



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

APPLICATION DETAILS

Application No.:	DA20/0062
Modification No.:	N/A
Council File No.:	D/2020/0062
Date of Lodgement:	11/02/2020
Applicant:	KJ Dwyer 16 Earl St JUNEE NSW 2663
Proposal:	Alterations and additions including garage and secondary dwelling
Description of Modification:	N/A
Development Cost:	\$270000
Assessment Officer:	Sam Robins
Determination Body:	Council - The application has been referred to Council under Section 1.11 of the Wagga Wagga Development Control Plan 2010 (WWDCCP) due to the number of submissions received.
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal Heritage Advisor
Adjoining Owners Notification:	18/2/20 - 3/3/20
Advertising:	N/A
Owner's Consent Provided:	Yes
Location:	The subject site fronts Wollundry lagoon between Simmons Street and Beckwith Street

SITE DETAILS

Subject Land:	21 Wollundry Ave WAGGA WAGGA NSW 2650 Lot 1 DP 543802
Owner:	SK Dwyer, KJ Dwyer, MA Dwyer

DESCRIPTION OF DEVELOPMENT

This application is for the demolition of the rear skillion section of the dwelling and an existing garage at the rear of the property. A single storey pitched roof extension to the rear

of the dwelling is proposed and a detached double garage with attached carport along the rear boundary with secondary dwelling above. The proposal includes minor internal works to the existing dwelling.

THE SITE & LOCALITY

The site is located at Lot 1 DP 543802, 21 Wollundry Avenue. This section of Wollundry Avenue has no road frontage. The lot is bound at the rear by Cooedong Lane. The site is within the block bound by Simmons Street to the east and Beckwith Street to the west. The property is zoned R1- General Residential and located in the Heritage Conservation Area. The existing streetscape along Wollundry Avenue is contributory to the Conservation Area.

The site measures 467.90m² and contains a single storey detached inter-war Californian bungalow fronting the Lagoon and a flat roof garage fronting Cooedong Lane. The site is flat and has no substantial vegetation that raises any concerns.

The subject land is not encumbered by any easements or covenants.

A number of site visits were undertaken by the assessing officer throughout the assessment process.



PREVIOUS APPLICATIONS

BA397/78 - garage

SUMMARY OF MAIN ISSUES

Impact on character of the area

Impact on the amenity of adjoining neighbours
Compliance with Councils Development Control Plan 2010

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 (LEP 2010)

The following provisions of the LEP 2010 apply:

Land Use Table

Under the provisions of the LEP, the subject site is zoned R1 - General Residential. The objectives of the zone are:

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

The proposal is consistent with the first two objectives.

Under Section 3 - Dwellings, and therefore alterations and additions to existing dwellings and secondary dwellings are permitted with consent. By making this application for consent, the proposed application can be considered under the relevant provisions of this section. The LEP 2010 provisions do not prohibit dwellings in this zone.

A secondary dwelling is defined as follows:

secondary dwelling means a self-contained dwelling that-

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

2.7 Demolition requires development consent

The demolition of a building or work may be carried out only with development consent.

By lodging this application the applicant has complied with this clause of the LEP.

Part 5 Miscellaneous provisions

5.4 Controls relating to miscellaneous permissible uses

(9) Secondary dwellings If development for the purposes of a secondary dwelling is

permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,*
- (b) 33% of the total floor area of the principal dwelling.*

The secondary dwelling measures 49.22m² and is therefore compliant with this control. It should be noted that the stairs are not included in the calculation as they are specifically excluded in the definition of gross floor area. However, the stairs measure 9.95m² and therefore even if they were included the secondary dwelling would remain compliant with this control.

5.10 Heritage Conservation

(1) Objectives:

The objectives of this clause are:

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

(2) Requirement for consent:

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):*
 - (iii) a building, work, relic or tree within a heritage conservation area*

(4) Effect on heritage significance

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

Consideration has been given to these provisions, with further detailed discussion under the DCP Heritage Section. It is considered that the proposal meets with the objectives of the clause, has met the requirements for consent in submitting the application and in principal, does not detrimentally effect the significance of the conservation area.

(5) Heritage impact assessment (HIA)

Certain development requires the preparation of a heritage impact statement. This development is considered to have only minor impact and therefore will not require a HIA.

Part 7 - Additional Local Provisions

7.2 - Flood Planning

- (1) *The objectives of this clause are as follows:*
 - (a) *to minimise the flood risk to life and property associated with the use of land,*
 - (b) *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
 - (c) *to avoid significant adverse impacts on flood behaviour and the environment.*
- (2) *This clause applies to:*
 - (a) *land that is shown as "Flood planning area" on the Flood Planning Map, and*
 - (b) *other land at or below the flood planning level.*
- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
 - (a) *is compatible with the flood hazard of the land, and*
 - (b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) *incorporates appropriate measures to manage risk to life from flood, and*
 - (d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
 - (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

Given that the application is for alterations and additions and a secondary dwelling on a residential lot that contains a dwelling within the CBD protected by the levee, the impacts will be negligible. The proposal would comply with this clause.

7.3 - Biodiversity

As the application site falls within an area as identified as Biodiversity on the Terrestrial Biodiversity Map, the proposal would be subject to assessment under this clause.

The subject site is within a developed residential area. The biodiversity layer primarily relates to the Lagoon and associated vegetation corridor. The works would not have an adverse impact on these areas when assessed against those areas listed under section 3 of this clause. Council is satisfied that the building has been designed and sited to have minimal adverse impact.

The subject site is within the biocertified area and does not involve the removal of any vegetation. No impacts are expected and therefore the proposal complies with this section of the LEP 2010.

7.6 - Groundwater Vulnerability

As the application site is identified as 'Groundwater' on the Water Resource Map, the works would be subject to assessment under this clause.

As the application is for a residential use on a residential block the impact on the existing groundwater sources will be minimal. The proposal is therefore not considered to be

detrimental to any of the issues under this section of the LEP 2010 and therefore complies with this section of the LEP 2010.

Clause 7.9 - Primacy of Zone B3 Commercial Core

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

The development is for alterations and additions a garage and secondary dwelling in a residential zone. The use is not of a type that would be appropriate or could be reasonably housed in the CBD B3 Commercial Core. Therefore, it is considered that the development is unlikely to impact on the primacy of the B3 Commercial Core zone of the city.

State Environmental Planning Policies

State Environmental Planning Policy No. 55

Clause 7 of SEPP 55 requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. There is no indication that the site has previously been occupied by any use that could have led to contamination of the site. Furthermore, the land is not identified on Councils register of contaminated sites. Accordingly, it is not considered necessary to request any investigation reports on the subject site. The site is considered suitable for the proposed development.

State Environmental Planning Policy (BASIX).

Certificates are attached to this application and compliant.

(a)(ii) - The provisions of any draft environmental planning instrument

Draft local environmental plans

N/A

Draft state environmental planning instruments

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

Wagga Wagga Development Control Plan 2010

The relevant controls of the DCP have been addressed below.

