



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

## APPLICATION DETAILS

Application No.:	DA20/0310
Modification No.:	N/A
Council File No.:	D/2020/0310
Date of Lodgement:	29/06/2020
Applicant:	R Hoogvelt 102 Lakehaven Dr LAKE ALBERT NSW 2650
Proposal:	Indoor Recreation Facility (Indoor Pool)
Description of Modification:	N/A
Development Cost:	\$180000
Assessment Officer:	Steven Cook
Determination Body:	Council - Objection to Numerical Control Being Varied by Greater Than 10%
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	7/8/20 - 21/8/20 & 7/9/20 - 14/9/20
Advertising:	7/8/20 - 21/8/20
Owner's Consent Provided:	29/6/20
Location:	Eastern side of Trail Street, approximately 50m south of Kincaid Street, on the western edge of the Wagga Wagga Central Business District.

## SITE DETAILS

Subject Land:	51 Trail St WAGGA WAGGA NSW 2650 Lot 3 DP 4999, Lot 1 DP 937208
Owner:	ME Hoogvelt & R Hoogvelt

## REPORT

### DESCRIPTION OF DEVELOPMENT

The proposal is alterations and additions to an existing premises within the heritage conservation area, including the construction of an indoor pool, and a change of use to a 'recreation facility (indoor)'.

The works proposed include

- Demolition of rear sections of dwelling, shed and carport.
- Construction of rear, Colorbond clad addition, including 15.2m x 4.5m indoor swimming pool.
- Internal alterations and renovation of existing premises to include sitting room, reception, amenities and staff room.
- Provision of 5 parking spaces.
- Change of use from 'office premises' to 'recreation facility (indoor).'
- Works to the front façade including painting and new panelling.

The recreation facility (indoor) is proposed to be for a swim school, and for hydrotherapy use. The business proposes a 'boutique' swim school, with small classes and minimal numbers on site. A maximum four staff are proposed to be on site at any one time, comprising two swimming instructors and two office staff. The hours of operation proposed are as follows:

- Monday, Tuesday, Wednesday and Friday to 6:00pm
- Thursday to 7:00pm
- Saturday to 1:00pm

Operationally, the business is proposed to be operated as follows, as set out by the following extract from Statement of Environmental Effects:

*Operational details are as follows:*

- *Monday to Friday 9.00 am to 12.00 pm - Learn to Swim Lessons.*

*9.00 am - 9.30 am - Group lesson plus 2 x 15 minute private lessons*

*9.30 am - 9.45 am - Gap*

*9.45 am - 10.15 am - Group lesson plus 2 x 15 minute private lessons*

*10.15 am - 10.30 am - Gap*

*10.30 am - 11.00 am - Group lesson plus 2 x 15 minute private lessons*

*11.00 am - 11.15 am - Gap*

*11.15am - 11.45 am - Group lesson plus 2 x 15 minute private lessons*

*11.45am - 12.00 pm - 2 x 15 minute private lessons*

*There will be two x learn to swim lessons running at one time with a duration of 30 minutes for the group lesson and 15 minutes for the private lesson. Ratio for one class will be 1:5 and the second class running will be a private lesson with a ratio 1:1. Totalling 14 classes each morning.*

- *Monday to Friday 12.00 pm to 3.00 pm - Hydrotherapy.*

*Bookings for Hydrotherapy will take place between these hours with a maximum of five patrons booked in every 30 minutes.*

- *Monday to Friday 3.30 pm to 6.00 pm - Learn to Swim Lessons.*

*3.30 pm - 3.45 pm - 2 x 15 minute private lessons  
3.45 pm - 4.00 pm - 2 x 15 minute private lessons  
4.00 pm - 4.30 pm - Group lesson plus 1 x 30 minute private lesson  
4.30 pm - 4.45 pm - Gap  
4.45 pm - 5.15 pm - Group lesson plus 1 x 30 minute private lesson  
5.15 pm - 5.30 pm - Gap  
5.30 pm - 5.45 pm - 2 x 15 minute private lessons*

*There will be two lessons running at one time with lessons varying from 15 minutes to 30 minutes. Ratio for the group class will be 1:5 and the private lessons ration of 1:1. Totalling 12 classes each afternoon.*

- *Saturday 9.00 am to 1.00 pm - Learn to Swim Lessons.*

*There will be 2 lessons running at one time with a duration of 30 minutes for each lesson. Ratio for one class will be 1:5 and the second class will be a private lesson with a ratio of 1:1. Totalling 16 classes each Saturday.*

*The office will be open an additional hour on Thursdays.*

*Staffing includes two office administrators until 4pm to which there will only be one staff member until closing. There will be two teachers between 9am to 12pm and 3.30pm to 6pm. During the Hydrotherapy allotted time, occurring between the hours of 12pm and 3pm, there will only be two office staff members on site. The Hydrotherapy is developed for either patrons to attend during their allotted timeframe for personal rehabilitation or including a physiotherapist. At any one time, a maximum of five patrons will be attending the facility for Hydrotherapy. During Learn to Swim, a maximum of six students will attend at any one time. Therefore, a maximum of 6-10 persons including students, patrons and staff members will be on site at any given time.*

#### Previous Consents

The original dwelling on the site would predate formal planning controls.

BA115/72 approved additions to the dwelling and a garage on 13<sup>th</sup> March 1972.

On 19<sup>th</sup> July 1978, the Development Control Unit approved conversion of the dwelling into a 54 seat restaurant (DCU166/78). Conditions of this approval included a requirement for the payment of a cash contribution to Council for one parking space. There was a number of requests for the contribution to be waived, however there is no evidence that this ever occurred.

A change of use from a restaurant to an office then appears to have been carried out in 1994 under the provisions of the now repealed *State Environmental Planning Policy No 4 - Development Without Consent and Miscellaneous Exempt and Complying*

*Development.* The Council file does not clearly set out that this was a change of use from a restaurant to an office, with the SEPP 4 form referencing primarily internal works, however, the plans submitted clearly show the floor area being used as office space, and it is reasonable to assume that given this information, that the use of the premises as an office was assessed at that time as being lawful.

### **THE SITE & LOCALITY**

The site, being Lot 3 DP 4999 and Lot 1 DP 937208, 51 Trail Street, Wagga Wagga, is located on the eastern side of Trail Street, approximately 50m south of Kincaid Street, on the western edge of the Wagga Wagga Central Business District. The site has rear lane access via Edel Quinn Lane, which runs behind the property from Kincaid Street to Trail Street.

On the site stands a building which is a former dwelling, but has been used for non-residential uses for over 40 years. To the rear of the site is a garage and parking area with direct access from Edel Quinn Lane. No significant vegetation stands on the site.

The locality is mixed in nature. The immediately neighbouring properties to the north and south respectively are a financial planning business and a stock and station agent. The financial planning business is located in a former dwelling, whilst the stock and station agent is within a commercial building. The remaining properties to the south bounded by Edel Quinn Lane and Trail Street are two single dwelling houses, whilst the remaining property to the north is a former dwelling used a medical centre.

To the rear of the site, on the opposite side of Edel Quinn Lane is an educational establishment and the Edel Quinn hostel accommodation. Opposite the front of the site is tourist and visitor accommodation and the former premises of the Daily Advertiser. The wider locality is generally commercial in nature to the east of Trail Street, and residential to the west, however, uses inconsistent with this primary character are not uncommon.

### **SUMMARY OF MAIN ISSUES**

Car Parking  
Heritage Conservation Area

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

*For the purpose of determining this development application, the following matters that are of relevance to the development have been taken into consideration pursuant to the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act, 1979.*

#### **(a)(i) - The provisions of any environmental planning instrument (EPI) Local Environmental Plan**

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

Under the provisions of the WWLEP 2010 the site is zoned B3 Commercial Core. The proposed development is for a 'recreation facility (indoor)'. 'Recreation facilities (indoor)' are permitted with consent in the B3 zone.

The objectives of the B3 zone are as follows:

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To ensure the maintenance and improvement of the historic, architectural and aesthetic character of the commercial core area.*

The proposal facilitates the use of the site for a 'recreation facility (indoor)'. This land use is considered to be a suitable land use in the zone, that serves the needs of the local and wider community, including helping meet a need in the community for hydrotherapy pool space. Therefore the development directly furthers the first objective. It is further noted that the use is not inconsistent in character to the uses listed in the first objective.

The proposed development will also generate ongoing employment opportunities, employing up to 4 FTE staff members. The area is in close proximity to public transport and is connected by footpath to residential areas. As such, it is assessed that the development is consistent with the second and third objectives of the B3 zone.

Finally, as set out in this assessment report, the development has been designed to help ensure the maintenance of the historic character of the area within which the site is located, and so the development is considered consistent with the final objective of the B3 zone.

Therefore the proposed development is considered consistent with the objectives of the B3 zone.

Clause 2.7 of the WWLEP 2010 requires that demolition requires consent. Submission of this Development Application satisfied this clause.

Clause 4.3 of the WWLEP 2010 applies to the land which sets a maximum building height for the land. In the case of this land the maximum building height permitted is 16 metres. The proposed additions are approximately 5m in height (at its highest point) and therefore complies with this control.

