



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

APPLICATION DETAILS

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| Application No.: | DA20/0009 |
| Modification No.: | N/A |
| Council File No.: | D/2020/0009 |
| Date of Lodgement: | 15/01/2020 |
| Applicant: | SE Roberts 21 Fox St WAGGA WAGGA NSW 2650 |
| Proposal: | Demolition of garage, new double garage with upper floor loft area, internal alterations to dwelling and boundary wall to rear. |
| Description of Modification: | N/A |
| Development Cost: | \$250000 |
| Assessment Officer: | Amanda Gray |
| Determination Body: | Council |
| Other Approvals | Nil |
| Adjoining Owners Notification: | 30 January - 6 February 2020 24 March - 31 March 2020 |
| Advertising: | Not required |
| Owner's Consent Provided: | yes |
| Location: | Existing dwelling on the eastern side of Fox Street approximately 165 metres to the south of the junction with Morgan Street. |

SITE DETAILS

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| Subject Land: | 21 Fox St WAGGA WAGGA NSW 2650 Lot A DP 175176 |
| Owner: | SE Roberts |

PLANNING CONTROLS / STATUTORY CLASSIFICATION

Pursuant to Part 4

Description of Development

This application is for the demolition of an existing garage and construction of a new detached double garage with loft studio above and internal alterations to the existing dwelling.

An existing detached double garage at the rear of the house is to be demolished and replaced with a garage and upper floor studio. The garage structure has dimensions of 7m x 8.5m within which the garage area is 7m x 7.15m and the remaining 1.35m width is taken up by the stairs and doorway leading to the upper floor. The garage has a single double door of 5.2m in width that opens to the rear laneway, the structure is set back 1 metre from the laneway.

The studio area extends across the footprint of the garage and includes an open plan living space, storage areas and a bathroom. There are two windows facing back towards the house and two windows on the northern elevation, in addition there are skylights to the southern elevation to allow additional natural light into the living space. Solar panels are proposed on the northern elevation of the roof. A verandah is proposed at ground level to the northern side of the building

The detached building is proposed to be built in red brick with colorbond roof to match the existing dwelling. A 1.8 m high brick boundary fence is proposed to the rear lane for the area of the rear garden that is not occupied by the garage. This is a distance of approximately 3 metres from the northern boundary and will include a pedestrian gate directly adjoining the garage structure. One tree is to be removed from the garden to allow for the development, this is not a mature tree and is less than 8 metres in height.

The internal alterations that are proposed for the existing dwelling consist of the conversion of an existing bedroom into a walk-in-robe and en-suite bathroom for the master bedroom. There are no external changes to the building as a result of the development, existing doors are to be re-used as required.

The Site and Locality

The subject site is legally identified as Lot A DP175176 and is known as 21 Fox Street. The lot is uniform in shape extending to 670 sq.m and is located on the eastern side of Fox Street approximately 165 metres to the south of the junction with Morgan Street.

The subject site consists of one detached dwelling with detached double garage to the rear. There is an established rear garden with trees and a laneway to the rear (Womboy Lane) provides vehicular access to the garage.

The surrounding area is characterised by single detached dwellings on similar sized blocks with varying sizes of detached outbuildings to the rear.

The site is within the heritage conservation area.

Easements and Covenants

There are no known easements or covenants across the site.

Previous Development Consents

DA03/0469 - Painting of dwelling in conservation area. Approved 20.6.2003.

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 WWLEP 2010 the land is zoned R1 General Residential. The objectives of the R1 zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of the residents.*
- *To ensure co-ordinated and cost effective provision of physical, social and cultural infrastructure in new residential areas.*

The proposal relates to an established single dwelling that provides for the housing needs of the community. The proposal is consistent with the first two listed objectives.

Part 2 Permitted or prohibited development Land Use

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

dwelling house means a building containing only one dwelling.

The use is an approved permissible use within the R1 zone. The proposed works being ancillary and part of the dwelling are therefore deemed to be a permissible use in the 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

There are no principal development standards that apply to this application.

Part 5 Miscellaneous provisions

5.10 Heritage Conservation

The objectives of this clause are:

- to conserve the environmental heritage of Wagga Wagga*
- to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views*

The proposal is for a new garage and studio to the rear and internal alterations to the dwelling. The garage being demolished is not considered to be contributory to the significance of the conservation area, the changes to the laneway incorporate a form of development that the current controls permit. The streetscape to Fox Street is not altered or impacted by the proposal ensuring that its heritage significance is conserved.

Requirement for consent:

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,*
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior*
- (c) altering a heritage item that is a building by making structural changes to its interior.*

This proposal includes demolition and new building within a conservation area and therefore requires consent from Council. The lodgement of this application satisfies this clause.

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 new garage and studio will be visible from the rear lane only and present as a larger and bulkier structure than the existing garage. The materials proposed are to match the existing dwelling. The existing developments within the laneway are varied and offer no consistent context within which the new development would look out of place. There are other second floor living spaces within the laneway and wider garages that cover full block widths. The proposed development is not considered to materially affect the heritage significance of the site or the conservation area in general.