1.11 Complying with the 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 application proposes a variation to the following controls:

- C2, C3 and C4 (Secondary dwellings on rear lanes) of Section 3.3.2 - relating to the location of the habitable space of the secondary dwelling and design of the roof space.
- C4 (garages and carports) of Section 3.3.2 - relating to the size of the garage
- C3 and C4 Section 9.4.4 - relating to the size of the garage

The issues surrounding the variations have been discussed throughout this report, particular attention is drawn to Sections 3.3.2 and 9.4.4 of the DCP.

2.1 Vehicle access and movements

The existing access and movement areas will not be altered by this application. The rear lane access exists.

2.2 Off-street parking

The following controls of this section are relevant to this development:

C1 Parking is to be provided in accordance with the below requirement.

The development would be subject to the following controls:

- 1 spaces/3 bedroom house or larger.

This provision is easily met, given the proposed double garage and carport.

Secondary dwellings are not required to be provided with a carpark under the DCP controls.

The proposal complies with all other relevant controls in this section.

2.3 Landscaping

Not required for alterations and additions to single dwellings or secondary dwellings. No native vegetation will be damaged or removed as part of this application. No issues are raised.

2.5 Safety and security

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

Objectives

O3 *Maximise opportunities for natural surveillance of public spaces and building or site entrances.*

Controls

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

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.*

C3 *Minimise blank walls along street frontages.*

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

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.*

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

The design of the alterations and additions and secondary dwelling raise no safety or security concerns. The proposal is considered generally compliant with the controls and would meet the relevant objective of this section of the DCP.

2.6 Erosion and Sediment Control Principles

Conditions of consent will ensure that appropriate control measures are put in place during any construction. Given the flat nature of the site it is unlikely that any issues will arise.

Section 3 Heritage Conservation

3.2.4 Development in the vicinity of a heritage item

No.1 Beckwith Street immediately adjoining to the west of the site is a local item listed as L84 - semi-detached residence in the LEP. This section of the DCP therefore applies.

Objectives

O1 *Encourage development in the vicinity of a heritage item to be designed and sited to protect the significance of the heritage item.*

Controls

The adaptive reuse of a heritage item is to minimise alterations or interference

- 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 alterations and additions to the dwelling are simple and subordinate to the existing dwelling and would have negligible impact on the views to and from the adjoining heritage item.

The outbuilding with secondary dwelling above would impact the views to and from the heritage item. However, these views are already limited due to existing outbuildings, fencing and landscaping and would only be impacted marginally by the proposed Secondary Dwelling element. Furthermore, these views both to and from would not be considered 'significant' given they are onto and from a rear laneway and therefore the proposal would not be considered inconsistent with these controls or the objective.

3.3.2 Residential precinct

Alterations, additions and infill development

Objectives

- O1 *Retain characteristic buildings from significant periods of development for the conservation area.*
- O2 *Retain details and features that are characteristic of the conservation area, and encourage reinstatement of these features where they have been removed.*
- O3 *Encourage new buildings to respond positively to the character of adjoining and nearby buildings.*
- O4 *Ensure that new work is sympathetic to the bulk, mass and scale of characteristic buildings in the conservation area.*

Retain characteristic buildings and features

- C1 *Characteristic buildings are to be retained. Demolition will not be considered unless the applicant can demonstrate that the building or structure is not a characteristic building, is of little heritage significance or is structurally unsound or beyond repair.*

The existing dwelling will be retained with minor demolition and acceptable changes to the external form and scale of the existing building.

- C2 *Original features and materials of characteristic buildings are to be retained. Reinstating features that have been removed is encouraged. This includes verandahs, decorative joinery, doors, windows and leadlights. The use of cladding (vinyl, metal, over timber weatherboards and brick work is not supported)*

The original features and materials of the building have been retained and not unreasonably compromised by this proposal.

C3 Changes that remove or obscure characteristic features are not supported. This includes enclosing open verandahs, removing decorative features, replacing timber windows and doors with aluminium or other materials, rendering or painting face brick and removing chimneys that are visible from the street.

Given the design of the extension, no characteristic features have been obscured and therefore it is reasonable to conclude that this control has been met.

C4 Rendering or painting face brick is generally not supported

The application does not propose to render or paint the existing brick.

Alterations and additions

This section applies to the extension to the dwelling and not the outbuilding and secondary dwelling as they have clearly defined sections below that apply to them.

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

The new works are to the rear of the existing dwelling. The extension to the dwelling has been designed to match that of the existing with materials and finishes. The roof pitch has been set lower than the original to reduce impacts and show a clear delineation between old and new. The extension is similar to many previously approved throughout the Conservation Area, including within this block of Wollundry Avenue and Freer Street. No concerns are raised with regard to this control.

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

The proposal complies with this control.

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

The proposal complies with this control.

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

The rear extension to the dwelling complies with this control. As mentioned above, this section only applies to the alterations and additions and not the secondary dwelling.

C5 Use vertically proportioned windows.

The new windows would generally comply with this control.

C6 Select materials to complement the period and style of the building and the

conservation area. Use compatible, but not necessarily matching materials - modern materials may be appropriate

The materials of the extension will match that of the existing dwelling. No issues are raised

Given compliance with the above controls the relevant objectives of this section have been met.

Colour Scheme

As mentioned, the proposed addition will be face brick to match the existing dwelling and raises no concerns.

The outbuilding will be face brick with the secondary dwelling clad in hardiplank or weatherboard. No colour has been specified for the cladding therefore a condition will be imposed to ensure this is to the satisfaction of Council should the proposal be approved.

Secondary dwellings on rear lanes

Objectives

- O1 Ensure secondary dwellings and similar structures are located on sites with adequate area and width.*
- O2 Avoid inappropriately bulky and visually intrusive structures on rear lanes.*
- O3 Maintain adequate sight lines and ensure the ongoing safety and functionality of rear lanes.*

Controls

C1 Minimum frontage/site width - 9m.

The site is 10.998m wide and therefore complies with this control.

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

The accommodation extends across both the garage and the carport so would not technically comply with this control. The applicant has provided the following justification summarised below:

- This is very restrictive given C4 (garage size control) allows 45m² leaving a very tight space to fit sleeping/living area, bathroom, laundry, kitchen and access.
- The design has been extended over the carport to allow the first floor walls to be set back from the two boundary walls to the west and north reducing the visual impact, overshadowing and providing interest in the overall design.

Council staff generally support the justification and add that limiting the floor space to above the garage only, would result in a very irregular building form and accessing the upper floor would become problematic. The secondary dwelling could only be 45m² (as per the garage controls below) and you would lose useable space due to the roof form resulting in an extremely small secondary dwelling. If this control was enforced it is highly unlikely that any secondary dwellings would ever be constructed as the resulting built form would not be financially worthwhile and would likely result in a design that was contrary to the objectives of this section. Given secondary dwellings are encouraged in the location refusal on these grounds would be contrary to the objectives of the LEP and one of the key principles of Section 9 relating to the opportunity for secondary dwellings fronting rear lanes, which has been discussed in more detail below under Section 9.