Clause 4.4 also applies, which specifies a maximum floor space ratio for the land, which is 2:1. The FSR following the development will be well less than 1:1 and therefore the development complies with this control.

The development is within the Wagga Wagga Heritage Conservation Area (HCA). Clause 5.10(4) of the WWLEP 2010 states:

*The consent authority must, before granting consent under this clause in respect of a*

*heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).*

The proposed development results in the partial demolition of the former dwelling, the construction of new additions to the rear of the building, and other minor works, including painting and recladding, which do have the potential to impact on the heritage significance of the Heritage Conservation Area.

Following the submission of the Development Application, a number of amendments were made to the development by the Applicants to reduce the impact of the development on the Heritage Conservation Area, including adopting a pavilion style approach for the addition, significantly reducing the impact of the additions on the original building by reducing the need for changes to the existing roofline.

The proposed demolition works are restricted to later additions from the early 1970s, other than a small 3m x 2.5m portion of the original dwelling. This original section is under a small hip to the rear of the building, and scales down from the main roof. These works are relatively minor and are considered unlikely to significantly impact on the heritage significance of the Heritage Conservation Area.

There are some minor outstanding matters of concern, such as the proposed dark grey and white colour scheme, and the painting of the front fence which is assessed as being inconsistent with the Heritage Conservation Area. It is recommended that conditions of consent requiring the provision of colour and final finish details be imposed on any consent to address these matters. Further conditions of consent are recommended to reinforce minor detail matters, such as around material selection for the infill verandah and the return ends of the addition that are visible from Trail Street. With the imposition of these conditions, it is considered that the development will not have a significant adverse impact on the heritage significance of the Heritage Conservation Area.

Clause 7.1A of the WWLEP requires the consent authority to consider certain matters before granting consent for development that involves earthworks. These matters are:

- (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.*

Proposed earthworks will not be significant. Substantial cut and fill is not required. Given the scale of the proposed works and their location within an established urban area on a disturbed site, it is considered that the development is unlikely to adversely impact on the matters listed under Clause 7.1A. All matters, where relevant, have been considered.

A small portion of the front yard of the site, well clear of any buildings or additions, is subject to flooding in a 1 in 100 year flood event and thus clause 7.2 applies. This clause states:

*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.*

The site is within the area protected by the main city levee and thus is only impacted upon by very large flood events. The community has accepted the risk associated with continuing development of the CBD in the face of this flood risk due to the substantial economic impacts that would result should development be halted or curtailed. The city levee is currently being upgraded to provide protection against floods up to the 1 in 100 year flood level.

Notwithstanding, it is considered that the proposed development is compatible with the flood hazard of the land, will not significantly affect flood behaviour (the additions being not coincident with the mapped flood prone area), incorporates appropriate measures to manage flood risk, will not cause erosion etc, and will not result in unsustainable social and economic costs to the community as a result of flooding. This is concluded because the development is occurring to the rear of existing premises on the flood plain in a well-developed area, the development will not directly impact on the mapped flood prone part of the site, and the land use is not of a kind likely to be occupied during a major flood event, given the substantial warning times available for such events, and the nature of the proposed land use.

Clause 7.6 applies to land identified as "Groundwater" on the 'Water Resources Map' of the WWLEP 2010. The subject site is identified as such. There are, however, no controls within Clause 7.6 for recreation facilities (indoor).

Clause 7.9 - Primacy of Zone B3 Commercial Core applies to all development and is as follows:

- (1) *The objectives of this clause are as follows-*
- (a) *to maintain the primacy of Zone B3 Commercial Core as the principal business, office and retail hub of the Wagga Wagga city centre and to ensure that development does not conflict with the hierarchy of commercial centres,*
  - (b) *to strengthen Wagga Wagga's position as an eminent regional centre by creating employment opportunities for tourism, commerce, education, health care, culture and the arts.*
- (2) *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 proposal is for the redevelopment of an existing premises in the Wagga Wagga Central Business District. The use is of a kind that could otherwise be located outside the CBD, and therefore, the proposal for it to occur within the B3 zone is considered positive for ensuring the ongoing viability and primacy of this area.

Clause 7.11 applies where the consent authority is satisfied that the proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Wagga Wagga Airport. The subject site is around 184m below the OLS and as such, the development will not penetrate the OLS and the clause does not apply.

There are no other provisions of the WWLEP 2010 relevant to this development.

### **State Environmental Planning Policies**

#### **State Environmental Planning Policy No 55 - Remediation of Land**

Clause 7 of SEPP 55 requires that:

- (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 out,*
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital-land:*
  - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
  - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

With respect to SEPP 55, the site is not identified on Council's contaminated land register, and is not known to have been used for any potentially contaminating land uses. The site has historically been used as a dwelling, restaurant and office premises, which are considered unlikely to result in any contamination. The proposed development is for a recreation facility (indoor). As such, in accordance with the requirements of SEPP 55, Council has considered whether the land is contaminated, and that it is suitable for the proposed development.

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

In accordance with the provisions of Clause 45(1)(c), a Development Application for the installation of a swimming pool, any part of which is within 30m of a structure supporting an overhead electricity transmission line, must be referred to Essential Energy for comment. A power pole is located in Edel Quinn Lane within 30m of the proposed pool and as such the development was referred to Essential Energy. Essential Energy advised that they have no comments to make as to potential safety risks from the proposed development. Essential Energy also provided a number of general comments, which are recommended to be imposed as conditions of consent, where relevant.

**(a)(ii) - The provisions of 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 (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)**

#### Draft State Environmental Planning Policy - Remediation of Land

The Draft SEPP was placed on exhibition until 31 March 2018. The SEPP will replace SEPP 55. The Explanation of Intended Effects outlines that the key operation framework of SEPP 55 will remain. Changes in the SEPP relate primarily to land

undergoing remediation work. Therefore, for a development such as this, little will change between SEPP 55 and the Remediation of Land SEPP.

**(a)(iii) - Any development control plan**

**1.10 - Notification of a Development Application**

The application was notified to adjoining neighbours from 7<sup>th</sup> August 2020 to 21<sup>st</sup> August 2020 in accordance with the provisions of the WWDCP 2010. Two public submission by way of objection were received.

Following amendments to the plans, the two objectors to the development were renotified from 7<sup>th</sup> September 2020 to 14<sup>th</sup> September 2020. Following this renotification period one of the objections was withdrawn, and replaced with a general submission, not by way of objection, requesting that certain matters be considered in the assessment of the Development Application.

**1.11 - Complying with the Wagga Wagga Development Control Plan 2010**

*The controls in the DCP support the Guiding Principles of the Plan and principles and objectives within the various sections. Except as varied elsewhere in this Plan, all Development Applications, Section 96 Applications and Section 82A Applications should aim to satisfy all stated objectives and controls.*

*Whilst all developments should aim to satisfy all controls within the DCP, it is acknowledged that there may be circumstances where it may not be possible to achieve strict compliance.*

*Council may consent to an application which departs from any control, whether a “numeric” or non-numeric control. In such cases, a written submission must be lodged with the Development Application.*

*Where an application involves the variation of one or more controls within the DCP Council staff have delegation to approve variations but limited to the following circumstances;*

- *Where adequate justification is provided by the applicant for the number of controls being varied and,*
- *Any development, other than development that is for multi dwelling housing, where a variation to any numerical control by greater than 10% is proposed, and*
- *Where no objections have been received in relation to any numerical control that is being varied by greater than 10%, and*
- *Where the number of submissions in the form of objections received in response to an advertised or notified development application, is less than 10.*

The development proposes variations to the following controls:

- 2.1 - C3, in relation to vehicles entering and exiting the site in a forward direction.
- 2.2 - C1/C5 in relation to car parking requirements.
- 2.2 - C9 in relation to the provision of trees within car parking areas.

The proposed variations are considered acceptable and justifiable. Details of the variations are discussed under the relevant sections below.

In relation to C1/C5, the development proposes a variation to a numerical control by 36%, and an objection has been received in relation to this variation. Therefore the development is required to be reported to Council for determination.

### 2.1 Vehicle Access and Movements

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

Complies. Vehicular access to the site is off Edel Quinn Lane.

*C2 A Traffic Impact Study may be required where adverse local traffic impacts may 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.*

The proposed development is unlikely to result in substantial traffic generation and the local road network is assessed as having sufficient capacity to handle any increase. As such, a Traffic Impact Study is not considered necessary in the circumstances.

Parking impacts are discussed below under Section 2.2.

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

The development proposes to maintain the existing parking arrangements to the rear of the property (albeit slightly expanded). Vehicles currently enter the site in a forward direction into parking spaces directly adjoining the lane, and exit by reversing into the lane. This arrangement is common throughout the Wagga Wagga Central Business District, including the medical centre two properties to the north of the subject site, the stock and station agent immediately to the south, the Edel Quinn hostel on the opposite side of the lane, and the residential properties further to the south. Similar arrangements can also be found on numerous properties backing onto Tongaboo Lane, Wonderland Lane, and Baretta Lane, to the rear of Baylis Street.

Development of the site to provide sufficient parking that does not rely on nose-in/rear-out parking would likely require full redevelopment of the site, resulting in the removal of the former dwelling on the property. Given the site is within the Heritage Conservation Area, this would be undesirable and unlikely to be supported, and thus site conditions prevent arrangements other than those proposed.