Part 6 Urban Release Areas

The proposal is not within an Urban Release Area.

Part 7 Additional Local Provisions

7.3 Biodiversity

Clause 7.3 relates to biodiversity. The whole of the site is covered by the biodiversity layer and therefore this clause applies. The objectives of this clause are to protect, maintain or improve the diversity of the native vegetation. There is no significant vegetation being removed as a result of the development, existing mature trees within the garden are to remain. The diversity of native flora and fauna is not adversely impacted and there is no identified threat to any habitats or wetland corridors. The application is consistent with the objectives of this clause and the matters relevant to clause 7.3 are therefore satisfied.

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. The proposed development will not result in any adverse impacts to groundwater as the use is not development specified for the purposes of this clause

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 development relates to existing residential accommodation and therefore will have no impact upon the ongoing primacy of the CBD. The investment into residential properties such as this within such close proximity to the CBD contributes to the ongoing support of the businesses located within this area.

State Environmental Planning Policies (SEPPs)

SEPP 55 Remediation of Land

Clause 7 of SEPP 55 requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use.

The subject site is not listed on Council's potentially contaminated land register and there is no evidence of any use of the site for a purpose listed in Table 1 of the guidelines. The site has historically been in residential use and no changes to this use are proposed.

The site is considered suitable for the intended use in accordance with the SEPP.

SEPP (Building and Sustainability Index: BASIX) 2004

A valid BASIX Certificate has been lodged with this application. Commitments made in the Certificate have been considered as part of this assessment. A standard condition for compliance with the Certificate will be imposed.

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

No relevant planning instrument under this clause is currently the subject of public exhibition or comment.

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 notified to adjoining neighbours from 30 January - 6 February 2020. As a result of this notification one submission was received in objection to the development. Amended plans were prepared and the application was re-notified between 24 - 31 March 2020. One submission was again received in objection to the proposed development and this is detailed in section (d) of this report.

1.11 Complying with the Wagga Wagga Development Control Plan 2010

Where an application involves the variation of one or more controls within the DCP Council staff have delegation to approve variations but only limited to certain developments. The limitations are that adequate justification must be provided by the applicant for the number of controls being varied, the variation must not relate to multi dwelling housing and no objections shall have been received in relation to any numerical control that is being varied by greater than 10%. As an objection has been received specifically in relation to one of the varied controls (clause 3.3.2) the proposal is required to be reported to Council for determination.

The variations proposed are as follows:

- Clause 3.3.2 - vary the upper floor materials to the loft space and vary the garage design width and length by 1 metre.
- Clause 9.4.4 - vary the outbuilding size by 0.8%

The DCP requires that the following criteria must be considered in determining whether a departure from the DCP is warranted:

- *Whether there will be any detrimental impact on the amenity of the existing and future residents/occupants, as well as, its surrounds.*
- *The nature and magnitude of the departure.*
- *The degree of compliance with other relevant controls, objectives and principles and any compensatory measures proposed to offset the departure.*
- *The circumstances of the case, including whether the particular control(s) is unreasonable and/or unnecessary.*
- *Priorities identified in a site analysis being of greater importance than what is being departed from.*
- *Whether non-compliance will prejudice the objectives of the zone and the aims of the DCP.*
- *of the Environmental Planning and Assessment Act 1979 - matters for consideration in the determination of a development application.*

The proposed variations have been justified and discussed in more detail under the applicable sections of this report.

Section 2 - Controls that Apply to All Development

2.1 Vehicle access and movements

The objectives of this provision, to ensure the safety and efficiency of urban and rural roads and limit new access points, have been fully met by the applicant. The existing vehicle access to the premises from Womboy Lane at the rear will remain the same.

2.2 Off-street parking

The proposed new double garage satisfies the demand for parking on site.

2.3 Landscaping

The rear garden is well maintained and existing mature trees are to be retained. One small tree is to be removed to allow for the development and additional landscaping is proposed by the applicant.

2.4 Signage

No signage is proposed as part of this application.

2.5 Safety and security

The new building at the rear of the site will provide a safe secure area for the parking of vehicles and storing goods. The proposed boundary wall will ensure that the rear garden is fully secured from the laneway.

2.6 Erosion and Sediment Control Principles

It is recommended that a standard condition is imposed for the installation of sediment and erosion control measures during construction works.

2.7 Development adjoining open space

The development does not adjoin open space.

Section 3 - Heritage Conservation

3.3.2 Residential precinct

Controls within this section are applicable as the development is for alterations and additions in the heritage conservation area.

Alterations, additions and infill development

The objectives of this section are as follows:

O1 Retain characteristic buildings from significant periods of development for the conservation area.

O2 Retain details and features that are characteristic of the conservation area, and encourage reinstatement of these features where they have been removed.

O3 Encourage new buildings to respond positively to the character of adjoining and nearby buildings.

O4 Ensure that new work is sympathetic to the bulk, mass and scale of characteristic buildings in the conservation area.

The original dwelling is to be retained in its original form. The internal alterations are minimal and sympathetic and have no impact upon the character of the conservation area.