Variation to this control has been supported in the most recent approvals for secondary dwellings of this nature. Alternatively, Council has permitted a variation of the garage size control which has allowed for a larger and compliant secondary dwelling positioned entirely over the footprint of the garage.

If the carport was part of the garage the control would be met. This is important to note as changing the name of something (carport to garage) will not have any impact on the built form. Council approved a triple bay garage with attach store at No.19 Wollundry in 2010. There is also a triple bay garage at No.15 Wollundry.

It should also be noted that the secondary dwelling measures 49.22m², 4.22m² over what would be compliant. Removing 4.22m² of floor space will have negligible impact on the overall visual prominence of this structure within the laneway and the amenity impacts have been discussed below as being acceptable with this design.

Furthermore, the design could be altered to relocate the stairs in place of the carport removing the 4.22m² of floor space. Ultimately, this redesign would result in a compliant structure that would have very similar built form characteristics from the laneway and very similar amenity impacts. However, a parking space would be lost. In the opinion of Council staff, requesting this change just to comply with controls when the only noticeable change to impact is a negative one through loss of a parking space, would be a poor outcome. Potentially the applicant has thought about the lack of street parking when designing the structure in this fashion to allow for the additional space.

The variation should be supported.

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

Compliance with the control below (C4) dictates what is considered an appropriate eave height and therefore 'a loft addition set into the roof space'. The proposal complies with C4 below with the exception of the eave height for the stairs. The roof pitch from this point is not excessive.

The application states that the altered eave height for the stair element is required in this design to achieve required ceiling heights for building code compliance. The variation is not ideal and leads to a compromised roof form and awkward building form extending into the rear garden. Generally there are two common design solutions, either, the stairs are included within the garage which results in the extension in the depth of the garage, a more dramatic increase in bulk and scale and further variations to the garage controls, or as discussed above, the stairs replace the carport location and a loss of a parking space is the compromise. Both these design solutions have been supported in the past.

However, the design needs to be refusable in its own right. Given it has been determined above that the loss of a car space would have more negatives than positives, the option would be to extend the garage. Whilst potentially a more aesthetically pleasing design, the bulk and scale would be far greater. Given the stairs do not unreasonably impact on the privacy or overshadowing of neighbouring properties and would have limited visual exposure to the laneway, on balance the variation can be supported.

C4 Maximum wall height to eave - 4.2m.

The proposal complies with this control with the exception of the stairs element which has been discussed above.

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

The applicant has proposed hardiplank or weatherboard cladding to the exterior of the first floor section of the secondary dwelling to address this control. The choice of material is considered acceptable. The material has not been extended to the same portion of the stairs. It is considered that this would assist in reducing the visual dominance of the stairs and can be conditioned on any consent granted.

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

Dormers would be considered unnecessary and whilst they would break up the roof form they would increase its bulk. The hipped gable adds a point of interest and articulation whilst reducing the bulk and scale and therefore impact. The proposal would comply with this control.

Given the non-compliance with certain controls above, discussion against the objectives has been undertaken below:

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

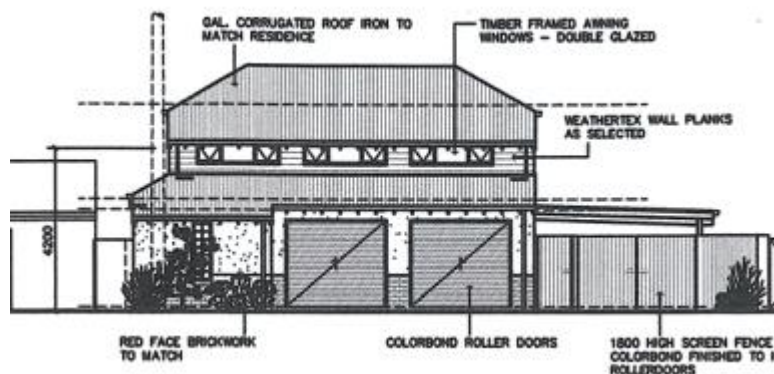
Compliance with C1 above clearly demonstrates compliance with this objective.

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

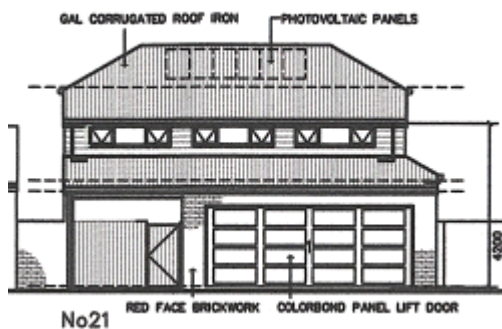
Whilst the living space extends across the carport and the eave height on the stairs exceeds the 4.8m height, the overall bulk and scale is not considered inappropriate. As discussed in detail above, a redesign to be completely compliant with the required controls would not result in a noticeable change to the bulk and scale of the building but would result in a loss of a car space.

At its meeting on 29/1/19 Council resolved to approve DA18/0572 for a double garage, carport, shed and secondary dwelling at 17 Wollundry Avenue. The design is very similar as can be seen by the images below:

No.17



No.21



The floor areas of this approval are also very similar.

Given the above discussion and recent approvals in close proximity, it could not reasonably be argued that the structure is 'inappropriately bulky and visually intrusive' within the laneway.

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

The secondary dwelling is set above the outbuilding which has a setback to the laneway of 1m as required under section 9.4.4 of the DCP. The secondary dwelling has no unreasonable impact on sightlines in the laneway.

As indicated by this section of the DCP specifically addressing controls around secondary dwellings in rear laneways, they are clearly encouraged and supported. This position is further supported by secondary dwellings being permissible under the LEP and a key priority under Section 9 of the DCP.

It is therefore difficult to see how they would then be considered to unreasonably impact on the safety and functionality of the rear lane given the DCP requires no additional parking spaces to be provided.

Council staff are comfortable that the proposed secondary dwelling meets the intent of the objectives.

Garages and carports

Objectives

- O1 Minimise visual intrusion from garages and carports, and require structures to be located behind the building line.*
- O2 Establish parameters for the proportion and detailing of garage and carports.*

Controls

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

The garage and carport front the rear lane and therefore comply with this control.

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

The materials have been discussed above and considered acceptable.

C4 Max size of garages:

Single garage - 3000mm wide x 7500mm long, 2400mm walls, 27 degree roof pitch rising to an apex 3400mm high. Garage roller door 2600mm wide.

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

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

The double garage measures 6.55m x 6.59m and therefore does not comply with this control. The applicant has provided the following justification summarised below:

- The new garage will replace a structure which is not original and which does not comply with the current DCP setback requirements.
- The site is very special, as it is one of about 10 which have no front road access, only vehicle access via the laneway. This presents many problems for parking, both for residents and visitors, and we feel that some special consideration should be given to these allotments.
- The dimensions of the garage are not within control C4 but the overall area is.