It is unlikely that any vehicles would enter Edel Quinn Lane other than those accessing the small number of properties with access off the lane. Given the very low volume of traffic in Edel Quinn Lane, its one way nature, its relatively short length, and the likely familiarity of users of the lane to these types of parking arrangements, it is considered that the proposal for vehicles to enter the site in a forward direction, before reversing into the lane to exit, is considered acceptable.

*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 development.*

The nature of the development is such that significant deliveries are not anticipated. The proposed car parking area is considered sufficient for loading and unloading goods, subject to appropriate scheduling.

*C5 Access driveways are to be located in accordance with the relevant Australian Standard at the time of lodgement of an application.*

The site has no access driveways, with carparking proposed directly off the laneway.

*C6 Ensure adequate sight lines for proposed driveways.*

As above.

## 2.2 Off-Street Parking - Controls C1 and C5

*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 car parking requirements.*

### **Methodology for Calculating Parking Requirement**

The development is for a 'recreation facility (indoor)'. This land use is not expressly listed in the table within the WWDCP 2010. Following the methodology in C1, it is considered that the land use is similar to 'gymnasium, health and fitness centre', which is the appropriate land use to use as a guide, however, it is noted that there are differences between the proposed land use and gyms and the like, with gyms likely to result in greater traffic generation per square metre due to their nature, than the proposed development, and its 'boutique' style operation.

'Gymnasium, health and fitness centres' require 1 space per 25m<sup>2</sup> of Gross Floor Area per the table in Section 2.2.

The total GFA of the final development (including the retained existing dwelling and additions) is approximately 300m<sup>2</sup>. Read in isolation, C1 would therefore require 12 parking spaces.

However, C1 also needs to be read in conjunction with C6 which states:

*C6 In the case of redevelopment or change of use within the B3 zone where there is no increase in gross floor area, no additional car parking spaces will be required, except in the following instances:*

- a. Outbuildings are proposed to be used in association with the development, or*
- b. A Traffic Impact Assessment (TIA) is required by Council for the development.*

C6 does not strictly apply in the circumstances, as the development is a redevelopment which results in an increase in GFA, however, it provides clear guidance on how the car parking controls are intended to be read in the WWDCP 2010.

C6 of the WWDCP 2010 establishes the principal that existing floor area in the B3 zone is able to be used for a range of permissible land uses without triggering the need for additional car parking. It takes a practical approach to the nature of commercial floor area and tenancy, recognising land uses change over time, and that the cumulative impacts of the changes of land uses over sites across the CBD balance out, as parking demand increases on one site, and falls on another. C6 tries to ensure the Wagga Wagga CBD remains flexible and nimble in accommodating new uses by avoiding unnecessary restrictions/impediments to new businesses opening due to perceived parking shortages on an individual site.

This in turn supports the broader principal of supporting and facilitating development in the Wagga Wagga CBD, which is a clear objective of the WWLEP 2010 (and is supported by Clause 7.9 of the WWLEP 2010).

Following these established principals, whilst not explicitly stated by C6, it is logical that additions to premises in the B3 zone follow the same methodology. That is, that no additional parking is required for the existing floor area, with new parking only calculated for the increase in gross floor area. The illogical alternative to this is any addition, no matter how small, triggering the full recalculation of parking across a site. Likewise, existing floor area that is demolished and replaced should also not be recalculated, as this results in an illogical outcome where GFA could actually reduce, but the parking requirement for a new use increases. Both would act as a disincentive to redevelopment and investment in the Wagga Wagga CBD, which is an undesirable outcome.

### Calculation of Parking Requirement

Therefore, following the principal set out in C6 of the WWDCP 2010, parking is calculated as follows:

*Existing Floor Area: 178m<sup>2</sup>*

*Existing Use: Office*

*Existing Parking Requirement: 1 space per 45m<sup>2</sup> = 3.96 spaces (rounded to 4)*

*The site currently provides 4 parking spaces. Therefore no credit exists, and the existing parking requirement is satisfied.*

*Proposed Addition Area: 187m<sup>2</sup> (02Plant room area not included as does not meet definition of GFA)*

*Area to be Demolished Coincident with Addition: 62m<sup>2</sup>*

*Increase in Gross Floor Area: 187m<sup>2</sup> - 62m<sup>2</sup> = 125m<sup>2</sup>*

*Parking Requirement for Additions: 1 space per 25m<sup>2</sup> = 5 spaces.*

*Total parking requirement for the development therefore is 9 spaces.*

5 spaces are proposed (an increase in 1 space). The development is therefore 4 spaces short. It is further noted that in 1978 the approval for the former restaurant on the site required the payment of a parking contribution for 1 space. There were requests for the contribution to be removed, however, there is no evidence that this

ever occurred. Therefore, whilst it is not certain, it is reasonable to assume that there is credit with the land for an additional parking space paid for via contribution. This reduces the non-compliance to 3 spaces.

### Likely Car Parking Impact

The Development Application has clearly set out the operational details for the proposed development. These are detailed in full in the 'Description of Development' in this Development Application. In summary, Monday to Friday 9am to 12pm and 3:30pm to 6pm it is proposed to run 30 minute sessions comprising a single 30 minute class at a staff:student ratio of 1:5, and two, back-to-back 15 minute long 1:1 classes. A 15 minute break is then proposed between most (but not all) class blocks to allow patrons to arrive and leave the premises. Between 12pm and 3pm hydrotherapy slots will be available. These slots will be pre-booked and limited to a maximum 5 patrons per 30 mins.

On Saturday lessons will be run as back-to-back 30 minute lesson slots (without a gap), comprising a single 1:5 group lesson and a single 30 minute 1:1 lesson. The Saturday classes will run from 9am to 1pm.

Two administration staff will be on site until 4pm, with one staff member remaining on site until close. In addition, during swimming lesson times two swim teachers will also be present on site. During hydrotherapy the only staff on site will be the administration staff

From Monday to Friday, the proposed operational style will ensure that at most times during swimming lessons, the maximum number of students and staff present on site is 10. The proposed 15 minute gaps will allow groups from earlier time slots to clear out before the next session commences. There will be occasional times where this could peak slightly (such as where there is no gap between the 11:15am-11:45am group session and the private lessons between 11:45am-12:00pm, and during crossover between the two 15 minute 1:1 lessons).

It is noted that the actual number of people in the premises will likely exceed 10, as parents and carers will also be present on site. However, for the purpose of assessing car parking impact, parents and carers are unlikely to significantly increase vehicles accessing the site, as in most cases parents and carers will arrive in the same vehicle as students.

As such, it is reasonable to assume at a maximum 10 vehicles would be accessing the site on weekdays during swimming lesson times. This is considered to be a worst-case scenario, as a number of students will be siblings, and therefore will likely arrive in the same vehicle. Given the proximity of the site to residential areas, a small number of patrons and staff may also walk to the site, however this is unlikely to be significant. The site is also located close to public transport links, however, given the nature of the use, and the groups likely to be accessing the premises, it seems unlikely that patrons would access the site this way. Although still somewhat unlikely, it is possible that some staff could choose to access the premises using public transport.

During hydrotherapy times, with 2 staff on site, and a maximum 5 patrons, the maximum number of people on site reduces to 7 people. There are no gaps proposed between hydrotherapy sessions, so there is some potential for short crossover, with up to 12 staff and patrons on site for this crossover period.

It is reasonable therefore to assume a maximum 12 vehicles would be accessing the site during hydrotherapy times. Again, these are worst-case scenario numbers, with car pooling couples and other groups likely to comprise some of the hydrotherapy pool users. Further, it is anticipated that some hydrotherapy users are unlikely to be driving to the site, due to age or injury, and may use other transport options such as taxis, buses or community transport.

Finally, on Saturdays, swimming lessons are proposed back-to-back and without a gap. During lessons, the maximum number of staff and students on the site will remain at 10, but during crossover this will increase to 16. Similar to other times, this results in a worst-case scenario of 16 vehicles accessing the site.

### Assessment of Acceptability of Car Parking Impact

With only five parking spaces proposed on the site, it is apparent that there will be impacts as a result of parking, as insufficient parking exists on the site to accommodate all vehicles. During the week, at its worst, up to 7 cars may be unable to be accommodated on site, whilst on the weekend, there could be a shortfall of up to 11 spaces. The relevant question in this instance is not whether there will be an impact from parking, but whether this impact is acceptable.

Patrons who are unable to park on site are likely to park in the local area, either in nearby public car parks or on-street. This is relevant to Objective O3 of Section 2.2 of the WWDPCP 2010 which states:

*O3 Minimise disruptions to existing levels of service and safety as a result of insufficient parking being provided on site.*

An informal parking survey carried out by staff at 11:30am on Friday 11<sup>th</sup> September 2020 demonstrated that substantial parking is available within close walking distance of the site. At this time, approximately 38 all day parking spaces, 10 x 1 hour spaces, and 3 x 2 hour spaces were available within approximately 200m of the proposed development. As such, if 7 additional vehicles associated with the development parked in the local area, 44 parking spaces would remain available. On Saturdays, when parking demand for the development increases, parking demand for nearby land uses drops sharply, and the availability of on-street and nearby public off-street parking spaces increases substantially again on the observed Friday numbers.

