure compliance with the terms of the Environmental Planning and Assessment Act 1979 and Regulation 2000.
- A.2 Having regard to Council's duties of consideration under Section 4.15 and 4.17 of the Act.
- A.3 To ensure an appropriate level of provision of amenities and services occurs within the City and to occupants of sites.
- A.4 To improve the amenity, safety and environmental quality of the locality.
- A.5 Having regard to environmental quality, the circumstances of the case and the public interest.
- A.6 Having regard to the Wagga Wagga Development Control Plan 2010.
- A.7 To help retain and enhance streetscape quality.
- A.8 Ensure compatibility with adjoining and neighbouring land uses and built form.
- A.9 To protect public interest, the environment and existing amenity of the locality.
- A.10 To minimise health risk to neighbouring residents and workers.

## B. SCHEDULE B – Deferred Commencement Conditions

N/A

## C. SCHEDULE C – Conditions

### Approved Plans and Documentation

- C.1 The development must be carried out in accordance with the approved plans and specifications as follows.

Plan/DocNo.	Plan/Doc Title	Prepared by	Issue	Date
A1002	Floor Plan Level 0	GPG Architecture & Design	10	24.9.19
A1003	Floor Plan Level 1a	GPG Architecture & Design	09	23.8.19
A1004	Floor Plan Level 1b	GPG Architecture & Design	09	23.8.19
A1005	Floor Plan Level 2	GPG Architecture & Design	08	23.8.19
A1006	Floor Plan Level 3	GPG Architecture & Design	10	24.9.19
A1007	Floor Plan Level 4-5	GPG Architecture & Design	09	23.8.19
A1008	Floor Plan Level 6	GPG Architecture & Design	09	23.8.19
A1009	Floor Plan Level 7	GPG Architecture & Design	09	23.8.19

A1010	Floor Plan Level 8	GPG Architecture & Design	09	23.8.19
A1011	Floor Plan Level 9	GPG Architecture & Design	09	23.8.19
A1012	Floor Plan Level 10	GPG Architecture & Design	09	23.8.19
A1013	Floor Plan Level 11-13	GPG Architecture & Design	09	23.8.19
A1014	Floor Plan Level 14	GPG Architecture & Design	09	23.8.19
A1015	Floor Plan Level 15	GPG Architecture & Design	09	23.8.19
A1016	Roof Plan	GPG Architecture & Design	02	23.8.19
A1101	Detail Floor Plan Apartments A, B, C, D E	GPG Architecture & Design	03	23.8.19
A1102	Detail Floor Plan Apartments F, G, H, I, J	GPG Architecture & Design	04	24.9.19
A1103	Detail Floor Plan Apartments K, L, M, N	GPG Architecture & Design	04	24.9.19
A2001	Proposed South Elevation	GPG Architecture & Design	03	23.8.19
A2002	Proposed North Elevation	GPG Architecture & Design	03	24.9.19
A2003	Proposed West Elevation	GPG Architecture & Design	03	24.9.19
A2004	Proposed East Elevation	GPG Architecture & Design	02	23.8.19
A2005	Proposed N/W and S/W Elevation	GPG Architecture & Design	02	23.8.19
A2006	Proposed North and South Elevation	GPG Architecture & Design	02	23.8.19
A4001	Overall Section	GPG Architecture & Design	07	23.8.19
A5001	Window and Door Schedule	GPG Architecture & Design	03	23.8.19
A6001	3 dimensional visualisations	GPG Architecture & Design	03	24.9.19
L1001	Landscape Site Plan	GPG Architecture & Design	04	24.9.19
L1002	Proposed Landscape Plan L2	GPG Architecture & Design	03	23.8.19
	Landscape Maintenance Plan	GPG Architecture & Design		no date
	Apartment Design Guide Compliance Summary	GPG Architecture & Design		24.9.19
	Apartment Design Guide Compliance Table	GPG Architecture & Design		29.8.19

	Apartment Design Guide Figures	GPG Architecture & Design		no date
	Statement of Environmental Effects	Salvestro Planning	3.2	Sep 2019
	Urban Design Statement	KI Studio		July 2019
	Traffic Impact and Parking Assessment	Graeme Shoobridge Advisory Services		29.8.19
	Environmental Noise Assessment Report	Day Design Pty Ltd		28.8.19
	Garbage Collection Plans	MJM Consulting Engineers		29.8.19
	Statement of Heritage Impact	NGH Environmental		29.8.19
	Historic Archaeological Assessment	NGH Environmental		14.8.19
4930	Summary of Geotechnical Investigations	McMahon Earth Science	01	22.5.19
	Site Environmental Overview	Sullivan Environmental Sciences		23.5.19
1030742M	BASIX Certificate	Building Sustainability Assessments		29.8.19
	Structural Statement	Peter Kennard Consulting		14.6.19
180028	Water and Sewer Service Report	Xeros Piccolo Consulting Engineers	D	29.8.19
	Written Correspondence	Newton Fisher & Associates		17.12.19

The Development Application has been determined by the granting of consent subject to and as amended by the conditions of development consent specified below.