There are no characteristic buildings or features being removed as part of the development. The massing, bulk and scale of the garage and loft space is discussed throughout the report and is assessed as being suitable within this part of the conservation area.

Alterations and additions

C1 Design new work to complement the style and period of the building in terms of style, scale, form, roof form and materials. New works can be a modern interpretation and do not need to strictly follow the original style.

The garage and loft space building to the rear lane is to be built in materials that match and complement the existing dwelling being red brick and colorbond roofing. There are other examples of brick built structures within the laneway including loft studio areas which further

complement the use of the chosen material. The internal alterations offer improved amenity value to the occupiers without any detriment to the heritage value of the property.

C2 Alterations should generally be to the rear of the property. Alterations to the side can be considered where side setbacks are sufficient.

The proposal complies with this control.

C3 Additions are to retain, and be subservient in form and scale, to the primary form of the building.

The additions will not dominate the primary form of the main building.

C4 New work is to be below the main ridge height of the building, and be articulated from the primary form by setbacks in the walls and height of the roof. Maintain a descending scale to the rear.

The garage and loft space would not comply as the overall pitch height is marginally above that of the main dwelling and therefore does not 'maintain a descending scale to the rear'. However, the garage and loft space complies with the specific controls regarding height for this type of structure and therefore the controls are contradictory in this regard. Given that the height control for such rear lane structures is numerical it is considered that more weight should be given to that control in this instance. For this reason, the non-compliance of this structure with this control can be supported.

C5 Use vertically proportioned windows.

The new windows are comparable and complementary to existing windows on the dwelling and are vertically proportioned.

C6 Select materials to complement the period and style of the building and the conservation area. Use compatible, but not necessarily matching materials - modern materials may be appropriate.

The garage and loft space are to be constructed in materials to match the existing dwelling. Overall the choice of materials raise no concerns and are considered acceptable.

Secondary dwellings on rear lanes

Although the upper loft area is not a secondary dwelling the controls within this section are written to be applicable to both secondary dwellings and loft type accommodation as noted below.

The rear lanes of the conservation area are becoming increasingly active, with a range of developments and building forms. Secondary dwellings and loft type accommodation, often constructed over a garage, can be considered on rear lanes where there is sufficient site width and area.

If the approved loft area were to install kitchen and laundry facilities it would make it a secondary dwelling without any further external impact to the laneway and heritage area. Therefore despite the heading of this section the controls are considered to be of relevance and are subsequently assessed below.

Objectives

O1 Ensure secondary dwellings and similar structures are located on sites with adequate area and width.

O2 Avoid inappropriately bulky and visually intrusive structures on rear lanes.

O3 Maintain adequate sight lines and ensure the ongoing safety and functionality of rear lanes.

Controls

C1 Minimum frontage/site width - 9m.

The site has a width of 13.4m and complies with this control.

C2 Any residential or habitable accommodation is to be above the footprint of the ground floor garage.

The accommodation extends across both the garage, storage area and stairwell. The provision of a loft space above the garage only would result in a very irregular roof form and accessing the upper floor would be problematic. There is no objection to the loft space covering the whole ground floor area as it results in a better visual outcome and is consistent with other controls.

C3 The residential or habitable accommodation is to be in the form of a loft addition set into the roof space.

The loft addition is set into the roof space, plans were modified during the assessment process that resulted in the roof being lowered and storage and bathroom areas utilised the areas with lower roof spaces.

C4 Maximum wall height to eave - 4.2m.

The maximum wall height is 3.9m and complies with this control.

C5 The upper section is to be constructed using contrasting materials in order to lower the apparent height and reduce apparent bulk and scale.

The upper section is proposed in the same matching brickwork as the garage and existing house.

The variation to this control has been justified by the applicants as follows:-

A mixed use of materials is proposed within the gables to maintain the heritage style in the area. This also is proposed as it is sympathetic with the heritage style of the existing residence.

Whilst the DCP encourages use of different materials (such as weatherboards) for the loft addition, the applicant is keen to utilise red brick and decorative gable and sash windows which is in keeping with the original residence. The use of other materials such as weatherboard or cement sheeting are not considered by the applicant to be sympathetic to the heritage style of the existing residence or the conservation area. It is considered unlikely that this proposal will have any significant negative visual impact on the surrounding area, given the existing usage of red brick in numerous buildings. To the contrary, the proposal is anticipated to have a positive visual impact on the rear lane because a colourbond garage and fence will be replaced with an attractive red brick garage and red brick fence.

The above comments are noted.

A change in material does not alter the overall height or scale of the development it just presents a different visual impact. In this case as the development proposed complies with the height control under C4 above and does cover the full width of the block. Furthermore the inclusion of decorative gables to add a different dimension and enhance the red brick building material results in an acceptable visual impact that is compliant with the overall objectives of this section.

C6 Roof forms and elements such as dormers that articulate and break up the roof are encouraged.

There are no dormer windows proposed, skylights and solar panels are proposed and will assist in breaking up the roof form consistent with this control.