Given the structure has the secondary dwelling located above, which is recommended by the heritage controls, the height limitations and roof pitch are not relevant. Having a double roller door is a common variation that has been supported on numerous occasions as it provides a safer vehicular access to and from the garage without causing unreasonable visual impacts.

The variation to width of the garage is 550mm. This is minor and would have little to no noticeable difference on the bulk and scale of the structure. Furthermore, the overall footprint of the proposed garage (43.1m²) is under the permitted 45m². Variations to garages of this scale have been supported throughout the Conservation Area and there is no reason why this should be any different. It is recommended that the variations to the garage controls be supported.

C5 *Specifications:*

Walls can be in Custom Orb corrugated metal, weatherboards, fibre cement sheet or face brick

Galvanised corrugated metal roof preferred rather than Zinalume.

Roll barge and roll top.

Gutters are to be quad or ogee profile and galvanised.

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

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

The roller door raises no concern.

Carports

C8 *Double carports can be considered on rear lanes*

The application proposes a single carport. No issues are raised.

Gardens

Objectives

- O1 *Encourage traditional garden layout and planting schemes.*
- O2 *Retain original paths and garden structures.*
- O3 *Discourage construction of uncharacteristic structures in front gardens*

Controls

- C1 *Retain original paths and garden layouts.*

The application maintains a garden that clearly separates the dwelling from the outbuilding in the traditional manner that exists throughout the Conservation Area. Whilst noticeably smaller than what traditionally existed the garden still adequately represents what would have been there originally. No issues are raised under this control.

- C2 *Use traditional planting schemes - consider use of native species to achieve a traditional effect.*

No issues are raised.

- C3 *Retain significant trees*

There are no significant trees that will be impacted by this proposal.

Fences

Objectives

- O1 *Retain original front fences.*
- O2 *Limit the height of side and rear fences, particularly where they are visible from the street or rear lane.*
- O3 *Encourage replacement of unsympathetic fencing with more appropriate fences that are related to the period and style of the property.*
- O4 *Encourage use of sympathetic materials for side and rear fences, and discourage use of colorbond panelling.*

Controls

- C1 *Retain original front fences, or, if in need of repair, replace on a like for like basis.*
- C2 *Front fences to be a maximum height of 1.2m.*
- C3 *Side fences that are visible from the street are to be constructed in timber or corrugated metal.*
- C4 *The side fence is to slope down to a maximum height of 1.2m at the front main building line.
supported*

The application proposed to replace the existing front fence for a chain wire infill that would be consistent with the period of the dwelling. No concerns are raised and the replacement fence would be consistent with these objectives and controls.

Section 4 Environmental Hazards and Management

4.2 Flooding

As mentioned, the site is flood prone but within the main city levee. Given the application is for alterations and additions to a dwelling and a secondary dwelling above a garage no issues are expected.

Section 5 Natural Resource and Landscape Management

5.4 Environmentally sensitive land

This issue has been addressed under Clauses 7.3 and 7.6 of the LEP above, given the nature of the works negligible issues are expected.

Section 9 Residential Development

The relevant principles for residential development are as follows:

Sustainability and efficient use of resources

P1 Use passive solar design principles to maximise thermal performance for good internal amenity.

P2 Select materials to support good thermal performance and maximise the sustainability of the design.

P3 Achieve a density and scale that reflects the zone and proximity of the site to transport, shops, schools or community uses.

P4 Implement resource reuse

Design quality

P5 Building siting, footprint, scale and bulk should be compatible with adjoining development and the established or intended built form.

P6 Integrate building design and landscaping with north facing internal living areas that link to quality private open space.

Site responsive development

P7 Respond to the issues highlighted in the site analysis, taking advantage of natural features, minimising potential impacts to neighbours and achieving compatibility with neighbourhood character.

P8 Minimise changes to the natural landform, especially in environmentally sensitive or visually prominent areas.

P9 Visual and acoustic privacy are important for good residential amenity. When designing new developments care should be exercised to ensure that impacts on the privacy of adjoining developments is minimised when designing new development and to ensure the privacy of occupants of the new development.

Quality public domain

P10 Provide an attractive street address that integrates the public and private domain through landscaping and attractive fencing

Generally, the proposal would appropriately address the listed principles.

9.1 Land Use Directions

9.1.1 Central Wagga Wagga

Existing built form

The residential streets of Wagga Wagga's central business area have a strong landscape character associated with the mature street trees. Their absence of garages and parking structures in the streetscape is a function of the rear lane access of many streets, and allows the landscape to dominate.

The consistent built form and setbacks contribute to the coherent character of the area. Buildings are typically single storey, and often have consistent rear building lines with reasonable gardens. The site cover and landscaped area controls are intended to discourage patterns of excessive site cover, and to retain the pattern of buildings and open space.

Future directions and opportunities

Key priorities for the central business area of Wagga Wagga are:

- Opportunities for secondary dwellings fronting rear lanes providing new work*

does not affect the amenity of adjoining sites and parking can be accommodated without impacting the street

- *Retaining the existing landscaped character of the streets, and maintaining the use of the rear lanes for vehicle access and associated structures*
- *Retaining the current patterns of building/open areas through site cover and landscaped area requirements*

Wollundry Avenue would be considered a 'residential street of Wagga Wagga's central business area' and therefore this wording is an important consideration in the context of this application. The key priorities are very relevant here and have been discussed in more detail below:

- *Opportunities for secondary dwellings fronting rear lanes providing new work does not affect the amenity of adjoining sites and parking can be accommodated without impacting the street*

The applicant has provided a secondary dwelling which is identified as a key priority. It has been demonstrated throughout this report that the secondary dwelling does not unreasonably impact on the amenity of the neighbouring properties through overlooking or overshadowing and the visual impact is acceptable.

The DCP does not require any additional parking to be provided for secondary dwellings and therefore the proposal is compliant with the DCP. However, it should be noted that the DCP requires only one (1) space to be provided for the dwelling house and this site would now have three (3) with the double garage and carport. The proposal well exceeds the requirements of Council with regard to parking spaces for a development of this nature and therefore would be considered to have provided adequate space to accommodate parking without impacting on the street.

- *Retaining the existing landscaped character of the streets, and maintaining the use of the rear lanes for vehicle access and associated structures*

The development clearly meets this key priority as the vehicle access has been provided from the rear lane and the 'associated structures' (in this case the secondary dwelling) has been well located fronting the rear lane as required.

- *Retaining the current patterns of building/open areas through site cover and landscaped area requirements*

The development is well within the 60% site cover permitted for a development of this nature on a lot of this size (48.26%). More than adequate private open space has been provided and the established building pattern of dwelling - garden - outbuilding has been maintained.