It is likely that COVID-19 has seen some drop off in parking numbers in the locality, however, it appears that any on-street parking, or parking in nearby car parks, resulting from the development, is unlikely to significantly impact on the availability of parking in the locality both on weekdays and on weekend.

As such, the parking impacts of the proposed development are not likely to be

significant. O3 of the WWDCP 2010 is also considered satisfied, as existing levels of service and safety can be maintained. To ensure that the impacts remain acceptable and controlled, it is recommended that conditions of consent be imposed requiring the development of an Operational Management Plan consistent with the operation of the development as proposed in the Statement of Environmental Effects, as well as conditioning more broadly, the maximum number of staff and patrons permitted on the site.

In isolation, the significant number of on-street parking spaces in the vicinity alone is not sufficient to justify a development that will result in impacts on on-street parking and a variation to the parking controls in the WWDCP 2010. In the case of the subject development, the impacts of the development are further justified as the proposed development will also help to meet an important need in the community, by providing pool space for hydrotherapy services.

In addition, the development also helps to protect important elements of the Heritage Conservation Area by retaining the existing building on the site. It is likely that additional parking spaces could have been provided if the building was demolished, however, the development as proposed instead positively impacts on the heritage significance of the area by retaining and renovating this building.

The development is further justified as redevelopment of land in the B3 Commercial Core zone helps to ensure the ongoing primacy and vibrancy Wagga Wagga Central Business District, by creating destinations for people to patronise. Keeping uses in close proximity to other commercial uses increases the likelihood of multi-purpose trips. An example of this would be a parent and child visiting a local coffee shop following a swimming lesson, or a hydrotherapy patient having lunch at a local café before exercise. A vibrant CBD is in the public interest as it provides a desirable place for people to interact and socialise in an accessible location.

In the case of the proposed development, this is a use that can be located outside the CBD, and there are examples of this within the city. If this variation to parking (and the development) is not supported, it is likely that the use would ultimately occur on a site outside the CBD. This is considered to be a less desirable outcome for the city, as the added benefit of this development occurring within the city centre will be lost.

The desirability of encouraging development in the CBD is also evident in the parking requirements for a range of other uses in the B3 zone, where the car parking requirements have been reduced for certain development types in the B3 zone. For example, office premises ordinarily require 1 space per 33m<sup>2</sup> of GFA. Within the B3 zone this is reduced to 1 space per 45m<sup>2</sup> of GFA. Therefore it is clear that Council accepts the principal of encouraging development in the CBD at the expense of meeting some parking requirements.

Meeting car parking requirements in the CBD is not a problem exclusive to this development. Strict application of parking controls would effectively preclude any reasonable development on sites such as this in the Heritage Conservation Area, as any increase in floor area for any use is likely to result in a parking non-compliance.



The zoning of the land B3 - Commercial Core in itself implies that development of the land, from its historic residential use, to commercial uses is desired and anticipated. Even outside the Heritage Conservation Area, redevelopments increasing floor area have difficulty in accommodating the full parking requirement under the WWDCP 2010. Therefore, to support the use of the land for its intended purposes under the WWLEP 2010, irrespective of the proposed development, some variation to parking requirements is likely to be required.

It is useful to note that even if full compliance with parking controls was achievable, it is likely that at times parking demand at the site would outstrip supply. This is the case under both methodologies to calculate parking supply. Indeed if full parking compliance was achieved, parking impacts could be even greater than the impacts expected under the proposed development, as the Applicant could run a far more intensive operation, and there would be limited scope (on parking grounds) for Council to require curtailment of these operations to reduce parking demand.

### Summary

In summary, it is assessed that the parking requirement for the proposed development under the WWDCP 2010 is 9 spaces. 5 spaces are proposed, and a credit exists on the site for an additional space. Therefore the development is 3 spaces short.

The development is likely to result in up to 12 vehicles accessing the site at its peak during the week, and 16 vehicles at its peak on the weekend. As such, an impact on parking in the local area is likely.

An informal survey carried out by staff revealed 51 parking spaces available within 200m of the site on Friday 11<sup>th</sup> September at 11am. If 7 vehicles unable to be accommodated on the subject site parked in the local network as a result of the development, 44 spaces would still be available for use. Therefore the impact on parking in the locality is not considered significant.

In isolation, the presence of significant on-street parking in the vicinity of the development alone is not sufficient to justify a variation to the parking controls in the WWDCP 2010. However, in the case of the subject development, further justification exists to support a variation:

- The development helps meet the need for hydrotherapy services in the city.
- Supporting redevelopment in the Wagga Wagga CBD helps to ensure the ongoing primacy and vibrancy of the CBD.
- The development maintains important heritage features on the site and minimises impacts on the Heritage Conservation Area by retaining the original dwelling on the site.

Together these factors, along with the minimal impact on parking in the locality likely to result from the development, are considered to justify the variation to the car parking controls of the WWDCP 2010 and it is recommended that the variation be supported.

### 2.2 Off-Street Parking - Remaining Controls

*C2 The design and layout of parking is to be in accordance with the relevant Australian Standard at the time of lodgement of an application.*

It is recommended that a condition of consent be imposed ensuring parking complies 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 at the time of lodgement of an application.*

Parking for disabled persons is proposed. Standard conditions of consent are recommended in this regard.

*C4 For mixed use developments, the parking required is the total of requirements for each use. Variations can 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.*

The development is not a mixed use development.

*C5 In the case of redevelopment or change of use (other than in the B3 zone) the parking requirements are to be calculated by:*

- a. Determining the parking requirement of the current or previous use in accordance with the table, then*
- b. Determining the parking requirement for the new use, then*
- c. Subtracting the existing requirement from the requirement for the proposed use to determine the number of spaces required (i.e. a credit is provided for any shortfall that exists on the site for the current use).*

Site within B3 zone and therefore control does not apply.

*C7 Variations to the parking requirements may be considered where minor alterations and additions are proposed and the changes do not encroach or reduce the current off-street parking spaces.*

See discussion under C1/C5.

*C8 A traffic and parking study may be required for certain proposals, including but not limited to proposals for schools and other education uses including child care centres, business parks, hospitals, cinemas and gyms.*

A traffic and parking study was not considered necessary for the proposed development, as it is not of a scale or size to warrant one. Parking and traffic generation is unlikely to be in the order of that generated by the uses listed in this clause, such as child care centres, business parks, hospitals, cinemas and gyms. It is noted that the rate for gyms was used as a guide in the C1/C5 discussion, however, operationally, the proposed indoor pool will operate on a far reduced scale compared to a gym.

*C9 Provide trees within the parking area at a rate of 1 tree per 5 spaces in a row. Each tree to have a minimum mature spread of 5m and to be located in a planting bed with minimum width of 1.5m (between back of kerbs) and minimum area of 3.5m<sup>2</sup>.*

*C10 Planting beds located within a car park are to have a subsoil drainage system connected into the stormwater system of the site.*

*C11 To ensure sightlines are maintained for drivers and pedestrians, trees used within or adjacent to car parking areas shall have a minimum clear trunk height of 2.5m, with shrubs and ground covers not to exceed 500mm in height.*

There is insufficient space on the site to provide the required landscaping and to still provide 5 parking spaces. Given the importance of providing as much parking on site as possible, in these circumstances, it is considered appropriate to forgo the tree provision requirements of the WWDCP 2010. As the carparking area is small, and immediately to the side of the laneway, it is considered that visual and amenity impacts resulting from not providing trees within the carpark will not be significant, and a variation to C9 should be supported. In the event that C9 is not complied with, C10 and C11 are not relevant to the development.

### 2.3 Landscaping

*C1 A landscape plan is required for applications for :*

- *Commercial and Industrial developments*
- *Residential development (other than dwelling houses).*

*C2 Natural features at the site, such as trees, rock outcrops, cliffs, ledges and indigenous species and vegetation communities are to be retained and incorporated into the design of the development.*

*C3 Use native and indigenous plants, especially low water consumption plants in preference to exotic species.*

*C4 Trees should be planted at the front and rear of properties to provide tree canopy.*

*C5 Provide landscaping in the front and side setback areas, and on other parts of the site to improve the streetscape, soften the appearance of buildings and paved areas, and to provide visual screening.*

*C6 Landscaping should provide shade in summer without reducing solar access in winter. Limited use of deciduous species is acceptable where used to achieve passive solar design.*

The site is already used for commercial purposes and has landscaping in place. The landscaping is proposed to be embellished with a Lilli Pilli hedge behind the front fence, and screening of air conditioning units. These works are considered acceptable.

### 2.4 Signage

No signage is proposed in the Development Application.

### 2.5 Safety and security

*C1 Use good site planning to clearly define public, semi-public and private areas.*

Fencing, including an existing front fence, is provided which clearly defines the public spaces surrounding the site from the private property.

*C2 Entries are to be clearly visible and identifiable from the street, and are to give the resident/occupier a sense of personal address and shelter. For non-residential uses, administration offices or showroom are to be located at the front of the building.*

Administration areas are within the front of the building in the former dwelling. A front entrance is clearly visible from Trail Street, whilst a rear entry is clearly visible from Edel Quinn Lane to the rear.

*C3 Minimise blank walls along street frontages.*

Blank walls along street frontages have been avoided.