Garages and carports

The objectives of this section are to:

O1 Minimise visual intrusion from garages and carports, and require structures to be located behind the building line.

O2 Establish parameters for the proportion and detailing of garage and carports.

Controls

C1 Where possible, car access should be from a rear lane.

The garage fronts the rear lane and therefore complies with this control.

C3 Materials are to be compatible with the materials of the main building. Any detailing is to be subservient to the detailing or decorative features of the main building.

The garage and loft studio are to be constructed in matching brick with colorbond roof. As noted above the materials are considered acceptable.

C4 Max size of garages:

Double garage - 6000mm wide x 7500mm long, 2400mm walls, 27 degree roof pitch rising to apex 3900mm high. Two roller doors 2600mm wide in 3 equal wall bays.

Roof pitch 27 degrees (quarter pitch) or steeper to match the roof pitch of the house. Roof pitches can be broken with a 10 to 12.5 degree pitch verandah skillion.

The structure has dimensions of 7m x 8.5m of which the double garage measures 7m x 7.15m and therefore does not comply with this control. The applicant has provided the following justification summarised below:

The request for an increased size is justified due to the impractical size of the control. The applicant has experienced difficulty utilising the existing double garage (6000mm x 6000mm) to house two vehicles. It is impossible. This is because the narrow width offers minimal and unworkable allowance for vehicle movement in and out of the garage - and minimal space for occupants to access vehicles.

In addition the proposal for a loft requires staircase access, hence the width is expanded to provide space in the footprint for a stairwell. Loft additions are permissible in the rear lane and given their number, are considered in keeping with the size of these central Wagga conservation blocks. The applicant does not consider that this increase in size above the controls will have a negative impact on the land area, the lane way or neighbours. The application seeks the variation because the control is unreasonable and not functional in accommodating two vehicles.

The above comments are noted.

It is common for Council to vary the size controls for garages facing rear lanes. Often this is justified by the existing structures within the laneway exceeding these provisions and therefore creating a character that would not be compromised by a similar sized garage. In this instance the dominance of the garage is not caused by its width or length. The variation still allows for the garage to sit comfortably within the lot with reasonable side setbacks of 900mm to the south and 3.6m to the north. There are many examples of large three bay garages along this laneway that cover the full width of the block as well as garages with upper floor living space, particularly at no.27 Fox Street and no.44 Best Street.

A variation of 1m in the width and length will have negligible impact on the bulk and scale of the structure. If the impact of the structure was deemed unacceptable it would be in association with the height which is compliant with applicable controls. For these reasons a variation to the width and length of the garage would be seen as acceptable.

The wall height is not relevant as the building is double storey to accommodate the loft space, the roof pitch is 25 degrees which is a minor variation and allows for the overall height to be lowered and reduce impacts accordingly.

The application proposes a double door of 5.2m in width which does not comply with this control. However, the control has been varied on a number of occasions as it is difficult to manoeuvre modern cars in and out of single garage doors onto a laneway and given the garage fronts a laneway, the impact of the double door on the character of the Conservation Area is considered negligible. Furthermore there are a number of garages along the laneway that already have double doors.

C5 Specifications:

Walls can be in Custom Orb corrugated metal, weatherboards, fibre cement sheet or face brick Galvanised corrugated metal roof preferred rather than Zinalume.

Roll barge and roll top.

Gutters are to be quad or ogee profile and galvanised.

As mentioned the garage is proposed to be brick with sheet metal roofing and therefore complies with this control.

C6 Doors may be tilt doors of a simple design and neutral colour. Roller doors may be considered on merit.

The roller door raises no concern.

Fences

The key objective and control of relevance to this application are noted below:-

O4 Encourage use of sympathetic materials for side and rear fences and discourage use of colorbond panelling.

C5 Side and rear fences greater than 1.8m in height will not generally be supported.

A brick wall boundary fence of 1.8 metres in height is proposed at the rear of the block adjoining the new garage structure. The materials are in keeping with the new garage and the existing dwelling and will present as a high quality boundary treatment to the laneway. The objective and control of this section are satisfied.

Section 4 - Environmental Hazards and Management

The land is not identified as flood prone. A small part of the site is subject to overland flow within the south-eastern corner where the development is proposed. There will be a new connection for stormwater drainage and a rainwater tank is proposed to collect runoff from the new garage roof for use on garden. No adverse impacts are anticipated.

The land is not identified as prone to bushfire.

Section 5 - Natural Resource and Landscape Management

This issue has been addressed under Clauses 7.3 and 7.6 of the LEP above, given the nature of the works no issues are expected.

Section 6 - Villages

The proposal is for alterations and additions to a dwelling in the heritage area within the R1 zone. Section 6 is not applicable to this development.

Section 7 - Subdivision

The proposal is for alterations and additions to a dwelling in the heritage area within the R1 zone. Section 7 is not applicable to this development.

Section 8 - Rural Development

The proposal is for alterations and additions to a dwelling in the heritage area within the R1 zone. Section 8 is not applicable to this development.