9.2.1 Site layout

The site layout raises little concern. The extension has been well located and has excellent northern aspect and the garage and secondary dwelling have been located in accordance with the Development Control Plan.

9.2.2 Streetscape

The site is unique in such that there is only a footpath along the front of the property, no road. The application proposes only very minor changes to the front of the property in the way of a front fence that would be considered appropriate. Given the location of the extension to the

rear of the dwelling and secondary dwelling and outbuilding to the rear of the site, the impact of this built form on the streetscape (Wollundry Avenue) would be negligible.

The garage and secondary dwelling front the laneway, whilst larger than the majority of outbuildings along the laneway the variations from the controls discussed only have a marginal impact on the bulk and scale of the building. Furthermore, as discussed, Council has approved a very similar building two lots to the east.

Given this, along with the wide variety of designs of outbuildings along the laneway and the fact that it is a laneway and not a major road the impact on the context and setting would be considered acceptable.

9.3.2 Site cover

Within the R1 zone and for dwelling houses on lots of this size the maximum site cover is 60%. The site cover with the approved extensions to the dwelling and the outbuilding with secondary dwelling above is 225.83m² (48.26%) and therefore complies.

This section does make reference to secondary dwellings having a maximum site cover of 50% but this is not relevant in this instance as the secondary dwelling is above the outbuilding. For clarity, the outbuilding covers only 13.4% of the site.

9.3.4 Solar access

This section of the DCP is generally aimed at the construction of a new primary dwelling on site as opposed to a secondary dwelling and alterations and additions. However, an assessment against the objectives and controls has been undertaken below.

Objectives

- O1 Ensure that the amenity of the occupants of dwellings is achieved by designing so that they receive adequate daylight and natural ventilation to habitable rooms and sunlight to private open space areas.*
- O2 Ensure non-habitable rooms such as garages, laundries and bathrooms are positioned so that living areas, open space and habitable rooms receive maximum winter solar access and ventilation.*
- O3 Maintain reasonable sunlight access to adjoining properties.*

Controls

- C1 Locate garages, laundries and bathrooms to provide insulation from western sun.*
- C2 Locate living areas and private open space to ensure orientation to the north and north east where possible.*
- C3 Building design and site layout is to ensure adequate sunlight access to the internal living spaces and private open space of the proposed development.*
- C4 Variations can be considered to C1, C2 and C3 where it can be demonstrated that site constraints, existing built form and good design practices limit the ability of the proposal to comply with these controls*
- C6 For any adjacent dwellings that have north facing living areas, maintain 3 hours sunlight access to the windows of the living areas between 9am and 3pm in mid-winter (June 22).*
- C8 Proposed development design should take into account the location of any adjacent*

private open space and avoid excess overshadowing of that space

The laundry and bathroom remain on the western elevation within the reconfigured internal layout. The garage (outbuilding) has been located on the northern elevation. Whilst this does not comply with C1 a variation under C4 is acceptable as this is the desired location of outbuildings and the site provides no other alternative options.

The living area and private open space of the dwelling have been located with northern aspect and would address C2 and C3. The single storey design of the extension on a flat block and the orientation of the lot would mean that there is negligible impact on any adjacent north facing living areas or private open space, C6 and C8 would therefore be complied with.

The bathroom within the secondary dwelling is located on the eastern elevation, however, this is irrelevant given the western wall is blank and the living space has good north and eastern exposure. C1 would be achieved.

The secondary dwelling has north facing living areas but the available private open space faces south. This is unavoidable given the orientation of the lot and the desired location of the garage. A variation under C4 is therefore acceptable.

The shadow diagram submitted with the application shows that the proposed outbuilding with secondary dwelling above has no impact on north facing living spaces of adjacent dwellings and marginal impact on the private open space of the very rear garden of No.1 Beckwith Street to the west. The main area of impact is a small section of land to the side of the garage. The impact would not be considered unreasonable. The proposal therefore complies with C6 and C8.

9.3.5 Private open Space

Both the dwelling and the secondary dwelling would have more than the required 24m² private open space available to each of them. There is no requirement to have these areas fenced off nor should there be given the purpose of secondary dwellings.

The private open space for the secondary dwelling would not be directly accessible off the living space as per the requirement of C1. However, given the secondary dwelling is required to be located above the garage this is impossible without a large balcony that would unreasonably impact on the amenity of the neighbouring properties. The control was clearly not written with this intent. The location of the private open space for the secondary dwelling is considered acceptable.

9.3.6 Front Setbacks

The front setbacks have not been altered.

9.3.7 Side and Rear Setbacks

Objectives

- O1 *Ensure adequate separation between buildings for landscaping, privacy, natural light and ventilation.*
- O2 *Ensure new development continues the rhythm or pattern of development in the locality.*
- O3 *Provide access for maintenance.*
- O4 *Building setbacks from the side and rear boundaries shall have careful regard to the impact of proposed structures on adjoining landowners.*

Controls

C1 The rear setback for detached secondary dwellings is determined by site conditions and the setbacks of similar structures on adjoining and nearby sites.

The rear setback of the secondary dwelling is consistent with that of similar structures on neighbouring properties and compliant with the required controls within the DCP, being a 1m setback from rear laneways.

The outbuilding is setback 200mm from the western side boundary and 1.1m from the eastern side boundary. These setbacks are consistent with a number of other outbuildings along Coedong Lane and have been demonstrated not to cause unreasonable amenity impacts.

The side setbacks of the dwelling have not been altered.

The proposal meets the objectives and control of this section. No issues are raised.

9.4.1 Building Elements

The relevant control is as follows:

C1 Use verandahs or pergolas to link internal and external living areas.

The dwelling extension has a rear verandah that links the internal and external living areas. The proposal appropriately addresses this control.

C5 Secondary dwellings are to appear as a single occupancy from the public domain.

The secondary dwelling would not be visible from Wollundry Avenue and from the laneway it would not be clear that the area above the garage is a secondary dwelling. For this reason the proposal complies with this control.

9.4.2 Materials and finishes

The materials and finishes would not raise any issues once conditions of consent have been complied with.

9.4.3 Privacy

The extensions to the dwelling raise no additional privacy concerns. The extension is not raising the finished floor level and is on a flat site with a 1.8m boundary fence. The impact is considered acceptable.

The garage/carport raises no privacy concerns given its constructed at ground level and used as an outbuilding.

The secondary dwelling has the following windows:

- One high level window on the eastern elevation that services the bathroom and will be obscurely glazed. No issues are raised with regards to overlooking from this window.
- One window on the eastern elevation that services the stairwell that will be obscurely glazed. No issues are raised with regards to overlooking from this window.
- One window on the southern elevation that services the stairwell. There is the potential for very minor overlooking from this window. However, given the window is to a stairwell this impact would be acceptable.
- Three windows on the northern elevation that face the laneway. There will be a degree of overlooking to the rear of the properties to the north on the opposite

side of the Laneway. However, as discussed, secondary dwellings are permitted and encouraged in this area and must have windows. The most logical location for these windows with the least amount of impact is facing out to the laneway and onto the very rear yards of neighbouring properties. Furthermore, all the properties opposite that have potential to be impacted have garages along the rear boundary that limit the degree of overlooking into the rear yards. Cooedong lane is 6m wide and the windows are set 2m inside the property boundary. A separation of 8m to the very rear of the adjoining properties boundaries that consist mainly of garages is adequate separation. The impact is considered acceptable for these reasons.