NOTE: Any modifications to the proposal shall be the subject of an application under Section 4.55 of the Environmental Planning and Assessment Act, 1979.

### Requirements before a Construction Certificate can be issued

C.2 Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority illustrating compliance with the relevant requirements of the Building Code of Australia.

- a) Pursuant to Clause 98 of the Environmental Planning and Assessment Regulation 2000, the proposed building work must comply with the Building Code of Australia (BCA), including but not limiting to:
  - i) Structure - Section B- (Part B1)
  - ii) Fire Resistance - Section C- (Parts C1, C2, C3)
  - iii) Access and Egress - Section D- (Parts D1, D2, D3)

- iv) Services and Equipment - Section E- (Parts E1, E2, E3, E4)
  - v) Health and Amenity - Section F- (Parts F1, F2, F3, F4, F5)
  - vi) Ancillary Provisions- Section G- (Parts G1, G2, G3, G4, G5)
  - vii) Special Use Buildings- Section H- (Parts H1, H2, H3)
  - viii) Energy Efficiency- Section J- (Parts J0, J1, J2, J3, J5, J6, J7, J8)
- b) If compliance with the deem-to-satisfy provisions of the BCA cannot be achieved, a performance solution in accordance with Part A2 of the BCA must be prepared by a suitably qualified person and submitted to the Principal Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied.
- c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council for assessment and may require an application to be lodged to amend the consent.

C.3 Pursuant to s7.11 of the Environmental Planning and Assessment Act 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, a monetary contribution as identified in the table below must be paid to Council, prior to the issuing of the Construction Certificate unless, before the time due for payment, the applicant and the Council enter into a legally binding agreement for the applicant to provide works-in-kind or any other material public benefit(s) to the Council in part or full satisfaction of the monetary contribution.

The monetary contribution payable under this condition will be indexed in accordance with Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 from the endorsed date of this Development Consent until the date of payment.

Base monetary contribution (Contribution Rate in Wagga Wagga Local Infrastructure Contributions Plan 2019-2034)	\$561,454
Adopted CPI indexation applied at date of determination (as per Section 3.2 of Wagga Wagga Local Infrastructure Contributions Plan 2019-2034)	N/A (see Note 1)
Indexed monetary contribution to be paid (valid for the financial year in which the date of determination was made)	\$561,454 (see Note 2)

NOTE 1: Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 provides for Section 7.11 contributions to be indexed in accordance with annual movements in the March quarter Consumer Price Index (CPI) (All Groups Index) for Sydney as published by the Australian Bureau of Statistics. Indexed developer contributions are adopted annually by Council for the financial year.

For the 2019/20 financial year, no indexation will be applied to the base monetary contribution as it is within the first year of the Contributions Plan.

- NOTE 2: The final indexed contribution identified above remains applicable if paid within the same financial year as the date of determination. If payment is to be made outside this period, you are advised to contact Council prior to payment being made to determine if CPI increases/decreases have occurred since the date of this consent.
- NOTE 3: A copy of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, is available for inspection at Council Chambers, corner Baylis and Morrow Streets, Wagga Wagga, or on Council's website.
- C.4 Prior to the release of Construction Certificate a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.
- NOTE 1: 'Water management work' is defined in s283 of the Water Management Act to mean a 'water supply work', 'drainage work', 'sewage work' or 'flood work'. These terms are defined in that Act.
- NOTE 2: Riverina Water is responsible for issuing compliance certificates and imposing requirements relating to water supply works for development in the Council's area. An application for a compliance certificate must be made with Riverina Water. Additional fees and charges may be incurred by the proposed development - please contact Riverina Water to ascertain compliance certificate water supply related requirements. A copy of such a compliance certificate is required prior to release of Construction Certificate.
- NOTE 3: The Council is responsible for issuing compliance certificates and imposing requirements relating to sewerage, drainage and flood works for development in its area.
- NOTE 4: Under s306 of the Water Management Act 2000, Riverina Water or the Council, as the case requires, may, as a precondition to the issuing of a compliance certificate, impose a requirement that a payment is made or works are carried out, or both, towards the provision of water supply, sewerage, drainage or flood works.
- NOTE 5: The Section 64 Sewer base figure is \$202,019.80  
The Section 64 Sewer contribution (updated by the CPI 115.2/100.5) required to be paid is \$231,568.95
- NOTE 6: The Section 64 Stormwater base figure is nil  
The Section 64 Stormwater contribution (updated by the CPI/87.9) required to be paid is nil
- NOTE 7: Section 64 contributions shall be indexed in accordance with CPI annually at the commencement of the financial year.
- NOTE 8: The figures outlined in this consent are based on the current rate of CPI. Please be advised that CPI changes on a regular basis and you are advised to contact Council prior to payments being made, to ensure no

further CPI increases/decreases have occurred since the date of this consent.