Section 9 - Residential Development

9.2.1 Site layout

C2 Integrate access, landscaping and services in the site layout, avoiding underutilised spaces. Orient living spaces to maximise solar access.

The proposed development replaces an existing double garage with a slightly larger footprint. The development is sited to the rear of the block allowing for garden to be retained and solar access into the existing dwelling is not adversely affected. The siting of the main dwelling and vehicle access is maintained as existing.

9.2.2 Streetscape

C1 Provide a street address and front elevation that is consistent with the predominant scale, rhythm and form of the street.

The presentation of the dwelling to the heritage streetscape remains as existing.

9.3.2 Site cover

C1 Maximum site cover is to be in accordance with Table 9.3.2a.

The table requires that for single dwellings with an area of greater than 600sq.m the maximum site coverage in the R1 zone is 50%. The proposed site coverage including the new garage structure is approximately 48%. The control is therefore satisfied.

9.3.4 Solar Access

C1 Locate garages, laundries and bathrooms to provide insulation from western sun.

The garage is a detached structure sited to the east of the site away from the dwelling. The proposed internal alterations to the property result in a new bathroom to the southern side of the dwelling

Due to the orientation of the block it is not possible to comply with this control as the front of the house faces to the west.

C2 Locate living areas and private open space to ensure orientation to the north and north east where possible.

The existing living area opens out to the rear garden to the east. The garden benefits from northern solar access.

C3 Building design and site layout is to ensure adequate sunlight access to the internal living spaces and private open space of the proposed development.

C4 Variations can be considered to C1, C2 and C3 where it can be demonstrated that site constraints, existing built form and good design practices limit the ability of the proposal to comply with these controls

As noted above there is no change to the existing living area that faces east. The rear garden area provides private open space to the dwelling and benefits from sunlight access from the north.

A compliant BASIX Certificate has been provided with the application.

C5 For any adjacent dwellings that have north facing living areas, maintain 3 hours sunlight access to the windows of the living areas between 9am and 3pm in mid-winter (June 22).

A shadow diagram prepared by the applicants shows that the proposed new garage and loft will not cast a shadow across any of the adjacent dwelling and accordingly existing sunlight to the northern (and eastern) facing windows will be unaffected by the development.

C6 Proposed development design should take into account the location of any adjacent private open space and avoid overshadowing of that space.

A shadow diagram prepared by the applicants shows that the proposed new garage and loft will cast a shadow across the private open space of the property directly to the south at 9am. By midday the shadow will fall across the existing adjacent garage and outbuilding and the private open space is clear of any shadowing. The shadowing in winter to the rear of the yard will be for a maximum of 3 hours and allow for natural light in the afternoon.

9.3.5 Private open space

C1 At least 24m² of private open space is required per dwelling. The private open space is to be directly accessible to the main living area and have a minimum dimension of 4m.

The rear garden provides a significant area of landscaped open space with mature trees and therefore easily complies with this control.

9.4.2 Materials and finishes

The proposal is within the Conservation area, therefore Section 3 of the DCP applies and the provisions for additions within that section take precedence. The addition is in keeping with the existing property.

9.4.3 Privacy

C1 Offset windows, balconies and private open space areas between adjoining dwellings.

C3 Screening is required where there is direct line of sight between neighbouring balconies or private open space areas, or between windows and door openings of habitable rooms.

There are two upper floor windows proposed to the loft space that face back towards the garden and dwelling within the subject site. There is the potential for overlooking from these windows to neighbouring properties. Although there are mature trees that will assist in the screening of views from these windows during the winter the tree cover will be reduced and loss of privacy

has been raised in submissions received in objection to the development.

The applicants have agreed to the fitting of screens to the rear windows and this will be secured by condition. The applicants are keen to source a suitable screening to complement their property and this is acknowledged and accepted as a suitable way forward.

9.4.4 Garages, carports, sheds and driveways

The relevant controls are as follows:

C2 Garages, carports and sheds that open up to a laneway must be setback a minimum of 1m from the property boundary.

The garage has been setback 1m from the laneway so complies with this control.

C3 The floor area of an outbuilding on a residential lot must not be more than the following:
(a) 8% of the site area if the lot has an area of less than 600m²,
(b) 8% of the area or a maximum area of 175m², whichever is the lesser, if the lot has an area of at least 600m² but less than 4000m²,
(c) Lots greater than 4000m² will be considered on their merits.

The proposed outbuilding has an area of 59.5m², which equates to 8.8% of the site area. The minor variation can be justified as follows:-

As per previous justification, there are a number of existing outbuildings that exceed the 8% on neighbouring lots, some larger than what's proposed. The key objective of this section is to *Minimise the visual dominance of garages and driveways in the streetscape*. In this instance the dominance of the structure on the laneway (streetscape) is not caused by the site cover of the garage it is caused by the design of the loft space above the garage (that has previously been assessed as compliant with specific heritage controls). Reducing the footprint of the garage by 6m² to comply with this control would only marginally reduce its dominance on the laneway. There is sufficient high quality private open space maintained at the rear of the property and the proposal as a whole complies with the overall site cover.