*C4 Avoid areas of potential concealment and 'blind' corners.*

Blind corners and areas of potential concealment have been largely avoided. One area remains at the fire exit to the south, which is difficult to avoid due to the heritage constraints on the site, however alternative entries/exits to the site exist.

*C5 Provide lighting to external entry areas, driveways and car parks in accordance with the relevant Australian Standards. The lighting is to be designed and sited to minimise spill and potential nuisance to adjoining properties.*

The site will be occupied predominantly during daylight hours. Standard conditions of consent relating to lighting of the car park area are recommended.

*C6 Planting and fencing is not to reduce the safety of users or compromise areas of natural surveillance.*

Planting and fencing is unlikely to compromise the safety of user or reduce natural surveillance.

*C7 Where a site provides a pedestrian through route the access path is to be clearly defined and sign posted, appropriately lit, and have satisfactory visibility.*

A pedestrian route is not proposed through the site.

*C8 Locate public toilets and rest areas to promote their use, and maximise public surveillance without creating visual intrusion.*

No public toilets are proposed.

### 2.6 Erosion and Sediment Control Principles

There are no controls within this section of the WWDCP 2010. It is recommended that standard conditions of consent relating to erosion and sediment control be imposed.

### 3.2 Heritage Items

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

The proposed development is not on a heritage item, but two heritage items are located in the vicinity of the site on the opposite side of Trail Street. Therefore section 3.2.4 applies:

*C1 Alterations and additions to the buildings and structure, and new development are to be designed to respect and compliment the heritage item in terms of building envelope, proportions, materials, colours, finishes and building street alignment.*

*C2 Development in the vicinity of a heritage item is to minimise the impact on the setting of the item by:*

- a) Providing an adequate area around the heritage item to allow its interpretation.*
- b) Retaining original or significant landscaping associated with the heritage item.*
- c) Protecting and allowing the interpretation of archaeological features associated with the heritage item.*
- d) Retaining and respecting significant views to and from the heritage item.*

The proposed works will be largely screened by the existing building on the site, and

therefore are unlikely to have any significant impact on the heritage items. The matters in Section 3.2.4 have been considered and no concerns are raised.

### 3.3 Wagga Wagga Heritage Conservation Area

#### 3.3.1 Fitzmaurice commercial precinct

Strictly, the site would be within the “Fitzmaurice Street Commercial Precinct”, as the site is within the B3 zone. The controls in this section, however, are predominantly drafted for the commercial buildings in Fitzmaurice Street, rather than a former dwelling such as this in a side street. The controls are addressed, where relevant, below.

#### *Facade treatment*

*C1 Retain original elements and features, including features that are above awning level.*

The majority of the original dwelling is retained on the site, including the roof form and façade, the majority of the building, and the internal floor layout.

*C2 Where original shopfronts, verandahs or awnings have been altered, the replacement is to be based on historic information and/or the interpretation of period details.*

The side verandah has been previously infilled. The previous works carried out to this verandah make it impossible to reinstate it, however they are in a condition requiring repair. Council’s Heritage Advisor has accepted the works to repair and retain the existing infill verandah subject to the following:

- *The works are accepted on the provision that the exterior of the extension is treated with Nawkaw or similar tint to ensure that the infill brickwork appears slightly darker and does not distract from the original brickwork*
- *The new panelling is traditional weatherboards in a suitable agreed colour*

It is recommended that conditions of consent supporting the Heritage Advisor’s comments be imposed.

*C3 Infilling original verandahs is not supported.*

See comments under C2.

*C4 Additional storeys can be considered if set well behind the front building line and designed to not impact detrimentally on the contribution of the original facade to the streetscape. Service elements (solar panels, solar heating, antennas, satellite dishes and air conditioning units) to be placed to the rear of the properties, preferably not visible from the street, or on rear outbuildings.*

Additional stories are not proposed.

*C5 Rendering or painting face brick is generally not supported.*

Painting of existing rendered and painted areas is proposed. No new rendered or painted face brick is proposed.

#### *Infill development*

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

The new infill development to the rear of the premises has been designed, in both form and material, to be compatible with the existing development on the site and the locality. The new works are a pavilion style addition, creating a break in form between the original dwelling and the new works and allowing the original roof form to be retained. Materials have been selected to be traditional in style.

Council's Heritage Advisor has made a number of minor notes regarding gutters, downpipes, flashings and materials on return ends. It is recommended that these notes be supported by conditions of consent in any consent.

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

Trail Street does not have a two-story building height at the street frontage, nor nil setbacks.

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

Amalgamation of sites is not proposed.

*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.*

Complies.

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

The existing front verandah will be retained.

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

The façade will remain largely unaltered, with adequate articulation provided.

*C7 Painting of facades in corporate colours is not supported and corporate identity should be established through appropriate signage.*

A corporate colour scheme is not proposed to be applied to the building.

#### *Colour schemes*

*The controls aim to encourage use of colours in a traditional way with base colours and highlights to appropriate elements. It is not intended to demand strict adherence to prescribed colours. External redecoration may be eligible for a grant from the Council Local Heritage Assistance Fund, if carried out using traditional colours.*

*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.*

As discussed under part(a)(i) of this assessment report, the proposed dark grey and white colour scheme, and the painting of the front fence is assessed as being inconsistent with the Heritage Conservation Area. Conditions of consent have been recommended requiring the submission of an amended colour scheme.

#### 4.2 Flooding

This section of the WWDCP 2010 sets out controls for development within the floodplain on a precinct basis. The subject site is within the precinct known as “Wagga Central Business Area (Protected by levee)” and the controls for “low impact commercial” are:

##### *Floor levels:*

- *Minimum floor height 225mm above ground level within the building footprint*
- *Consider local drainage and ponding of stormwater within the levee*

The proposed works are well clear of the area mapped as being flood prone on the site. As such, the minimum floor height under this control is not required for the development.

#### 10.1 City Centre

##### Fitzmaurice Street Precinct

*C1 Comply with the requirements of Section 3.3.1 of the DCP.*

This is discussed above.

*C2 Maintain the two to three storey street wall to Fitzmaurice Street. Where upper levels are proposed, provide a nominal setback behind the parapet line as shown on Figure 10.1.2.*

The site does not front Fitzmaurice Street.

*C3 Maintain a two 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.*

The site does not front Cadell Place.

*C4 Comply with the requirements of Section 12.10 of the DCP*

The site is not within the Riverside Precinct. There are no relevant controls in 12.10

There are no other provisions of the WWDCP 2010 relevant to this Development Application.

**(a)(iia) - any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and**

No planning agreements have been entered into in relation to the subject land.

**(a)(iv) - the regulations (to the extent that they prescribe matters for the purposes of this paragraph)**

It is considered that the matters prescribed by the Environmental Planning and Assessment Regulation 2000 have been satisfied. Prescribed conditions should be imposed.

Clause 94 of the Regulations require that certain matters relating to the upgrade of existing buildings be considered. The assessment is as follows:

<b>Clause 94 EPA Regulation</b> <i>(1) This clause applies to a development application for development involving the rebuilding, alteration, enlargement or extension of an existing building where-</i>	
	<i>(a) the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, as it was before any such work was commenced, measured over its roof and external walls, or</i>
<b>Comment:</b>	With demolition work and addition, it would be over 50% of floor area.
	<i>(b) the measures contained in the building are inadequate- (i) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or</i>
<b>Comment:</b>	There is no record that there are any fire safety measures currently in the building with change of use DA. It is an assumption that there are no measures in the building.
	<i>(ii) to restrict the spread of fire from the building to other buildings nearby.</i>
<b>Comment:</b>	There is no record or evidence of measures to restrict spread of fire. Windows on the northern and southern elevations require protection.
	<i>(2) In determining a development application to which this clause applies, a consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.</i>
<b>Comment:</b>	Total area 482 m <sup>2</sup>
<b>Recommendation:</b>	Partial upgrade
<b>Proposed Condition:</b>	<i>Attached</i>

**(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 development will have minimal impacts on the heritage streetscape of the area, as the existing building to the front will be retained, and the majority of the additions will be screened by the existing building, including the roof. Only a small section of the additions, to either side of the former dwelling will be visible.

The additions are of an appropriate scale so as to not negatively impact on adjoining properties, and are unlikely to cause unreasonable overshadowing or overlooking. It is noted that the premises to the south, adjacent to the additions, have no windows or



opening to this elevation, whilst the proposed development has no windows to the northern elevation, and only a single fire door opening to the south.

The development is proposed within the Wagga Wagga CBD, and as such uses generating traffic and parking impacts are expected. The additional vehicles accessing the site are unlikely to impact negatively on the character of the area.

The proposed land use is considered compatible with surrounding land uses, which are overwhelmingly commercial in character.

### **Access, transport and traffic**

Access, traffic and parking is discussed in detail in part(a)(iii) of this assessment report. Impacts on parking in the locality are likely, however, given the context of the area, these impacts are considered justified.

### **Services**

The development is within a serviced area. Works associated with the provision of services are unlikely to cause significant impacts.

### **Heritage**

The impacts of the development on heritage are considered in detail in part(a)(i) and (iii) of this assessment report. Impacts on heritage are considered acceptable.