- C.5 Prior to the release of a Construction Certificate, detailed engineering plans that identify the interface of the development site with Cadell Place, Sturt Street and the levee bank shall be submitted to the satisfaction of the General Manager or delegate. The plans shall detail finished levels and proposed treatments/finishes and any required works within the road reserve and/or levee. The manner in which the ramp will link to the walkway must be clearly detailed on the required plans.
- C.6 Prior to the release of a Construction Certificate detailed engineering plans of a narrow, raised median in Sturt Street between Tarcutta Street and the development driveway entry point shall be submitted to Council for approval. The same plans shall detail how required sight distances from the development driveway onto Sturt Street are to be achieved.
- C.7 Prior to release of the first Construction Certificate a Construction Management Plan to address construction activity access and parking is to be prepared to the satisfaction of the General Manager or delegate. The management plan must address, but is not limited to, the following;
- Timing for construction of the works across the site demonstrating any proposed staging of works across the site and detailing the frequency and timing of vehicle movements to and from the site;
  - Suitable provision being available on site or an identified secure location off sight for all vehicles associated with construction activity to alleviate any need to park within, or load/unload from, the surrounding public road network,
  - Access and egress arrangements for all construction related vehicles to and from the site, including details of any special equipment to be employed;
  - The required measures to be implemented during demolition and construction so that the structural integrity of the levee and stability of soil is maintained;
  - The required structural support methods to underpin, shore up or structurally support the adjacent Green Apple dental building to reasonably protect it from damage.
  - Protection of vehicles and public assets,
  - Location of hoarding, Work Zone and other traffic control devices,
  - Details of, and vehicular movement diagrams for, the largest vehicle to access the site to show that such vehicles can enter and leave the site in a forward direction;
  - Details of the type and location of waste storage containers to show that there will be no congestion, associated with the storage and removal of such materials; and
  - Details of what method will be used to ensure that the plan is adhered to including appropriate signage and fencing is to be installed and maintained to effect the plan.
  - Site security and emergency contact details
- C.8 Prior to release of the first Construction Certificate an updated Site Audit Statement (SAS) confirming that the site is suitable for the proposed development shall be prepared by a NSW EPA accredited Site Auditor to the satisfaction of the General

Manager or delegate. The SAS boundary shall include the whole of the subject site to be developed (Lot 12). A detailed site investigation (DSI) shall be undertaken over the subject land to fill possible information gaps and assist the Site Auditor to understand current conditions of soil and groundwater given the timeframe that has elapsed since previous sampling in 2008. If the results of the investigation require any changes to the plans they must be shown on the construction drawings.

- C.9 Prior to release of the first Construction Certificate a Short Term Site Environmental Management Plan shall be prepared to the satisfaction of the General Manager or delegate. The plan must address but not be limited to the safety of construction workers and the environment from any inadvertent exposure to residual contamination during construction, roles and responsibilities during construction and an unexpected findings protocol.
- C.10 Prior to the release of Construction Certificate demonstration of compliance with the Civil Aviation Safety Authority (CASA) requirements for crane height and identification lights shall be provided to the satisfaction of the General Manager or delegate.
- C.11 Prior to the release of Construction Certificate demonstrate of compliance with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure shall be provided to the satisfaction of the General Manager or delegate.
- C.12 The residential apartments shall be constructed incorporating the recommended acoustic mitigation measures identified in section 6 of the Environmental Noise Assessment Report and Section 4 of the BCA Acoustical Recommendations prepared by Day Design Pty Ltd dated 28 August 2019. Details of measures to be implemented shall be shown on the Construction Certificate Plans to the satisfaction of the principal certifying authority.
- C.13 Prior to the release of Construction Certificate additional reporting shall be provided to the satisfaction of the General Manager or delegate addressing the recommendations of the Statement of Heritage Impact identified in section 6.2 of the report prepared by NGH Environmental dated 29 August 2019.
- C.14 Prior to works commencing on site archaeological testing shall be undertaken under a section 139 (4) exemption permit of the NSW Heritage Act (1977), to determine if remains of Waterview, the store and gardens occur at the location indicated in historical sources. Such a permit can allow archaeological excavations where the potential impact on archaeological relics is demonstrated to be minor in order to verify the existence of relics without destroying or removing them. This will require the preparation of an Archaeological Research Design to accompany the permit application.
- C.15 Prior to release of Construction Certificate evidence that the existing 3 metre wide easement providing access to the levee at the north of the site has been extinguished.
- C.16 Prior to the issue of a Construction Certificate a compliance certificate must be received and approved by the certifying authority.

The compliance certificate shall be from a qualified structural/civil engineer stating that the building if constructed in accordance with the plans and specifications to which the construction certificate relates, will not sustain structural damage from the force of flowing floodwaters or from impact of debris associated with the floodwaters in a 1:100 year flood event.

- C.17 Prior to the issue of a Construction Certificate, a dilapidation report is to be undertaken. This shall include clear photos and descriptions of all existing Council infrastructure adjacent to the subject site. A copy of the dilapidation report shall be submitted to and approved by Council.
- C.18 Prior to the release of the Construction Certificate the consent given by Council's Notice of Determination of Development Application No. DA05/1052 and dated 13.2.2006 must be surrendered by the submission of a document in accordance with Clause 97(1) of the Environmental Planning and Assessment Regulation 2000.
- C.19 If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

#### **Requirements before the commencement of any works**

- C.20 If the work involved in the erection or demolition of a building or structure:
- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the development site/works and the public place prior to works commencing on site.