For the reasons discussed above, a variation to these controls should be supported.

C4 The total cumulative floor area of all outbuildings on any one property shall not exceed 8% of the site area or a maximum area of 300m², whichever is the lesser.

This is the only outbuilding on site and given the discussion above a variation can be supported.

C5 Sheds may only be erected on residential land where a dwelling house is constructed or under construction and must be used for purposes ancillary to the residential use of the land.

The site contains a dwelling and therefore the shed is considered ancillary.

C6 The height of an outbuilding or the alterations and additions to an existing outbuilding on a lot must not be more than 4.8m above ground level (existing). The building shall be single storey construction with a maximum roof pitch of 27 degrees or steeper to match the roof pitch of the house.

The maximum height of the outbuilding is 6.3m with a pitch of 25 degrees. The overall height would not comply with this control. The development includes a loft studio at the upper level and this control is therefore not of relevance to this application. The height has previously been assessed as acceptable.

C7 An outbuilding shall not be located in front of the main building line. Variations may be considered for a balcony, deck, patio, pergola, terrace or verandah.

The structure is located to the rear of the dwelling.

9.4.6 Changing the landform - cut and fill

There is no cut or fill proposed with this application.

Section 10 - Business Development

The proposal is for alterations and additions to a dwelling in the heritage area within the R1 zone. Section 10 is not applicable to this development.

Section 11 - Industrial Development

The proposal is for alterations and additions to a dwelling in the heritage area within the R1 zone. Section 11 is not applicable to this development.

Section 12 - Specific Uses and Developments

The proposal is for alterations and additions to a dwelling in the heritage area within the R1 zone. Section 12 is not applicable to this development.

Section 13 - Bomen Urban Release Area

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

Section 14 - Boorooma Urban Release Area

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

Section 15 - Lloyd Urban Release Area

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

Section 16 - Gobbagombalin Urban Release Area

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

Section 4.15(1)(a)(iia) - Planning Agreements

There is no draft or current planning agreement applicable to this application under Section 7.4 of the *Environmental Planning and Assessment Act 1979*.

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

There are no applicable matters prescribed by the regulations.

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

Context and setting

The site is located within an established residential precinct, surrounding development is generally low density single storey residential and the majority of development in the vicinity has some heritage significance. This proposal maintains the residential use of the site, which is entirely compatible with adjoining residential uses.

The proposed development presents to the laneway which includes a mix of large outbuildings including some with upper floor habitable space such as that proposed. There are an increasing number of loft additions within the heritage area demonstrating a desired future outcome for laneways within close proximity to the central core. The development has been assessed as suitable within the existing context but will also be seen as consistent with anticipated development outcomes in the future.

Streetscape

There is no impact to Fox Street, the heritage dwelling is maintained as existing.

Access, transport and traffic

A new double garage is proposed at the rear of the site providing car access from Womboy Lane. The proposal would provide for off street parking for 2 vehicles.

Noise and vibration

Demolition and construction will increase noise and vibration levels in the vicinity in the short term. Any consent would contain a standard condition limiting the days and hours of construction.

Services

The site is fully serviced and no changes are required as a result of the development.

Heritage

The development has been assessed against the specific controls in the WWLEP and WWDCP as detailed earlier in the report. The impacts upon the significance of the heritage area are concluded as acceptable.

Natural Hazards

The development has been considered against the relevant flood provisions of the WWLEP2010 and DCP. The site is impacted by overland flow in one corner, the management of stormwater from the site will be improved as a result of the development. There are no adverse impacts anticipated.

The development has been considered against the relevant bushfire provisions of the WWLEP2010 and WWDCP2010. A risk assessment is not required as the development is not mapped as being bushfire prone and the surrounding land would all be considered managed urban land.

Man-Made Hazards

The site has been in continual use as a dwelling therefore it is not expected that the site would be contaminated. It is not listed on Councils' Contaminated Land Register.

Economic and Social Impact in the Locality

The associated works to construct the garage and internal alterations will support local businesses such as builders, decorators and building supply companies.

The proposed works are likely to improve amenity for the occupants of the subject property. There are no likely adverse social impacts.

Energy Impacts

A BASIX Certificate has been supplied in support of the development and compliance with the listed requirements will form a condition of consent.

Site Design and internal design

The siting of the garage and studio is determined by the current layout of the property and is generally acceptable. The location allows for the retention of the established garden area. At the rear of the dwelling.

Cumulative Impacts

There are no likely adverse cumulative impacts from this development. Each proposal is assessed on its merits at the time of the application. The variation to the controls has been suitably justified for this development in this location.

The Principles of Ecologically Sustainable Development

The following are principles of ecological sustainability:

1 The precautionary principle

Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

(a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and

(b) an assessment of the risk-weighted consequences of various options.

The principle requires decision-making to give the environment the benefit of the doubt.

2 Intergenerational equity

The present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations (that is, a partnership among all of the generations that may use or expect to benefit from the nation's resources).

3 Conservation of biological diversity and ecological integrity

Conservation of biological diversity and ecological integrity should be a fundamental consideration.

