



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

APPLICATION DETAILS

Application No.:	DA23/0389
Modification No.:	N/A
Council File No.:	D/2023/0389
Date of Lodgement:	08/08/2023
Applicant:	The Mary Potter Nursing Home & Ethel Forrest Day Care Centre Pty Limited Suite 4, Level 6, 447 Kent Street SYDNEY NSW 2000 Amanda Sherry
Proposal:	Staged Alterations and Additions to existing Residential Care Facility to extend rooms and provide private en-suite facilities
Description of Modification:	N/A
Development Cost:	\$2939710
Assessment Officer:	Amanda Gray
Determination Body:	Council In accordance with POL046 if a Wagga City Councillor is the Director of a Company that is either the owner of the land or the applicant then the application must be determined by Council. The owner of the land and the applicant are the same and a Wagga City Councillor is listed as one of the directors of the company.
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	28 August - 11 September 2023
Advertising:	28 August - 11 September 2023
Owner's Consent Provided:	yes
Location:	On the north-western corner of the junction of Lewisham Avenue and Meurant Avenue.

SITE DETAILS

Subject Land:	6 Lewisham Ave WAGGA WAGGA NSW 2650 Lot 1 DP 1271205
Owner:	The Mary Potter Nursing Home & Ethel Forrest Day Care Centre Pty Limited

REPORT

Description of Development

The proposed development is for alterations and additions to an existing residential care facility. The works relate to bathroom upgrades resulting in each bedroom having the benefit of a private en-suite facility. The upgrade to the bathrooms is proposed in eight stages.

The majority of en-suite facilities are currently shared between two bedrooms both of which have a connecting door into the bathroom. The works will consist of the conversion of the bathroom into two private en-suite areas, whilst these are smaller spaces they remain accessible and suitable for the residents. A number of the bedrooms will be extended as part of the upgrade works, the additions are predominantly external to the existing building within existing courtyard areas. Some bedroom additions re-purpose under utilized spaces within the building

The above works will impact upon some trees within the site, these are predominantly palm trees within the courtyards. The development results in the removal of seven trees.

The overall site layout in terms of access, car-parking and buildings remains as existing. The development does not increase the number of beds available at the residential care facility.

The Site and Locality

The subject site is legally identified as Lot 1 in DP1271205 and is known as 6 Lewisham Avenue. The site is on the north-western corner of the junction of Lewisham Avenue and Meurant Avenue. The site is irregular in shape and extends to an area of 1.06ha.

The site contains a residential care facility known as The Mary Potter Nursing Home. The facility provides full time residential care for elderly persons. The facility includes kitchens, communal living spaces, outdoor courtyards and a chapel.

The main access into the site is from Lewisham Avenue with a separate exit onto Meurant Avenue. There is a car-park laid out at the front of the premises for use by both staff and visitors.

The site is directly adjacent to the Calvary Hospital which adjoins the subject site to the north and west. Properties on the opposite side of both Lewisham Avenue and Meurant Avenue are a mix of residential and health care uses.

Easements and Covenants

There are no known easements or covenants that impact the subject site or proposed development.

Previous Development Consents

DA15/0744 - Alterations and additions to senior housing residential care facility. Approved 4.3.2016.

CDC18/0229 - Installation of solar panels. Approved 5.10.2018.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

Section 4.15(a)(i) - The provisions of any environmental planning instrument (EPI) Wagga Wagga Local Environmental Plan 2010

Under the provisions of the WWLEP 2010 the land is zoned partly SP2 Infrastructure and partly R1 General Residential. The objectives of the SP2 zone are:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

The SP2 zoning is associated with Calvary Hospital. The subject site was originally on the same land parcel as the hospital until it was subdivided onto a separate allotment with associated parking and access. The use of the site is existing and associated with the care of seniors, it does not detract from the hospital use and remains a compatible land use within the precinct.

The objectives of the R1 zone are:

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

The development being ancillary to a specific type of residential accommodation that provides for the needs of the community is entirely consistent with the zone objectives.

Part 2 Permitted or prohibited development Land Use

The development is defined as a residential care facility under the provisions of the WWLEP as follows:

residential care facility means accommodation for seniors or people with a disability that includes-

- (a) meals and cleaning services, and*
- (b) personal care or nursing care, or both, and*
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,*

but does not include a dwelling, hostel, hospital or psychiatric facility.

Note-

*Residential care facilities are a type of **seniors housing**.*

Seniors housing is a land use that is specifically listed as permitted with consent within the R1 zone.

Part 3 Exempt & Complying Development

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

Part 4 Principal development standards

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

Part 5 Miscellaneous provisions

5.10 Heritage Conservation

The site is not listed as a heritage item and is not situated within a heritage conservation area, however, the adjacent Calvary Hospital (I272) is a listed heritage item.