All construction materials, waste, waste skips, machinery and contractors vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractor's vehicles will be permitted within the public space.

If necessary, an awning must be erected, sufficient to prevent any substance, from or in connection with the work, falling into the public place. Further the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

NOTE 1: Any such hoarding, fence or awning must be removed when the work has been completed.

NOTE 2: Any external lighting required by this condition must be designed and positioned so that, at no time, will any light be cast upon any adjoining property.

NOTE 3: Prior to any hoarding being erected, the applicant must ensure that an application for a Hoarding Permit is submitted to and approved by Council.

C.21 Prior to works commencing on site, toilet facilities must be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a) a standard flushing toilet connected to a public sewer, or
- b) if that is not practicable, an accredited sewage management facility approved by Council, or
- c) if that is not practicable, any other sewage management facility approved by Council.

NOTE 1: The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced and the toilet facility must not be removed without the prior written approval of Council.

NOTE 2: "Vicinity" in this condition is defined to mean within 50 metres of the subject building site.

NOTE 3: The toilet facilities are to comply with all WORK COVER NSW requirements.

C.22 A CONSTRUCTION CERTIFICATE must be obtained pursuant to Section 6.7 of the Environmental Planning and Assessment Act 1979, as amended from either Council or an accredited certifying authority certifying that the proposed works are in accordance with the Building Code of Australia PRIOR to any works commencing.

NOTE 1: No building, engineering, excavation work or food premises fitout must be carried out in relation to this development until the necessary Construction Certificate has been obtained.

NOTE 2: YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE CONSTRUCTION CERTIFICATE, even if you made an application for a Construction Certificate at the same time as you lodged this Development Application.

NOTE 3: It is the responsibility of the applicant to ensure that the development complies with the provision of the Building Code of Australia in the case of building work and the applicable Council Engineering Standards in the case of subdivision works. This may entail alterations to the proposal so that it complies with these standards.

C.23 Prior to works commencing a container must be erected on site for the enclosure of all building rubbish and debris, including that which can be wind blown. The enclosure shall be approved by Council and be retained on site at all times prior to the disposal of rubbish at a licenced Waste Management Centre.

Materials and sheds or machinery to be used in association with the construction of the building must not be stored or stacked on Council's footpath, nature strip, reserve or roadway.

Access to construction site via adjoining council public reserve is prohibited.

No building rubbish or debris must be placed, or be permitted to be placed on any

adjoining public reserve, footway, road or private land.

Weighbridge certificates, receipts or dockets that clearly identify where waste has been deposited must be retained. Documentation must include quantities and nature of the waste. This documentation must be provided to the Principal Certifying Authority prior to application for an Occupation Certificate for the development.

The suitable container for the storage of rubbish must be retained on site until an Occupation Certificate is issued for the development.

All reasonable steps must be taken to ensure that dust from the construction and demolition activities on site is kept to a minimum. This includes wetting down disturbed soils and providing adequate cover.

Note: Wagga Wagga City Council's Gregadoo Waste Facility is the EPA licensed facility within the Local Government Area to accept waste material

C.24 Prior to the commencement of works erosion and sediment control measures are to be established and maintained to prevent silt and sediment escaping the site or producing erosion. This work must be carried out and maintained in accordance with Council's:-

- a) Development Control Plan 2010 (Section 2.6 and Appendix 2)
- b) Erosion and Sediment Control Guidelines for Building Sites; and
- c) Soils and Construction Volume 1, Managing Urban Stormwater

A plan illustrating these measures shall be submitted to, and approved by, Council. The approved erosion and sediment control measures must be in place prior to earthworks commencing.

All vehicles involved with the construction and/or demolition process and departing the property with demolition material, spoil, debris and loose material must have their loads covered before entering the public road. Suitable measures shall be in place to ensure that sediment is not tracked onto the roadway by vehicles leaving the site. This may require the installation of an all-weather temporary driveway for all construction vehicles accessing and leaving the site.

It is an offence to allow, permit or cause materials to pollute waters.

C.25 Prior to any works commencing on site a Controlled Activity Approval must be applied for and obtained from the Natural Resources Access Regulator (NRAR).

A completed application form must be submitted to NRAR together with any required plans, documents, application fees, security deposit or bank guarantee (if required) and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

Application forms are available from the NRAR website at:  
[www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities](http://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities)

- C.26 Prior to works or activities commencing within the road reserve, detailed engineering plans shall be prepared that identify the full formation and full width road construction of Cadell Place for the full frontage of the subject site and extending to Sturt Street. The design shall include footpath formation, drainage, pavement construction, sealing and service adjustments. The design shall incorporate traffic calming measures to assist in the slowing of vehicles past the subject site.

The pavement design shall be carried out by a qualified Geotechnical Engineer based on site investigation and shall be accordance with Council's Engineering Guidelines for Subdivisions and Development.

The plans shall be submitted to Council's Subdivision Engineer for approval.