4 Improved valuation, pricing and incentive mechanisms

Environmental factors should be included in the valuation of assets and services:

(a) polluter pays (that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement), and

(b) the users of goods and services should pay prices based on the full cycle costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste, and

(c) environmental goals having been established should be pursued in the most cost-effective way by establishing incentive structures, including market mechanisms which enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

The proposed development will not result in any anticipated irreversible environmental damage, the proposal utilises an existing urban site for redevelopment and therefore is not

considered to impact on biological diversity or ecological integrity.

The proposal is consistent with the precautionary principle to the extent that all potential threats to the environment have been identified and assessed. Accordingly the principles of ESD are considered to have been followed.

Section 4.15(c) - The Suitability of the site for the development

The subject land is considered to be suitable for the proposed development because the development is for additions and alterations to an existing property. The development is permissible in the zone, is consistent with developments in the residential area and compliments the heritage conservation area.

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

Referrals

The application was referred to relevant internal referral groups. Recommended conditions of consent have been included.

Notification

The application was notified to adjoining neighbours from 30 January - 6 February 2020. As a result of this notification one submission was received in objection to the development.

Amended plans were prepared and the application was re-notified between 24 - 31 March 2020. One submission was again received in objection to the proposed development, the details of both of the submissions received are summarised below.

- 1. Privacy concerns related to the upstairs windows of the garage/granny flat. These windows could easily look directly into our windows into our home, and into our own living space, particularly in winter, when the deciduous trees have all lost their leaves. We find this a significant invasion of privacy, and would at least expect screening to be installed over their windows on the upper level to prevent this.*

Comment: The applicants have agreed to provide screening to the windows on the western elevation, the detail of the screening will be secured by condition. This enables the applicant to have time to find a suitable design of screening.

- 2. The proposed structure will directly cast shadow on our private open space (development application has been approved for a new pool). We are concerned that this design has not considered the privacy and shading of our private open space in any way.*

Comment: A shadow diagram has been prepared by the applicant using a drawing kit. The plan shows that on June 21st the neighbouring property to the south will experience overshadowing in the morning but by midday the shadow from the proposed development will have no impact. It is unlikely that the pool would be in use at this time of year and the proposal complies with the applicable control as noted earlier in the report.

- 3. The proposal does not comply with C4-maximum garage size. The scale and bulk of the proposed garage will significantly impact the shading in our yard. This could be alleviated by situating the development on the northern side of the proponent's block. This would have no shading impact on their northern neighbour, and significantly reduce our impact.*

Comment: As noted above the shading impacts are acceptable and comply with the existing controls. The siting of the garage and studio has been chosen to allow for the inclusion of an open verandah area on the northern side for use by the residents.

4. *The proposed ground floor timber verandah protrudes beyond the footprint and roof space of the garage. As such we question whether it complies with controls C2 and C3.*

Comment: The verandah to the side of the garage is minimal in size and scale and could be added as exempt development. It does not conflict with any of the controls.

5. *Drawings show full height brick walls. As such, we question whether this complies with item C5 (secondary dwellings on rear lanes).*

Comment: The variation to the control has been justified by the applicant and in this case is supported.

6. *Proponent constantly refers to the large mature trees as screening. (Please note these trees are deciduous). Privacy screens are requested to 'entirely screen views into private open space and significantly reduce sight lines.*

Comment: As previously noted the applicants have agreed to the provision of screening and this has been secured by condition.

Advertising

The application was not required to be advertised.

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 proposed garage and studio has been assessed against the applicable DCP controls and any variations have been justified by the applicant. There is no impact on the streetscape to Fox Street and the impact to the rear laneway is one that has been assessed as acceptable.

Neighbour submissions have been addressed with the inclusion of conditions ensuring that there is no overall detrimental impact to the public interest.

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 21st 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.

Council Policies

None

Development Contributions - Section 7.11/7.12 Environmental Planning and Assessment Act 1979 & Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000

Section 7.12 of the Environmental Planning and Assessment Act 1979 and the City of Wagga Wagga's Local Infrastructure Contributions Plan 2019-2034 enables Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. A Section 7.12 contribution is calculated as 1% of the development cost for developments of a value greater than \$100,000. The cost of development is \$250,000 and therefore a contribution of \$2,500 is payable.

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 and/or City of Wagga Wagga Development Servicing Plan for Sewerage 2013 enable Council to levy developer charges based on the increased demands that new development will have on sewer and/or stormwater.

Section 64 stormwater contribution

The subject site is located within the Urban West of Willans Hill DSP area. This calculation is based on the increased area of hardstand resulting from the proposed additions. The contribution is subsequently calculated as follows:-

New garage and verandah 70.5m^2 = minus existing garage 39.06m^2 , = 31.44m^2

$\frac{31.44\text{sq.m}}{800} \times \frac{1.00}{0.74} \times \3007 (development charge) = \$159.69 plus CPI $115.2/87.9$ = \$209.28

Section 64 Sewer Contribution

The subject site is located within a serviced area for sewerage and the developer charge for the City of Wagga Wagga is \$3,538 per ET. The subject site contains a dwelling and outbuildings, the proposed additions to the dwelling will not result in a different land use, it will still be one standard residential lot having one ET. There is no anticipated increase in demand on sewer infrastructure and therefore a developer charge does not apply to the proposed development.