### **Natural Hazards**

A small portion of the site is identified as being subject to flooding in a 1 in 100 year flood event. The affected area is within the front yard and clear of the proposed additions. Due to the nature of the proposed use, the character of the area, and the extent of flooding, flooding impacts on the development are not considered significant, and the site is considered suitable for the proposed development.

### **Man-Made Hazards**

Potential contamination is considered in the SEPP 55 assessment. The site is considered suitable for the proposed development.

### **Economic Impact in the Locality**

The proposed development will likely result in a positive economic impact through employment generation, both during construction, and during the ongoing operation of the site.

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

The proposed development provides a facility that is of community benefit, both through the provision of learn to swim services, as well as increasing opportunities for hydrotherapy. The development is therefore considered to have a positive social impact in the locality.

### **Pollution and off-site environmental effects**

The development is unlikely to result in any significant pollution or offsite environmental impacts such as erosion or sedimentation downstream, or air pollution.

**Flora and fauna**

No significant vegetation is proposed to be removed under this Development Application, and as such, adverse impacts on flora and fauna are considered unlikely.

**Noise and Vibration**

The proposed development has the potential to generate some noise, however the pool will be used for structured swimming lessons rather than free play, and as such, noise will be controlled to a degree. The scale of the operation is also such that only small numbers of children will be present at the site at any given time, further reducing the potential for adverse noise impacts.

The context of the area, being a commercial zone, is such that some noise from uses are to be expected, and the hours of operation are such that noise impacts would not be unreasonable. There are no residential receivers in close proximity to the development.

**Energy Impacts**

The development does not incorporate any special energy efficiency measures, however, a number of sky lights are proposed to improve lighting to the pool area.

**Site Design and internal design**

The design of the site, including setbacks to adjoining properties, is considered acceptable, and will not unreasonably impact on adjoining properties.

**Construction**

Standard conditions of consent are recommended to control impacts related to construction activities.

**Cumulative Impacts**

It is possible that if further commercial development occurs within Trail Street, that impacts on on-street parking will increase. Each individual development will need to be considered on its merits as this Development Application has been, and the acceptability of any further impacts will need to be assessed against the situation at that time.

**Ecologically Sustainable Development**

The proposal is considered to comply with the principles of Ecologically Sustainable Development such as inter-generational equality and conservation of biological diversity and ecological integrity.

**(c) - The suitability of the site for the development**

The site is considered suitable for the proposed development, being a site zoned for commercial purposes within the Wagga Wagga CBD. Development of the site in this location will help to ensure the ongoing primacy and viability of the Wagga Wagga Commercial Core.

There are no specific site constraints that would render the site inappropriate, with

flooding minor and clear of the buildings.

Impacts, including impacts on parking, are considered acceptable and can be managed through the imposition of suitable conditions.

#### **(d) - any submissions made in accordance with this Act or the Regulations Referrals**

Standard internal referrals were carried out, as well as referrals to Council's Heritage Advisor, Riverina Water and Essential Energy.

#### **Notification**

The application was notified to adjoining neighbours from 7<sup>th</sup> August 2020 to 21<sup>st</sup> August 2020 in accordance with the provisions of the WWDCP 2010. Following amendments to the plans, the two objectors to the development were renotified from 7<sup>th</sup> September 2020 to 14<sup>th</sup> September 2020.

#### **Advertising**

In accordance with the provisions of the WWDCP 2010, the Development Application was advertised from 7<sup>th</sup> August 2020 to 21<sup>st</sup> August 2020.

#### **Public Submissions and those from public authorities**

Two public submission by way of objection were received.

Following the renotification period one of the objections was withdrawn, and replaced with a general submission, not by way of objection, requesting that certain matters be considered in the assessment of the Development Application.

#### Public Submissions

Two public objections were received when initially notified. A number of amendments were made to the development, including a number directly in relation to objections, including increasing setbacks to neighbouring properties, and removing the statement in the Statement of Environmental Effects that on site parking would be utilised by staff.

Following the renotification period, one objection was withdrawn and replaced with a general submission requesting certain matters be taken into consideration in the assessment of the Development Application. The remaining objection remained unaltered.

The matters raised in the objection are summarised and addressed below:

#### *Parking - if on site parking is dedicated to staff, where will patrons park*

The original Development Application that was notified indicated that 4 of the 5 car parks on site would be allocated as staff parking. This commitment has now been removed from the Development Application.

*Parking - development may force clients (including elderly clients) of surrounding businesses to park further away and cross busy roads to access existing businesses*

Ultimately on-street and public car parking spaces do not belong to any existing businesses, and businesses cannot rely on these spaces being available in the immediate vicinity of their business.

It is acknowledged that the proposed development will result in some impacts on parking in the locality, however, it has been assessed that these impacts will not be unreasonable or significant on businesses in the area, given the substantial number of parking spaces that have been observed as being available within 200m of the site.

The impacts are further justified as development within the Wagga Wagga CBD helps to ensure the ongoing primacy and vibrancy of the Commercial Core area. Furthermore, the development will help meet the need for hydrotherapy services in the city.

These matters are discussed further in part(a)(iii) of this assessment report.

*Parking - concerns vehicles associated with proposed development will illegally park on nearby properties or within Edel Quinn Lane, blocking access to these properties*

The concerns raised are acknowledged. Management of this issue will ultimately need to be co-ordinated by the operators of the indoor pool. To reinforce the need for management, and to ensure that there is a clear pathway for concerns and complaints from nearby properties to be considered, it is recommended that conditions be imposed to:

- Ensure that a complaint handling mechanism and register is developed by the pool operators, including clear contact details for nearby properties.
- Require that a parking management plan is developed by the operators of the pool to ensure patrons do not park within private car parks of, or block access to, nearby properties. This condition should ensure that the plan is reviewed after an initial period.

*Parking - 15 minute gap not reflected in the hours of operation and difficult to regulate*

Information submitted now precisely clarifies the operation details for the development including a number of 15 minute gaps. It is recommended that the gaps between classes and general operation of the site be controlled via a condition requiring the submission of an Operational Management Plan. The Operational Management Plan should generally reflect the operation of the development as proposed, however, to avoid the need for a 4.55 modification for minor operational changes some flexibility should be incorporated to allow modification of the OMP from time to time with the consent of Council, subject to the maximum number of persons on the site not being exceeded.

To help reinforce the need for compliance with the OMP, a condition should be also imposed to require the submission of an annual compliance statement by the pool operators.

It is noted that the OMP could incorporate the complaints mechanism and parking management plan, as discussed above.

*Parking - Insufficient parking on the eastern side of Trail Street for the 7 businesses in this block. Safety issues with patrons with children parking on Trail Street.*

The impacts on parking in the local area have been discussed significantly throughout this report and are considered acceptable. Whilst there are limited parking spaces on the eastern side of Trail Street, there are a large number of parking spaces within walking distance of the site to support the businesses in this area. Informal surveys indicate there are sufficient parking spaces available for use.

On street parking is regularly used by members of the public, including throughout the CBD. The development itself does not increase the risks associated with parking on-street. Patrons will need to manage these risks and make their own decisions regarding where they choose to park.

The matters raised in the general submission (not by way of objection) are summarised below:

*Request that consideration be given to measures to be put in place to ensure operators adhere to the classes in the application, times between classes and number of attendees*

These matters are discussed under consideration of the objection, and conditions have been recommended.

#### Submissions from Public Authorities

Essential Energy provided no comment in relation to potential safety risks resulting from the development. General comments were provided which are recommended to be conditioned where relevant.

Riverina Water raised no objection and requested the imposition of standard conditions.

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

The proposed development provides a facility of community benefit which will be used for swimming lessons. The development will also help address a need for hydrotherapy pool space in the city. Therefore the development is considered to be in the public interest.

The carrying out of the development within the CBD, particularly where it could be carried out within other areas within the city, is also considered to be in the public interest, as investment in the city centre, and providing destinations for residents helps to ensure the primacy and vibrancy of the commercial core.

#### **Other Legislative Requirements**

**Section 1.7 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. Part of the site is mapped as being subject to flooding, however, it does not form part of the development site. A risk assessment has been carried out and the development is considered acceptable.

#### *Bush Fire Risk Assessment*

The development has been considered against the relevant provisions of the WWLEP2010. The site is not considered bush fire prone. A risk assessment has been carried out and the development is considered acceptable, subject to the imposition of suitable conditions.

#### **Council Policies**

No additional Council policies apply to this development.

#### **Comments by Council's Officers and/or Development Assessment Team**

Council's other relevant officers have reviewed the application in accordance with Council's processing procedures. Relevant comments have been incorporated into the report as appropriate.

#### **Development Contributions - Section 7.11/7.12 & Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000**

Section 7.12

Section 7.12 of the *Environmental Planning and Assessment Act 1979* and the *Wagga Wagga 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. As the cost of the development is between \$100,000 and \$200,000, a Section 7.12 levy of 0.5% of the cost of the development is payable for the development in accordance with the Council's contribution plan. Calculations are set out below.

$$0.005 \times \$180,000 \\ = \$900$$

Section 64

Section 64 of the *Environmental Planning and Assessment Act 1979*, 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.

*s64 Stormwater*

The lots were subdivided in 1906 and 1910 (one of the lots has a more recent DP but was not created via subdivision) so no contribution was paid at the time they were created. The development will increase hardstand on the site. A contribution is payable for the additional hardstand.