- C.27 As street trees will become an asset of Council, if the applicant chooses to engage a contractor the following information is to be supplied for review and approval by Council's Supervisor of Tree Planning and Management prior to works commencing on site:
- (1) Company trading name
  - (2) Contractor's license number
  - (3) Relevant experience of company
  - (4) Relevant qualifications of key staff undertaking the works

If the applicant chooses to engage a contractor to undertake the street tree planting then a bond of \$500 per street tree is required to be paid to Council prior to the release of the Construction Certificate. Installation can only occur during the next available planting season (May-August).

NOTE: The fee per street tree will be in accordance with the figure nominated in this condition or in accordance with Council's adopted Revenue and Pricing Policy at the time of payment of this fee whichever is the greater.

- C.28 Prior to works commencing on site:
- i) Council must be notified of any damage to kerb and gutter and footpath fronting the site. The absence of such notification shall indicate that no damage exists and the applicant shall be responsible for the repair of any damage to kerb and gutter or footpath fronting the site.
  - ii) Satisfactory protection for existing public infrastructure must be provided and maintained throughout the construction period.
- C.29 Prior to works commencing within the road reserve, approval is required from Council. The applicant shall arrange a Pre-Start meeting with Council's Development and Subdivisions Engineer. Please contact Council's Development and Subdivisions Engineer on 1300 292 442 to book inspections quoting the reference number shown on the approved plans.
- C.30 Prior to the planting of any street trees by the contractor each tree is to be inspected by the General Manager or their delegate to ensure that trees have been grown in accordance with relevant Natspec guidelines. Trees that have been rejected by the General Manager or their delegate are not to be planted.

Council will provide planting installation details to the contractor to ensure street trees are planted in accordance with Australian and WWCC standards.

The General Manager or their delegate will undertake an inspection following the installation of the street trees. Any street trees that have been planted incorrectly will be required to be replanted within one week of the inspection. If replanting does not occur WWCC will utilise the \$500 bond per tree for each tree incorrectly planted and not replaced correctly to undertake the supply, planting and maintenance of the replacement tree/s.

NOTE: The fee per street tree will be in accordance with the figure nominated in this condition or in accordance with Council's adopted Revenue and Pricing Policy at the time of payment of this fee whichever is the greater.

- C.31 A Section 68 Approval must be obtained by a Licensed Plumber and Drainer prior to any sewer or stormwater work being carried out on the site. Plans must be supplied for assessment and approval as part of the s68 application and must indicate that pipe and pit sizing meets the requirements of AS3500 and the Plumbing Code of Australia.

Further, a final inspection must be carried out upon completion of plumbing and drainage work prior to occupation of the development.

The licensed plumber must submit to Council, at least two (2) days prior to the commencement of any plumbing and drainage works on site a "Notice of Works".

NOTE: A copy of the Notice of Works form can be found on Council's website.

- C.32 Prior to works or activities commencing within the road reserve, approval under Section 138 of the Roads Act 1993 is required from Council.

A written application for Consent to Work on a Road Reserve is required to be submitted to and approved by Council. This shall include the preparation of a certified Temporary Traffic Management Plan (TTP) for the works.

It should be noted that work in the existing road reserve can only commence after the plan has been submitted and approved and then only in accordance with the submitted TTP. Please contact Council's Activities in Road Reserves Officer on 1300 292 442.

- C.33 Prior to approval of the Section 138 Permit a bond of 5% of the cost of works in Cadell Place and Sturt Street, in the form of cash or bank guarantee shall be paid to Council for the following:

- (a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which the consent relates,
- (b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent,
- (c) remedying any defects in any such public work that arise within 12 months after the work is completed.

### Requirements during construction or site works

- C.34 Vehicular access within the road reserve must be constructed to Council standards, at full cost to the developer, by a licensed Council approved contractor. A list of Contractors can be found on Council's website at- <<https://wagga.nsw.gov.au/city-of-wagga-wagga/engineering-services/traffic-and-transport/working-in-a-road-reserve-or-footpath>> Driveway design and grades shall comply with AS2890.1: 2004 (or as amended) and Council's Engineering Guidelines for Subdivisions and Developments.
- C.35 If an excavation associated with the erection/demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- a) must preserve and protect the building from damage, and
  - b) if necessary, must underpin and support the building in an approved method, and
  - c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the building being erected/demolished.
- NOTE 1: The owner of the adjoining allotment of land is not liable for any part of the cost of the work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- NOTE 2: For the purposes of this condition allotment of land includes a public road or any other public place.
- C.36 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.
- C.37 All excavation and backfilling associated with the erection/demolition of the building must be properly guarded and protected to prevent them from being dangerous to life or property.
- C.38 A survey certificate prepared by a registered land surveyor shall be provided to the Principal Certifying Authority at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment.
- C.39 The permitted construction hours are Monday to Friday 7.00am to 6.00pm and Saturday 7.00am to 5.00pm, excepting public holidays. All reasonable steps must be taken to minimise dust generation during the demolition and/or construction process. Demolition and construction noise is to be managed in accordance with the Office of Environment and Heritage Guidelines.
- C.40 During on site works, adequate fire precautions must be undertaken ensuring the provision of at least one fire extinguisher to suit Class A, B and C fires and electrical fires at all times in the construction area.