There are no other privacy concerns raised.

9.4.4 Garages, carports, sheds and driveways

The relevant objectives and controls are as follows:

Objectives

- O1 *Minimise the visual dominance of garages and driveways in the streetscape.*
- O2 *Where possible, locate garages so as to assist in protecting dwellings from early morning and late afternoon summer sun.*

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

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

C3 *The floor area of an outbuilding on a residential lot must not be more than the following:*
(a) 8% of the site area if the lot has an area of less than 600m²,

The proposed outbuilding has an area of 63.01m², 8% of the site area is 37.4m² and therefore the outbuilding does not comply with this control. The applicant has provided the following justification for the variation summarised below:

- The assumed purpose of Outbuilding Site Cover requirement, is to ensure adequate open space and overall site cover for the site, both of which are provided and within the DCP requirements.
- There appears to be a conflict between Outbuildings in Section 9 of the DCP, and the allowance of Secondary Dwellings in Section 3 of the DCP.
- The Outbuilding Site Cover is primarily governed by the footprint area of the Garage and Carport, which are designed to provide suitable, adequate and easy parking to the development.
- Bulk and Scale relate to the Secondary Dwelling and have little or no bearing on the Outbuilding Site Cover.
- There are a number of existing Outbuildings in Cooedong Lane, which appear to have a similar site footprint.

Council staff are generally supportive of the above comments and add the following discussion.

The above control is inconsistent with the relevant controls of the Heritage Section, which set double garage limits at 45m² and have no size constraints for carports apart from simply stating that double carports can be considered. Given the inconsistency it is important to consider what the objectives are trying to achieve. Within this section, the relevant objective

is *O1 Minimise the visual dominance of garages and driveways in the streetscape*. The garage and carport would not be considered visually dominant in the laneway. The footprint of the structure is consistent with a large number of outbuildings throughout the Conservation Area and a number within this laneway. The secondary dwelling above is the prominent visual aspect and this issue has been discussed elsewhere in the report.

It is also relevant to note that the footprint of the garage complies with the maximum footprint under the heritage controls and the carport could be constructed as exempt development with minor modifications given the footprint is under 20m². Based on this, a footprint of 65m² (45m² + 20m²) or less on a lot of this size would be considered reasonable if site cover requirements, private open space requirements and amenity impacts were all considered acceptable. As demonstrated in the discussion throughout this report the amenity impacts are acceptable and the proposal complies with site cover and private open space requirements.

Reducing the footprint of the outbuilding to comply with this section of the DCP would result in an inconsistency with what's permitted under the Heritage Section of the DCP, a loss of one car space, and no ability to construct a secondary dwelling above which has been mentioned is a key priority and encouraged. Furthermore, given the scale of surrounding approved structures it could reasonably be argued that a 37.4m² outbuilding would actually be inconsistent with the established character of the area and the desired future character of the area.

Given the above discussion, the variation to the site cover control is considered reasonable and should be supported.

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

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

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

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

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

This control would not be considered relevant given the secondary dwelling above. The overall height of the secondary dwelling and its impacts have been discussed elsewhere in the report.

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

The structure has been well located to the rear of the dwelling.

9.4.5 Site facilities

The site facilities will not be altered the dwelling will still have adequate bin storage, drying areas and the mail box location will not change.

9.4.6 Changing the landform - Cut and Fill

The site is generally flat and will only require minor exempt earthworks for the extensions. No issues are raised under this section of the DCP.

(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 agreement has been entered into under section 7.4.

(a)(iv) - any matters prescribed by the regulations

Matters prescribed by the *Environmental Planning and Assessment Regulation 2000* have been satisfied

(b) - The likely impacts of the development

Context and setting

The proposed alterations and additions to the dwelling are designed in accordance with the recommended controls of the DCP and are typical of the types of extensions throughout the Conversation Area including within the immediate context and setting. The extensions to the house raise no unreasonable concerns.

The outbuilding is large and dominant within the laneway. It is however consistent with what has previously been approved two lots east at No.17 Wollundry Avenue. As discussed in detail throughout the report secondary dwellings are encouraged by the planning documents in this area. Whilst the size of the structure does not strictly comply with the controls its comparable to what has been approved two doors east and the impacts have been assessed as being acceptable.

Outbuildings that include secondary dwellings above are envisaged in the desired future outcomes of the central laneways of Wagga. Given what has been approved in close proximity, this proposal would not be inconsistent with the current context and setting nor with the desired future context and setting.

Access, transport and traffic

As mentioned above the access to the garage and carport is from the laneway are required and provides for three car spaces with safe manoeuvring areas.

Noise and vibration

Impact during construction and will be controlled by conditions of any consent granted.

Public domain

No issues raised

Heritage

The impact on the Conservation Area has been discussed in detail above and considered acceptable.

Other land resources

The land is zoned residential and contains an existing dwelling no issues are raised.

Water

The site is serviced by water and conditions of consent will require appropriate stormwater treatment.

Soils

No issues raised in the established residential area.

Air and microclimate

Conditions of consent will minimise impacts during construction. No adverse impacts are expected

Natural Hazards

The site is not bush fire prone.

The impacts of flooding are considered negligible and acceptable.

Waste

Conditions of consent will ensure that the site is kept in an appropriate state during demolition and construction.

Services/Utilities

As the subject development is located within a developed residential area, all power, water, sewer and telecommunications are available to the site.

Safety, security and crime prevention

The proposed alterations and additions raise no issues in a residential zone.

Social/economic impacts

The works will provide employment for local trades.

Flora and fauna

The proposal will not unreasonably impact any native vegetation on site.

Site Design and internal design

The overall design is a good use of the space with acceptable impacts. All elements of the proposal have been located where expected and encouraged and the internal layouts provide excellent northern aspect with negligible overlooking concerns being raised.

Construction

Extensions within residential zones are commonplace and whilst it is acknowledged that there will be a degree of disruption caused to surrounding properties this impact can be reasonably managed by way of conditions of consent on any approval granted.

Cumulative impacts

The cumulative impacts of this proposal are not considered unreasonable and therefore approval subject to conditions is recommended.

The Principles of Ecologically Sustainable Development

The following are principles of ecological sustainability:

1 The precautionary principle

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

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

- (a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and
- (b) an assessment of the risk-weighted consequences of various options.