The calculation therefore is as follows:

Area of additions and car parking = 302m<sup>2</sup>

Area of existing hardstand to be demolished (rear of building, outdoor area, garage and carport) = 172m<sup>2</sup>

Therefore the area of additional hardstand is:

$$302\text{m}^2 - 172\text{m}^2 = 130\text{m}^2$$

The formula for determining contributions per the plan is:

$$\frac{\text{net impervious area (m}^2\text{)}}{800\text{m}^2} \times \frac{1}{0.74} \times \text{developer charge} \times \text{CPI}$$

$$\frac{130}{800} \times \frac{1.0}{0.74} \times \$3007 = \$660.32$$

CPI needs to be added to the contribution as follows:

$$\$660.32 \times 117.1/87.9 \\ = \$879.68$$

#### s64 Sewer

The proposed development will increase impacts on sewer infrastructure, and as such a contribution should be applied. Contributions are calculated using the Equivalent Tenements (ET) set out in the Water Directorate 'Section 64 Determinations of Equivalent Tenements Guidelines'. Using these Guidelines, an ET can be calculated for the proposed development. The Development Servicing Plan for Sewerage 2013 then sets a contribution rate per ET.

The Water Directorate Guidelines do not set a specific ET for indoor pools, instead recommending that these be considered on a case-by-case basis.

A similar indoor pool for learn to swim purposes was approved by Council in 2009. In consideration of sewer contributions for that development, the following methodology was used:

*Water Directorate guidelines have been referenced to determine the equivalent tenements.*

*Sewer:*

*Assess amenities block. Per shower - 0.63 Ets. Per WC - 0.63 Ets.*

*Proposal is 10 showers; 10 toilets = 20.*

*Contribution is  $20 \times 0.63 \times \$1,910.00 \times 166.3/155.8 = \$25,687.90$ .*

*Public amenities - 24 hrs x 7 days = 168 hrs.*

*This proposal = 77 hrs.*

*Contribution is  $44.8\% \times \$25,687.90 = \$11,508.18$ .*

This methodology is therefore considered a good guide for calculating sewer contributions for this development.

The contribution formula for the proposed development is therefore as follows:

Assess amenities block. Per Shower - 0.63 ETs. Per WC - 0.63 ETs

Proposal is 6 showers; 8 toilets = 14.

Contribution is  $14 \times 0.63 \times \$3538 = \$31,205.16$

(NOTE: Contribution rate has changed since 2009 development and CPI to be added at end of calculation)

Public amenities - 24 hrs x 7 days = 168 hrs.

This proposal = 45 hrs 15 min of classes/hydrotherapy.



Therefore, operates for 26.9% of a public amenity

Contribution is  $26.9\% \times \$31,205.16 = \$8,394.19$

A credit exists for the existing office on the land:

Office ET is 0.01 ETs per m<sup>2</sup>

Existing building is 178m<sup>2</sup> = 1.78 ETS

Credit is  $1.78 \times 3538 = \$6,297.64$

Contribution - Credit  
=  $\$8,394.19 - \$6,297.64$   
=  $\$2,097.19$

CPI needs to be added to this contribution as follows:

$\$2,097.19 \times 117.1/100.5$   
=  $\$2,443.59$

### **Other Approvals**

No other approvals have been sought.

### **Conclusion**

The development is considered to be satisfactory based on the foregoing assessment. Impacts of the proposed development, including impacts on parking, are considered acceptable in the context of the proposed development. The development is considered to be in the public interest, and it helps support the primacy and vibrancy of the Wagga Wagga CBD, and will provide opportunities for learn to swim and hydrotherapy activities. The proposal complies with the requirements of the Environmental Planning and Assessment Act 1979 and Councils Policies.

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## **RECOMMENDATION**

It is recommended that application number DA20/0310 for Indoor Recreation Facility (Indoor Pool) be approved, subject to the following conditions:-

### **CONDITIONS OF CONSENT FOR APPLICATION NO. DA20/0310**

#### **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 No.	Plan/Doc Title	Prepared by	Issue	Date
	Statement of Environmental Effects	Salvestro Planning	2.2	Sep 2020
01	Site Analysis	Align Building Design		Undated (Received by Council 7/9/20)
02	Existing Floor	Align Building Design		Undated (Received by Council 7/9/20)
02.1	Existing Elevations	Align Building Design		Undated (Received by Council 7/9/20)
03	Additions	Align Building Design		Undated (Received by Council 7/9/20)
03.1	Additions Elevations	Align Building Design		Undated (Received by Council 7/9/20)
04	Site Plan - Proposed	Align Building Design		Undated (Received by Council 7/9/20)
05	Site - Electrical	Align Building Design		Undated (Received by Council 13/9/20)
	Document Outlining Proposed Heritage Works (as modified per conditions of consent and approved plans)	Applicant		24/8/20

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) Pursuant to upgrade condition of the consent, relevant details are to be provided to the PCA as required.

C.3 Prior to the issue of Construction Certificate the applicant must lodge a bond with Council of:-

\$1000 for security deposit on the kerb and gutter and footpath

Plus a non-refundable administration fee as per Councils fees and charges.

NOTE 1: Applicants will be required to contact Council PRIOR to making the payment to arrange a bond (BKG) number. This must be done prior to making payment at Council's customer service desk.

NOTE 2: In lieu of payment, the applicant can with written authorisation from their builder, utilise an ongoing bond should their builder hold and ongoing bond.

NOTE 3: All monetary conditions are reviewed annually, and may change on 1 July each year.

- NOTE 4: Works in the form of driveways, kerb and gutter and footpath may require you to obtain a Section 138 Roads Act 1993 approval. Please contact Councils Road Reserve Officer on 1300 292 442 prior to undertaking such works.
- NOTE 5: Council will accept a once off security deposit for the kerb and gutter and footpath for applicants who lodge multiple DA's with council. If the applicant has security deposits held by Council for kerb and gutter and footpath at the time of Construction Certificate application, then Council may waive the need for an additional bond to be paid.
- NOTE 6: The bond held on the kerb and gutter and footpath is fully refundable upon completion of all works and upon inspection by Council to ensure that any damage to Council infrastructure has been repaired. The bond will not be refunded in the event that damage done to Council's infrastructure is not repaired to the satisfaction of Council. All damage is to be repaired at the full cost of the applicant
- C.4 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 \$900 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. The CPI at the date of the consent is 117.4.
- 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.5 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.
- NOTE1: '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 \$2097.19

The Section 64 Sewer contribution (updated by the 117.1/100.5) required to be paid is \$2443.59

NOTE 6: The Section 64 Stormwater base figure is \$660.32

The Section 64 Stormwater contribution (updated by the 117.1/87.9) required to be paid is \$879.68

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.6 Pursuant to clause 94 of the Environmental Planning and Assessment Regulation 2000, the existing single storey brick building shall be brought into partial conformity with the Building Code of Australia as follows:

#### Fire separation

- In order to prevent spread of fire from the building to other buildings nearby existing window openings in the external wall within 3m from the Southern and Northern property boundaries are to be protected in accordance with the performance requirement CP2 of the Building Code of Australia.

#### Emergency Lighting & Exit Signage

- In order to provide adequate visibility in an emergency and to identify exits, a system of emergency lighting and exit signage to AS2293.1 shall be provided throughout the existing building.

NOTE: The final layout of the system shall be reached in conjunction with the proposed additions taking into account disposition and number of required

exits in the building and the conditions of the consent.

Egress provisions

- Any door in a required exit must be readily openable without a key from the inside by a single hand downward action in a single device as specified in the BCA clause D2.21. This requirement can be modified at the discretion of the certifier, however the performance requirement DP4 must be complied with.

Fire Hazard properties

- Where the internal floor coverings are refurbished in the existing building, they shall be replaced with floor linings meeting the fire hazard properties listed in the Specification C1.10 of the Building Code of Australia.

The Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation must detail building upgrade works required by this condition, as applicable.

C.7 Prior to the release of the Construction Certificate, amended plans and details shall be submitted to Council for approval, to the satisfaction of the General Manager or delegate showing:

- The exterior of the infill verandah being treated with Nawkaw or similar tint to ensure brickwork appears slightly darker and does not distract from the original brickwork,
- The new panelling on the infill verandah as traditional weatherboards, with colour to the satisfaction of Council.
- A note on elevations where roofs are shown specifying traditional rolled flashings, smooth unperforated quad gutters and circular downpipes will be used.
- The north-western end of the pool building addition facing Trail Street matching the materials of the rear addition.

Works shall be carried out consistent with these approved amended plans and details.

C.8 The proposed colour scheme is not approved. Prior to the release of the Construction Certificate, details of an amended colour scheme shall be submitted to Council for approval, to the satisfaction of the General Manager or delegate.

NOTE: The amended colour scheme shall include the removal of paint from the front fence wall.

C.9 A detailed or revised landscape plan and legend shall be submitted and approved prior to the release of the Construction Certificate.

- (1) Landscape plan shall be in accordance with Council's Landscape Guidelines and Landscape Application Checklist.
- (2) A Plant Schedule indicating all plant species, pot sizes, spacings and numbers to be planted within the development shall be submitted with the Landscape Plan. Plant species are to be identified by full botanical name. All

plants proposed in the landscape plan are to be detailed in the plant schedule.