C.41 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.

C.42 The fill material use for the proposed development shall only be "Virgin Excavated Natural Material" as described in Schedule 1 of the Protection of the Environment and Operations Act 1997.

Prior to the material being received on site registration numbers of vehicles delivering material to the development and the address of origin for the fill shall be documented. Documentation must include quantities and nature of the fill.

A log of the above mentioned information is to be kept including the date that the materials were received. This log is to be submitted to Council upon completion of works.

C.43 No work shall take place to alter the levee in any way without prior approval from Council. Council shall be notified immediately of any damage to the levee as a result of the development works.

C.44 Any upgrades or alterations to existing Council infrastructure required as a result of the development shall be at the full cost of the applicant. Contact Council's Development Engineer to confirm what approval is required prior to commencing work on any Council infrastructure. Such work includes (but is not limited to) upgrade or connection to sewer or stormwater mains, and alteration of stormwater pits and sewer manhole levels.

C.45 Where works involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where excessive dust generation is occurring due to high winds and/or dry conditions it may be necessary to temporarily cease operations.

C.46 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

C.47 Inspections are to be carried out on the approved road works in accordance with Council's Engineering Guidelines for Subdivisions and Development (or as amended) by Council. The following aspects of road works shall be inspected at the required hold points:

- (a) Pre-start inspection and inspection of traffic management & soil & erosion control measures.
- (b) Subgrade proof roll. Survey levels and compaction results.
- (c) Subbase proof roll. Compaction results.
- (d) Basecourse proof roll. Survey levels and compaction results.
- (e) Prior to sealing
- (f) Into Maintenance inspection.
- (g) Out Of Maintenance inspection at expiry of the maintenance period.

NOTE: Fees for inspections will be charged in accordance with Council's current Fees and Charges Schedule. Please contact Council's Development Engineer on 1300 292 442 to book inspections.

- C.48 The building must be designed and constructed in such a manner and of such materials as to minimise the likelihood of damage to the building in the event of flooding.
- C.49 If any Aboriginal object is discovered and/or harmed in, on or under the land, all work must cease immediately and the area secured so as to avoid further harm to the Aboriginal object. The Office of Environment and Heritage shall be notified as soon as practicable on 131 555, providing any details of the Aboriginal object and its location, and no work shall recommence at the particular location unless authorised in writing by Office of Environment and Heritage.
- C.50 If historical archaeological remains are discovered during site works, works must immediately cease and the Heritage Branch of the NSW Department of Planning should be contacted for further advice, as required under Section 139 of the Heritage Act 1977.
- C.51 A Compliance Certificate for the plumbing and drainage work identified in Column 1 at the times specified in Column 2 must be obtained from Council.

COLUMN 1	COLUMN 2
Internal Sewer Drainage	When all internal plumbing and drainage work is installed and prior to concealment.
External Sewer Drainage	When all external plumbing and drainage work is installed and prior to concealment.
Stormwater Drainage	When all external stormwater drainage work is installed and prior to concealment.
Stack Work	When all work is installed and prior to concealment.
Final	Prior to occupation of the building or structure.

### Requirements before a Subdivision Certificate can be issued

- C.52 A Subdivision Certificate, pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended must be obtained from Council, prior to its lodgement with the Lands Titles Office.

The Final Survey Plan (two paper copies and an electronic copy) must be submitted to Council along with the application for Subdivision Certificate and associated checklist.

NOTE: Council will only consider issuing a Subdivision Certificate in relation to this subdivision when it is satisfied that all conditions of development consent relating to the subdivision have been complied with and the appropriate fee paid.

- C.53 Prior to the issue of the Subdivision Certificate the following documents shall be submitted to Council to demonstrate that the requirements of the public utility services have been met:-
- i) Essential Energy: Notification of Arrangement OR Certificate of Acceptance
  - ii) APA Gas: Certificate of Acceptance

- iii) Riverina Water: Certificate of Compliance
- iv) Certification from an approved telecommunications provider

### **Requirements prior to issue of an Occupation Certificate or prior to operation**

- C.54 Prior to issue of occupation certificate all redundant kerb laybacks in Sturt Street shall be replaced with conventional barrier kerbing and Council's footway rehabilitated, in accordance with Council's Engineering Guidelines for Subdivisions and Developments. Any required re-marking of on-street parking spaces within Sturt Street to the front of the development site shall also be completed.
- C.55 Prior to the issue of Occupation Certificate, the paving of all vehicular movement areas must be either a minimum of 150mm thick flexible pavement and sealed or 150mm thick reinforced concrete.
- C.56 The consent holder must engage in a consultative process with Riverina District (Licensing Police or Crime Prevention Officer) who will prepare a Safety Management Plan ('the plan') to be implemented in respect to all commercial aspects and public spaces of the consent issued by Wagga Wagga City Council for this development. The plan must be signed and approved by the District Commander or their delegate and submitted to Wagga Wagga City Council for endorsement prior to any premises being occupied and commencing operations.