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

2 Intergenerational equity

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

3 Conservation of biological diversity and ecological integrity

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

4 Improved valuation, pricing and incentive mechanisms

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

- (a) polluter pays (that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement), and
- (b) the users of goods and services should pay prices based on the full cycle costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste, and
- (c) environmental goals having been established should be pursued in the most cost-effective way by establishing incentive structures, including market mechanisms which enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

The proposed development would result in a single storey extension to the rear of the dwelling and a detached garage and carport with secondary dwelling above in a residential zone. The impacts assessed above have concluded that the development would be acceptable with minimal impact on the environment.

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

Suitability of the site in terms of the likely impacts identified under (b)

The site is currently zoned residential and contains a detached dwelling and surrounded by residential developments. The site is considered suitable for the alterations and additions, outbuilding and secondary dwelling. Compliance with conditions of consent will overcome concerns making the site suitable in terms of the impacts identified under section b.

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

Referrals

Internal

Heritage advisor

Notification and advertising

In accordance with the Council's advertising and notification provisions outlined in Section 1.10 of the WWDCP the application was notified for a period of 14 days on the following dates 18/2/20 to 3/3/20 and referred surrounding tenancies. Ten (10) public submissions were received and their comments summarised below:

Public Submissions and those from public authorities

Heritage advisor comments:

In summary, the heritage advisor raised concerns with the impact of the bulk and scale of the proposal within the vicinity of a heritage item and suggested a more compact rear extension would permit for a secondary dwelling at ground floor.

Council staff have considered the views of the heritage advisor. However, It's considered that the design meets the relevant objectives of the DCP and redesign along the lines recommended would result in more non-compliance with controls than currently shown and therefore cannot be recommended.

Public submissions:

Issue: Proposal does not comply with the LEP and DCP

Comment: The non-compliances with the DCP have been addressed in the body of the report.

Issue: The plans do not show the overall heights.

Comment: The plans do show the overall heights as the plans are drawn to scale. The plans were satisfactory to allow a full detailed assessment to take place.

Issue: The additional dwelling will increase parking problems and therefore impact on the safe access for emergency service vehicles.

Comment: The lane is 6m wide which is not dissimilar to any other laneway within Central Wagga and considered adequate to facilitate two way movement. It should be noted that it is illegal to park across driveways and if this is occurring that is an issue for the Rangers and the Police and not a consideration as part of this application. It's also an offence to cause an obstruction to any road to the point where traffic can't pass safely under the Roads Act. Again, illegal parking of cars is not a consideration under this application.

As discussed within the body of the report, the development exceeds the requirement for provision of on-site parking.

Issue: The proposal has hardly any green space

Comment: The proposal complies with the private open space and landscaping requirements under the DCP.

Issue: Overshadowing

Comment: This has been discussed in the body of the report and considered acceptable.

Issue: Why is there a need for a large secondary dwelling

Comment: The secondary dwelling is a form of housing encouraged under the LEP and DCP.

Issue: The secondary dwelling will become a rental space and the traffic and parking in the lane will further suffer

Comment: How the secondary dwelling is lived in (by owners of the property, family members or rented) is not a consideration. The parking issue has been discussed above.

Issue: Ongoing issues with the developer and the management of sites in close proximity currently under construction.

Comment: The ongoing management of neighbouring developments is not a consideration under this application.

Issue: Over building in the area devalues the existing properties

Comment: The suitability of the development on this site has been assessed in detail within this report. Impacts on property values is not a relevant planning consideration.

Issue: The height of 6m will set a dangerous precedent that could affect the future tranquility of the area and will be out of character with the heritage features of the laneway.

Comment: The issue of the height (bulk and scale) and impact on the character of the area has been discussed in the body of the report.

It must be added here that not one of the properties that utilises Cooedong Lane has the original outbuilding as per the 1944 imagery for the site. Very few have even attempted to reflect what would have been the design of a traditional outbuilding fronting a laneway when constructing their current outbuildings. The structures within the laneway have limited to no heritage value and the proposal should not be refused for impact on the heritage value of the buildings within the laneway as there are none of any value.

Issue: Council should not consider the application until the approved structure at No.17 has been built as this will show how out of character this proposal is.

Comment: Council must consider all legally lodged applications and cannot wait until other approvals have been constructed before determining applications.

The approval of No.17 is a relevant consideration as part of this application. However, it does not necessarily follow that this application will be approved simply because No.17 has been approved.

Issue: Council agreed to amend the DCP to discourage this type of development

Comment: Council has a draft DCP on exhibition. However, it is not a relevant head of consideration within the assessment and a determination on the application should not be delayed based on draft amendments to instruments. Furthermore, the applicant has requested determination of the application.

Issue: The development application does not include a shadow diagram

Comment: shadow diagrams have been provided and the impacts of shadowing addressed in the report.

Issue: There is no statement of heritage impact provided.

Comment: Council staff do not consider one necessary to appropriately assess the application.

Issue: The proposal exceeds site cover.

Comment: This is incorrect and has been addressed in the report.

Issue: The buildings should retain and be subservient in form and scale to the primary form of the building and be below the main ridge height.

Comment: As discussed in the body of the report, the control that is being referred to relates to the alterations and additions to the dwelling. The outbuilding and secondary dwelling have different objectives and controls that apply. Considering the outbuilding and secondary dwelling under the alteration and addition section would result in conflicting controls.

Issue: Loss of privacy

Comment: This has been addressed in the body of the report.

Issue: Impact on the views to and from the heritage item

Comment: This has been discussed in the body of the report.

(e) - the public interest

Federal, state and local government interests and general community interests

It is considered that this application will not have a detrimental effect on the public interest.

Other Legislative Requirements

Section 5AA and Part 7 of the *Biodiversity Conservation Act 2016* (Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats)

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

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

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

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

Therefore, no further consideration of these matters is required.

Section 733 of the *Local Government Act 1993*

Section 733 of the *Local Government Act 1993* provides that Councils will not incur liability for decisions or omissions concerning flood liable land or land subject to the risk of bushfire. Where required, a risk assessment has been completed and Council will be able to demonstrate that it has acted appropriately in its decision making when defending claims in liability or in circumstances where administrative decisions are challenged.

Flooding Risk Assessment

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. Although the site is identified as being prone to flood no further risk assessment is required as the development is within the main city levee and is an extension to an existing dwelling.

Bush Fire Risk Assessment

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

Council Policies

N/A

Comments by Council's Officers

Council's other relevant officers have reviewed the application in accordance with Council's processing procedures.

Development Contributions

Section 7.11/7.12 of the Local Government Act, 1993 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. A Section 7.12 contribution of \$2700 applies and will be put towards the provision high quality and diverse public facilities to meet the expectations of the residents of the city.

Calculation

1% of 270,000 = 2700

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 and/or City of Wagga Wagga Development Servicing Plan for Sewerage 2013 enable Council to levy developer charges based on the increased demands that new development will have on sewer and/or stormwater. A Section 64 contribution of \$526.40 for stormwater is payable for this development as a source of funding towards infrastructure within the urban area.

The works will not result in additional impact on Council's Sewer network and therefore no Section 64 Sewer contributions are required.