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

C.10 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.11 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.12 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.13 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.14 Stormwater drainage from the proposed development shall connect into the existing stormwater system onsite. Stormwater discharge will not be permitted to discharge directly to Edel Quinn Lane. Prior to the carrying out of stormwater works, details shall be submitted to Council showing the method of stormwater disposal consistent with this condition.
- C.15 Prior to any demolition works commencing, any adjacent service line/s to properties must be disconnected. Refer Essential Energy's Contestable Works team for requirements via email [contestableworks@essentialenergy.com.au](mailto:contestableworks@essentialenergy.com.au).
- C.16 Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).



C.17 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.18 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.

C.19 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.

**Requirements during construction or site works**

- C.20 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.
- C.21 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.22 The concrete slab floor shall be treated against termites in accordance with AS 3660-1 2000 Termite Management:
- a) NON CHEMICAL - where a non chemical treatment (physical barriers) is to be used the applicant shall submit details to Council prior to any work commencing.
  - b) CHEMICAL RETICULATION - where a chemical method of treatment is to be used by way of reticulation, details shall be provided to Council for approval prior to installation accompanied by a signed maintenance contract with a Pest Control Operator.

Applicants and owners are to ensure that an annual inspection is undertaken to determine need for treatment.

- c) Upon installation of the method of treatment, a Certificate shall be issued to Council by the licensed installer of the system certifying that the system installed is in accordance with AS 3660-1 and in accordance with any specific requirements of the Council.
- d) A durable notice must be permanently fixed to the building in the electricity meter box indicating:
  - i) The method of protection
  - ii) The date of installation of the system
  - iii) Where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label.
  - iv) The need to maintain and inspect the system on a regular basis.

C.23 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.24 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 NSW Environment, Energy and Science Guidelines.
- C.25 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.26 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.27 Essential Energy's records indicate there is electricity infrastructure located within the properties and within close proximity of the properties. Any activities within these locations must be undertaken in accordance with the latest industry guideline currently known as 'ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure'. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
- C.28 Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice - Work near Overhead Power Lines and Code of Practice - Work near Underground Assets.
- C.29 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.
- C.30 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.
Final	Prior to occupation of the building or structure.

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

- C.31 Prior to the release of the Occupation Certificate, the upgrade works required under Condition C.6 shall be completed, to the satisfaction of the Certifying Authority.
- C.32 The subject land, being Lot 3 DP 4999 and Lot 1 DP 937208 shall be consolidated into a single allotment. Evidence of the registration of the Plan of Consolidation with Land Registry Services NSW shall be submitted to Council, to the satisfaction of the General Manager, prior to the release of the Occupation Certificate.
- C.33 Prior to the release of the Occupation Certificate, landscaping in accordance with the approved landscape plan shall be completed, to the satisfaction of the General Manager or delegate.

C.34 Prior to the release of the Occupation Certificate, an Operational Management Plan (OMP) for the premises shall be submitted to, and approved by Council, to the satisfaction of the General Manager or delegate. The OMP shall include:

- The detailed operation of the development, including class times, breaks, physiotherapy times etc. These shall be generally consistent with the operational details set out in the approved Statement of Environmental Effects, and must always ensure compliance with maximum patron numbers and hours of operation at all times, as set out by this consent, but can be varied from time-to-time within these constraints, with the consent of the General Manager or delegate, to allow a degree of flexibility in operations.
- Measures to manage the number of persons on the site during transition between learn-to-swim sessions and hydrotherapy sessions, including reducing the number of hydrotherapy slots available at times directly adjoining learn-to-swim sessions.
- Measures for complaints management, including a complaints register. Measures shall include an email address and phone number for the receipt of complaints, and a clear process for addressing all complaints received, including logging all complaints, with clear details of the nature of the complaint and how it was resolved, in the complaints register. The plan shall also outline ongoing measures to engage with neighbours and ensure that the measures for making a complaint are known, such as annual letterbox drops.
- A Parking Management Plan setting out measures to be taken by the operators of the proposed development to ensure use of on-site parking spaces is maximised, that patrons arrive close to, and leave soon after their allotted pool time, and to ensure patrons do not park within nearby private car parks, particularly within Edel Quinn Lane, or block access to nearby properties, particularly those that have access from Edel Quinn Lane. The plan should commit to regular communication with customers to ensure compliance with the plan.

Prior to the release of the Occupation Certificate, a copy of the OMP, as approved by Council, shall be made available to all properties with access from Edel Quinn Lane.

Amendments to the OMP can be made from time-to-time, with the consent of the General Manager or delegate. Following any amendments, changes to the OMP shall be clearly communicated to all properties that have access from Edel Quinn Lane.

C.35 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.36 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.37 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.38 The owner of the premises at which a public swimming pool or spa pool is situated must submit a "Notification of Public Swimming Pools and Spa Pools" to Council prior to the release of the Occupation Certificate.

### **General requirements**

- C.39 The approved use must only be conducted

- a) On Mondays, Tuesdays, Wednesdays and Fridays, between the hours of 8:45am and 6:00pm.
- b) On Thursdays, between the hours of 8:45am and 7:00pm
- c) On Saturdays, between the hours of 8:45am and 1:00pm.

The distribution of classes and hydrotherapy during the hours of operation shall be subject at all times to the Operational Management Plan approved under the conditions of this consent.

- C.40 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.41 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.42 Should asbestos material be found, it is to be handled, transported and disposed of in accordance with the legislative requirements and standards determined by NSW WorkCover. All weighbridge receipts must be provided to Wagga Wagga City Council, within 14 days of the completion of the demolition/removal.
- NOTE 1: All asbestos material needs to be double wrapped in 200µm thick plastic and disposed of at an EPA licensed facility. In this regard it should be noted that Wagga Wagga City Council's Gregadoo Waste Facility is the only EPA licensed facility within the Local Government Area to accept asbestos material. Council's Waste Management Supervisor requires 24 hours notice prior to disposal of this material
- 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.43 The swimming pool water quality and surrounds are to comply with Schedule 1 (Requirements for public swimming pools and spa pools) of the Public Health Regulation 2012. The operator shall ensure compliance with disinfection, cleaning and the prescribed operating requirements of the Public Health Act 2010, Public Health Regulation 2012 and NSW Department of Health Public Swimming pools and Spa Pools Advisory document.
- C.44 The Operational Management Plan, as approved by this consent, or as varied in accordance with the terms of this consent, must be complied with at all times.
- C.45 Within one month following the 1st July each calendar year, an annual compliance statement shall be submitted to Council, to the satisfaction of the General Manager or delegate, confirming that the Operational Management Plan has been complied with throughout the previous 12 month period.
- C.46 The Operational Management Plan shall be reviewed between 9 months and 12 months following the release of the Occupation Certificate, in consultation with Council. Any required amendments to the OMP shall be to the satisfaction of the General Manger or delegate.
- C.47 The complaints register, as developed under the OMP, shall be made available to Council at any time upon request.
- C.48 The maximum numbers of staff, students and patrons (as relevant) on the site shall comply with the following at all times:
- The maximum number of staff and students permitted on the site at any time, Monday to Friday, during swimming lesson times (including during class change over times), shall not exceed 4 staff and 7 students. The maximum number of students undergoing swimming lessons shall not exceed 6 at any one time.

- The maximum number of staff and students permitted on the site at any time on Saturday, during swimming lesson times (including during class change over times), shall not exceed 4 staff and 12 students. The maximum number of students undergoing swimming lessons shall not exceed 6 at any one time.
- The maximum number of staff and patrons (including any health professionals) permitted on the site at any time during which hydrotherapy is being carried out shall not exceed 2 staff and 10 patrons (including during change over between bookings). The maximum number of patrons in the water undergoing hydrotherapy or instructing hydrotherapy (such as a health care professional) combined shall not exceed 5 at any one time.
- The maximum number of staff, students and patrons (including any health care professionals) permitted on the site during transitions between learn-to-swim sessions and hydrotherapy (i.e. 15 minutes before and after change over) may temporarily exceed the numbers set out above, however, these should be clearly controlled under the OMP to minimise any spikes in the number of persons on the site during these times.

- C.49 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.50 A minimum of 5 car parking spaces must be made available on site at all times. 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.
- C.51 Illumination of the car park must be in accordance with AS 1158.3.1.2005, as amended, lighting for roads and public spaces.
- C.52 The proposed filter and pump must be operated in accordance with the Protection of the Environment Operations (Noise Control) Regulation 2008 which restricts the times of operation. Restrictions apply between 8:00 pm and 7:00 am on weekdays and Saturdays and 8:00 pm to 8:00 am on Sundays and public holidays.

NOTE: The swimming pool water, together with the treatment processes and facilities must comply with the requirements of the Public Health Act 2010 and Public Health Regulation 2012.

In this regard -

- pH needs to be between 7.2 and 7.8
- Alkalinity needs to be between 80mg/L and 200mg/L
- Free chlorine needs to be between 3mg/L and 10mg/L
- Combined chlorine needs to be less than 1mg/L
- Cyanuric acid (if used) must be between 30mg/L and 100mg/L

#### **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

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