The consent holder, or any other person in control of any commercial premises whilst trading must comply with each individual condition of the plan at all times. The plan must include conditions designed to maintain the amenity of the neighbourhood where the development is to occur. These conditions may include but are not limited to, staff & customer safety & security in commercial spaces & public spaces, the installation and maintenance of digital HD CCTV cameras, crime scene guidelines, street and/or safety lighting, rubbish removal, reporting incidents to police and negotiating amendments and/or updates to the plan.

It is the responsibility of the consent holder to initiate contact with the Riverina Police District to commence the consultative process for the plan.

- C.57 Prior to issue of an occupation certificate the building number must be displayed in a position clearly visible from the street in letters having a height of not less than 75 mm. The number must be visible against the background on which it is placed.
- C.58 Prior to release of Occupation Certificate the required construction of a median in Sturt Street shall be completed in accordance with the details approved under condition number C6.
- C.59 Prior to release of Occupation Certificate the required treatment of Cadell Place shall be completed in accordance with the details approved under condition number C26.
- C.60 Prior to release of Occupation Certificate an Operational Site Management Plan shall be prepared to the satisfaction of the General Manager or delegate. The plan shall include but not be limited to; access to car parking spaces and storage cages, management of common and communal areas, maintenance of plant and equipment, health and safety, emergencies and contingency events including bushfire and floods, visitor management, waste servicing collection and management, furniture removal and deliveries to the site. The plan shall be implemented at all times.

- C.61 Prior to the issue of an Occupation Certificate for the completed development fees for Civil Works (including road works, stormwater, sewer, concrete works) inspections shall be paid in full. Inspections will be charged in accordance with Council's current Fees and Charges Schedule.
- C.62 Prior to release of an Occupation Certificate for the completed development an "into maintenance inspection" must be carried out of the completed road works. The maintenance period will last for 12 months, upon which time an "out of maintenance inspection" will be required to ensure the works are acceptable to Council.
- C.63 Prior to the issue of an Occupation Certificate, the owner must submit to Principal Certifying Authority and New South Wales Fire Brigades a Fire Safety Certificate stating that each essential fire safety measure specified in the current Fire Safety Schedule for the building to which the certificate relates:
- a) has been assessed by a properly qualified person; and
  - b) was found, when it was assessed, to be capable of performing to a standard not less than that required by the current Fire Safety Schedule for the building.

Further, the assessment must be carried out within a period of three (3) months of the date on which the final Fire Safety certificate was issued. The owner of the building must forward a copy of the certificate to the Council and must prominently display a copy in the building.

- C.64 An Occupation Certificate, must be obtained pursuant to Section 6.9 of the Environmental Planning and Assessment Act 1979, from either Council or an accredited certifying authority, prior to occupation of the building.
- C.65 A final inspection must be carried out upon completion of plumbing and drainage work and prior to occupation of the development, prior to the issuing of a final plumbing certificate Council must be in possession of Notice of Works, Certificate of Compliance and Works as Executed Diagrams for the works. The works as Executed Diagram must be submitted in electronic format in either AutoCAD or PDF file in accordance with Council requirements.

All plumbing and drainage work must be carried out by a licensed plumber and drainer and to the requirements of the Plumbing and Drainage Act 2011.

NOTE: Additional fees for inspections at the Plumbing Interim Occupancy / Plumbing Occupation stage may apply. This will depend on the number of inspections completed at this stage of the work/s.

- C.66 Prior to the issue of an Occupation Certificate a Water Plumbing Certificate from Riverina Water County Council shall be submitted to Council.

NOTE 1: The applicant is to obtain a Plumbing Permit from Riverina Water County Council before any water supply/plumbing works commence and a Compliance Certificate upon completion of the works. Contact Riverina Water County Council's Plumbing Inspector on 6922 0618. Please be prepared to quote your Construction Certificate number.

- C.67 Prior to the Issue of Occupation Certificate the following documents shall be submitted to Council to demonstrate that the requirements of the public utility services have been met:

- i) Essential Energy: Notification of Arrangement OR Certificate of Acceptance
- ii) APA Gas: Certificate of Acceptance
- iii) Riverina Water: Certificate of Compliance

### General requirements

C.68 All exterior lighting associated with the development must be designed and installed so that no obtrusive light will be cast onto any adjoining property.

NOTE: Compliance with Australian Standard AS4282.1997 "Control of the Obtrusive Effects of Outdoor Lighting" will satisfy this condition.

C.69 No signage is approved as part of the application, no signs or advertising material (other than those classed as exempt development) shall be erected on or in conjunction with the proposed occupation of the site without a subsequent application being approved by Council.

C.70 A development application will be required for the use of any commercial floor area for any type of food and drink premises.

C.71 Any soil removed from the site must be appropriately classified in accordance with the Waste Classification Guidelines (DECC 2006) prior to being lawfully disposed of. Any soil imported to the site should be first assessed as being suitable for the use on the site by an experienced geotechnical engineer and if required by appropriate soil sampling and testing by a NATA accredited laboratory in accordance with relevant Australian Standards.

C.72 The approved waste management plan shall be implemented at all times that the development is in operation.