Other Approvals

None required

Conclusion

The development is considered to be satisfactory based on the foregoing assessment. The proposal complies with the requirements of the Environmental Planning and Assessment Act 1979 and Councils Policies.

RECOMMENDATION

It is recommended that application number DA20/0009 for Demolition of garage, new double garage with upper floor loft area, internal alterations to dwelling and boundary wall to rear. be approved, subject to the following conditions:-

CONDITIONS OF CONSENT FOR APPLICATION NO.

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 |
|--------------|------------------------------------|--------------------------|-------|-----------|
| | Statement of Environmental Effects | Applicant | | No date |
| 190234 -BD01 | Existing and Proposed Site Plan | MJM Consulting Engineers | E | 10.3.2020 |

| | | | | |
|--------------|-------------------------------------|--------------------------|---|-----------|
| 190234 -BD02 | Garage and Loft Floor Plan | MJM Consulting Engineers | E | 10.3.2020 |
| 190234 -BD03 | Section A-A | MJM Consulting Engineers | E | 10.3.2020 |
| 190234 -BD04 | Section B-B | MJM Consulting Engineers | E | 10.3.2020 |
| 190234 -BD05 | Garage and Loft Elevations | MJM Consulting Engineers | E | 10.3.2020 |
| 190234 -BD06 | Residence Alterations and Additions | MJM Consulting Engineers | E | 10.3.2020 |
| | Shadow diagram | Applicant | | 12.3.2020 |
| A358806_03 | BASIX Certificate | MJM Consulting Engineers | | 11.3.2020 |

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 Pursuant to s7.12 of the *Environmental Planning and Assessment Act 1979* and the *Wagga Wagga Local Infrastructure Contributions Plan 2019-2034*, a monetary contribution of \$2500 must be paid to Council, prior to the issuing of the Construction Certificate. 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.

NOTE 1: Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 provides for Section 7.12 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.

NOTE 2: The monetary 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.3 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 Nil
The Section 64 Sewer contribution (updated by the CPI/100.5) required to be paid is Nil
- NOTE 6: The Section 64 Stormwater base figure is \$159.69
The Section 64 Stormwater contribution (updated by the CPI 115.2/87.9) required to be paid is \$209.28
- 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.4 Prior to release of Construction Certificate amended plans must be submitted to the satisfaction of the Manager Development Assessment & Building Certification or delegate that identify screening to the windows on the western elevation of the loft to minimise overlooking.
- Requirements before the commencement of any works**
- C.5 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.6 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.7 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.

NOTE 1: No building rubbish or debris must be placed, or be permitted to be placed on any adjoining public reserve, footway, road or private land.

NOTE 2: 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 Council prior to application for an Occupation Certificate for the development.

NOTE 3: The suitable container for the storage of rubbish must be retained on site until an Occupation Certificate is issued for the development.

C.8 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

Prior to commencement of works, a plan illustrating these measures shall be submitted to, and approved by, Council.

NOTE: All erosion and sediment control measures must be in place prior to earthworks commencing.

C.9 A Section 68 Approval must be obtained from Council prior to any sewer or stormwater work being carried out on the site.

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.

Requirements during construction or site works

C.10 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.

C.11 The demolition must be carried out in accordance with the provisions of Australian Standard AS2601-2001: The Demolition of Structures.

Within fourteen (14) days of completion of demolition, the following information shall be submitted to Council for assessment and approval:

- a) an asbestos clearance certificate prepared by a competent person; and
- b) a signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with any Waste Management Plan approved with this consent. In reviewing such documentation Council will require the provision of actual weighbridge receipts for the recycling/disposal of all materials.

NOTE 1: Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.

- NOTE 2: Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover “Demolition Licence” and a current WorkCover “Class 2 (Restricted) Asbestos Licence”.
- NOTE 3: Competent Person (as defined under Safe Removal of asbestos 2nd Edition [NOHSC: 2002 (2005)]) means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill, for the safe performance of the specific work.
- NOTE 4: A licence may be required for some of the tasks described in the document entitled Safe Removal of Asbestos 2nd Edition as requiring a competent person.

- C.12 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.13 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated “spoil” material.
- C.14 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 prior to issue of an Occupation Certificate or prior to operation

- C.15 Prior to release of Occupation Certificate the window screenings approved under condition C.4 shall be installed and retained as such at all times.
- C.16 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.

In order to obtain this, the “Final Occupation Certificate” form must be completed and submitted to Council with all required attachments - failure to submit the completed Occupation Certificate Application form will result in an inability for Council to book and subsequently undertake Occupation Certificate inspection.

- NOTE: The issuing of an Occupation Certificate does not necessarily indicate that all conditions of development consent have been complied with. The applicant is responsible for ensuring that all conditions of development consent are complied with.

- C.17 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.18 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.

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)

N/A