S64 drainage

The works provides additional hardstand area of 84.07m².

Calculation is as follows:

Existing = 169.38

Proposed = 253.45

Total = 253.45 - 169.38 = 84.07

$84.07/800 \times 1/0.74 \times 3007 = \427.02

(plus CPI) $427.02 \times 115.2/87.9 = \559.64

A condition can be imposed on any consent granted to ensure these payments are made.

Other Approvals

Nil

Conclusion

The development is considered to be satisfactory based on the foregoing assessment. The proposal generally complies with the requirements of the Environmental Planning and Assessment Act 1979 and Councils Policies. Ten submissions to the proposal were received and have been addressed in the body of the report.

RECOMMENDATION

It is recommended that application number DA20/0062 for Alterations and additions including garage and secondary dwelling be approved, subject to the following conditions:-

CONDITIONS OF CONSENT FOR APPLICATION NO.

Right click & select OR delete if NO deferred commencement consents

A. SCHEDULE A – Reasons for Conditions

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

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

B. SCHEDULE B – Deferred Commencement Conditions

N/A

C. SCHEDULE C – Conditions

Approved Plans and Documentation

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

Plan/DocNo.	Plan/Doc Title	Prepared by	Issue	Date
-	Statement of Environmental Effects	BCM Design	-	18/11/19
A349302	BASIX Certificate	BCM Design	-	18/11/19
1045966S	BASIX Certificate	BCM Design	-	18/11/19
19038-1	Details of Existing	BCM Design	-	4/4/19
19038-2	General details	BCM Design	-	24/9/19
19038-3	Details of Existing	BCM Design	-	24/9/19
19038-4	Details of Existing	BCM Design	-	24/9/19

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

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

Requirements before a Construction Certificate can be issued

C.2 Prior to the issue of Construction Certificate the applicant must lodge a bond with Council of:-

\$2000.00 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 an 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.3 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 \$2700 must be paid to Council, prior to the issuing of the Construction Certificate. The monetary contribution payable under this condition will be indexed in accordance with Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 from the endorsed date of this Development Consent until the date of payment.

NOTE 1: Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 provides for Section 7.12 contributions to be indexed in accordance with annual movements in the March quarter Consumer Price Index (CPI) (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

- NOTE 2: The monetary contribution identified above remains applicable if paid within the same financial year as the date of determination. If payment is to be made outside this period, you are advised to contact Council prior to payment being made to determine if CPI increases/decreases have occurred since the date of this consent.
- NOTE 3: A copy of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, is available for inspection at Council Chambers, corner Baylis and Morrow Streets, Wagga Wagga, or on Council's website.
- C.4 Prior to the release of Construction Certificate a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.
- NOTE 1: 'Water management work' is defined in s283 of the Water Management Act to mean a 'water supply work', 'drainage work', 'sewage work' or 'flood work'. These terms are defined in that Act.
- NOTE 2: Riverina Water is responsible for issuing compliance certificates and imposing requirements relating to water supply works for development in the Council's area. An application for a compliance certificate must be made with Riverina Water. Additional fees and charges may be incurred by the proposed development - please contact Riverina Water to ascertain compliance certificate water supply related requirements. A copy of such a compliance certificate is required prior to release of Construction Certificate.
- NOTE 3: The Council is responsible for issuing compliance certificates and imposing requirements relating to sewerage, drainage and flood works for development in its area.
- NOTE 4: Under s306 of the Water Management Act 2000, Riverina Water or the Council, as the case requires, may, as a precondition to the issuing of a compliance certificate, impose a requirement that a payment is made or works are carried out, or both, towards the provision of water supply, sewerage, drainage or flood works.
- NOTE 5: The Section 64 Sewer base figure is N/A
The Section 64 Sewer contribution (updated by the CPI/100.5) required to be paid is N/A
- NOTE 6: The Section 64 Stormwater base figure is \$427.02
The Section 64 Stormwater contribution (updated by the 115.2/87.9) required to be paid is \$559.64
- NOTE 7: Section 64 contributions shall be indexed in accordance with CPI annually at the commencement of the financial year.
- NOTE 8: The figures outlined in this consent are based on the current rate of CPI. Please be advised that CPI changes on a regular basis and you are advised to contact Council prior to payments being made, to

ensure no further CPI increases/decreases have occurred since the date of this consent.

- C.5 A survey report by a registered land surveyor shall be provided to the Principal Certifying Authority (PCA) prior to the release of the Construction Certificate confirming the location of the footings, walls and posts are wholly located within the subject site. These locations must then be clearly marked prior to the commencement of works.
- C.6 Prior to release of the Construction Certificate amended plans shall be submitted to the satisfaction of the Manager Development Assessment & Building Certification or delegate that identify cladding to the first floor element of the stairs that match that proposed to the remainder of the first floor element of the Secondary Dwelling to reduce the visual prominence of the upper floor. The proposed colour scheme for this cladding must also be submitted. Colours must be selected from the heritage range.

Requirements before the commencement of any works

- C.7 Prior to works commencing on site, toilet facilities must be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:
- a) a standard flushing toilet connected to a public sewer, or
 - b) if that is not practicable, an accredited sewage management facility approved by Council, or
 - c) if that is not practicable, any other sewage management facility approved by Council.

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

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

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

- C.8 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.9 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.10 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.11 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.12 A Section 68 Approval must be obtained from Council prior to any sewer or stormwater work being carried out on the site.

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

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

Requirements during construction or site works

- C.13 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.

- C.14 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.15 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.16 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.17 The permitted construction hours are Monday to Friday 7.00am to 6.00pm and Saturday 7.00am to 5.00pm, excepting public holidays. All reasonable steps must be taken to minimise dust generation during the demolition and/or construction process. Demolition and construction noise is to be managed in accordance with the Office of Environment and Heritage Guidelines.

C.18 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.19 Any upgrades or alterations to existing Council infrastructure required as a result of the development shall be at the full cost of the applicant. Contact Council's Development Engineer to confirm what approval is required prior to commencing work on any Council infrastructure. Such work includes (but is not limited to) upgrade or connection to sewer or stormwater mains, and alteration of stormwater pits and sewer manhole levels.

C.20 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
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Internal Sewer Drainage	When all internal plumbing and drainage work is installed and prior to concealment.
External Sewer Drainage	When all external plumbing and drainage work is installed and prior to concealment.
Stormwater Drainage	When all external stormwater drainage work is installed and prior to concealment.
Stack Work	When all work is installed and prior to concealment.
Final	Prior to occupation of the building or structure.

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

- C.21 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.22 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.23 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.

General requirements

- C.24 Any earthworks (including any structural support or other related structure for the purposes of the development):

- (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
- (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
- (c) retained material must have a gradient of at least 5%, and
- (d) must be constructed in accordance with the approved plans for such work(s).

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

D.1 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.

E.8 " Delete entire row and add N/A if no conditions are added"

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

F.1 N/A