C.73 The owner must submit to Council and the NSW Fire Brigade an Annual Fire Safety Statement, each 12 months, commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

C.74 Once street trees have been planted, inspected and approved by Council the two years maintenance period will commence. Ongoing establishment and maintenance is to occur during this period to ensure a 100% survival rate of street trees. Any trees lost during this period due to death, disease, vandalism etc will require replacement by the organisation that installed the trees (be it WWCC or the applicant).

If planting is undertaken by a contractor, at the end of the two years maintenance period the General Manager or their delegate will undertake an inspection of the street trees. Council will utilise the collected bond paid for each tree incorrectly planted and not replaced correctly to undertake the supply, planting and maintenance of the replacement tree/s.

C.75 A minimum of 91 car parking spaces must be made available on site at all times in accordance with Australian Standards AS2890.1 2004, AS2890.2.2002 and AS/NZS2890.6.2009. The tandem car parking spaces shown on the approved drawings are to be used by single apartments only at all times.

- C.76 The car park and all associated facilities must be laid out in accordance with Australian Standards AS2890.1.2004 AS2890.2 2002 and AS/NZS2890.6.2009.

## **D. SCHEDULE D – Activity Approval Conditions (Section 68)**

N/A

## **E. SCHEDULE E – Prescribed Conditions**

Conditions under this schedule are prescribed conditions for the purposes of section 4.17 (11) of the Environmental Planning and assessment Act 1979.

- E.1 Fulfilment of BASIX commitments (clause 97A EP&A Reg 2000)

The commitments listed in any relevant BASIX Certificate for this development must be fulfilled in accordance with the BASIX Certificate Report, Development Consent and the approved plans and specifications.

- E.2 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 (clause 98 EP&A Reg 2000)

- (1) For development that involves any building work, the work must be carried out in accordance with the requirements of the Building Code of Australia.
- (2) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance shall be in force before any building work authorised to be carried out by the consent commences.
- (3) For a temporary structure that is used as an entertainment venue, the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.

NOTE 1: This condition does not apply:

- (a) to the extent to which an exemption is in force under clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000 (the Regulation), subject to the terms of any condition or requirement referred to in clause 187(6) or 188(4) of the Regulation, or
- (b) to the erection of a temporary building, other than a temporary structure to which part (3) of this condition applies.

NOTE 2: In this condition, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:

- (a) development consent, in the case of a temporary structure that is an entertainment venue, or
- (b) construction certificate, in every other case.

NOTE 3: There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.

### E.3 Erection of signs (clause 98A EP&A Reg 2000)

For development that involves any building work, subdivision work or demolition work, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

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

NOTE 1: This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

NOTE 2: This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

NOTE 3: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained.

### E.4 Notification of Home Building Act 1989 requirements (clause 98B EP&A Reg 2000)

Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
  - (i) the name and licence number of the principal contractor, and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
  - (i) the name of the owner-builder, and
  - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council

written notice of the updated information.

NOTE: This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

E.5 Entertainment venues (clause 98C EP&A Reg 2000)

If the development involves the use of a building as an entertainment venue, the development shall comply with the requirements set out in Schedule 3A of the Environmental Planning and Assessment regulation 2000.

E.6 Maximum capacity signage (clause 98D EP&A Reg 2000)

For the following uses of a building: a sign must be displayed in a prominent position in the building stating the maximum number of persons permitted in the building if the development consent for the use contains a condition specifying the maximum number of persons permitted in the building:

- (a) entertainment venue,
- (b) function centre,
- (c) pub,
- (d) registered club,
- (e) restaurant.

NOTE: Words and expressions used in this condition have the same meanings as they have in the Standard Instrument.

E.7 Shoring and adequacy of adjoining property (clause 98E EP&A Reg 2000)

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the building, structure or work from possible damage from the excavation, and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.

NOTE: This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

## F. SCHEDULE F – General Terms of Approval (Integrated Development)

F.1 General Terms of Approval for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000 (Ref No: IDAS1108522)

Design of works and structures

GT0009-00010

Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.

GT0013-00001

A. Any proposed controlled activity carried out under a controlled activity approval must be directly supervised by a suitably qualified person.

B. A copy of this approval must be: i) kept at the site where the controlled activity is taking place, and ii) provided to all personnel working on the controlled activity.

GT0019-00003

Any proposed excavation on waterfront land must be undertaken in accordance with a plan submitted as part of a controlled activity approval, to be approved by Natural Resources Access Regulator.

Plans, standards and guidelines

GT0002-00586

A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1 relating to Development Application 180262 provided by Council to the Natural Resources Access Regulator.

B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Albury Office must be notified in writing to determine if any variations to the GTA will be required.

GT0008-00027

A. Before the proposed controlled activity can commence, a riparian corridor must be clearly marked, protected and maintained in accordance with a plan submitted as part of the controlled activity approval, and approved by Natural Resources Access Regulator.

B. The corridor must extend for: i) a width of 5 m, measured horizontally landward from the highest bank of the river, and ii) the length of the site directly affected by the controlled activity.

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by NRAR for integrated development associated with DA18/0262 as provided by Council:

- Statement of Environmental Effects Report
- Statement of Environmental Effects Civil Drawings