Under part 4 of this clause *“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.”*

The proposed alterations and additions to the residential care facility are predominantly internal but include minor additions to the north and east of the building. The additions are minor and designed to match the existing building. The residential care facility is set at a lower level than the Calvary hospital and will have negligible impact outside of the site.

The impact on the heritage significance of the heritage item has been assessed as acceptable.

Part 6 Urban Release Areas

The proposal is not within an Urban Release Area.

Part 7 Additional Local Provisions

7.6 - Groundwater Vulnerability

Clause 7.6 of the WWLEP 2010 relates to groundwater vulnerability. The subject site is identified as sensitive on the Water Resources Map and as such this clause applies. The objective of this clause is to protect and preserve groundwater sources. The proposed development will not result in any adverse impacts to groundwater as the use is not development specified for the purposes of this clause.

7.9 - Primacy of Zone E2

Clause 7.9 states that development consent must not be granted to development on any land unless the consent authority is satisfied that the development maintains the primacy of Zone E2 Commercial Centre as the principal business, office and retail hub of Wagga Wagga. The development is for alterations and additions to an established residential care facility. The approval of the development application will not detrimentally impact upon the primacy of the commercial centre.

7.11 - Airspace Operations

Clause 7.11 applies where the consent authority is satisfied that the proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Wagga Wagga Airport. The subject site is around 179m below the OLS at its highest point and as such, the development will not penetrate the OLS and the clause does not apply.

There are no other relevant additional local provisions.

State Environmental Planning Policies (SEPPs)

SEPP (Resilience and Hazards) 2021

Clause 4.6 of the SEPP requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use.

The site has an established seniors housing use and parts of the site were previously occupied by single residential dwellings. There was no evidence of contaminating land activities on site and the land is not identified on Councils register of contaminated sites.

In accordance with the requirements of the SEPP the site is considered suitable for the proposed group home residential development.

SEPP (Housing) 2021

Clause 81 Seniors housing permitted with consent.

Development for the purposes of seniors housing may be carried out with development consent-

(a) on land to which this Part applies, or

(b) on land on which development for the purposes of seniors housing is permitted under another environmental planning instrument.

The works are alterations and additions to an existing residential care facility. The lodgement of the development application complies with this clause.

Clause 98 Design of seniors housing

A consent authority must not consent to development for the purposes of seniors housing unless the consent authority is satisfied that the design of the seniors housing demonstrates adequate consideration has been given to the principles set out in Division 6.

The proposed additions to the facility will be constructed with matching materials and be of a comparable and complementary design to the building. The additions will be visible from Lewisham Avenue but have negligible impact as they do not project beyond the existing building line. The significant trees on site are retained, it is proposed to remove palm trees from within the courtyards. The works will enhance levels of privacy for residents and improve amenity and accessibility by the creation of a range of different bathroom sizes catering for different levels of required care.

Clause 107 Non-discretionary development standards for hostels and residential care facilities-the Act, s 4.15

The object of this section is to identify development standards for particular matters relating to development for the purposes of hostels and residential care facilities that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

(a) no building has a height of more than 9.5m, excluding servicing equipment on the roof of a building,

Complies

(b) servicing equipment on the roof of a building, which results in the building having a height of more than 9.5m-

(i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and

(ii) is limited to an area of no more than 20% of the surface area of the roof, and

(iii) does not result in the building having a height of more than 11.5m,

Not applicable.

(c) the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,
Complies, the floor space ratio for the total site is 0.5:1 (building area - 5277sqm: site area - 10630sqm).

(d) internal and external communal open spaces with a total area of at least-

(ii) for a residential care facility-10m² for every bed,

Complies. There are 80 beds requiring a minimum of 800sq.m of communal space. There is over 800sq.m of communal space across the site.

(e) at least 15m² of landscaped area for every bed,

Complies. There are 80 beds requiring a minimum of 1200sq.m of landscaped area. There is over 1200sq.m of maintained landscaped area within the site.

(f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 6m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site,

The existing deep soil landscaping areas on site equate to approximately 9% of the site area and do not comply with this clause. The proposed development does not reduce the existing deep soil areas therefore the existing approved layout on site does not comply with this clause. When the centre was extended in 2015 it was assessed against the applicable controls at the time and was compliant with the SEPP (Housing for Seniors or People with a Disability). The additions were constructed in accordance with the DA and the non-compliance does not prevent the approval of the subject application.

(h) for a residential care facility-at least 1 parking space for every 15 beds in the facility,

(i) at least 1 parking space for every 2 employees who are on duty at the same time,

(j) at least 1 parking space for the purpose of ambulance parking.

There are 80 beds which would equate to a need for 6 spaces. The number of staff on duty at any one time is indicated as 42 equating to a need for 21 car-parking spaces. The existing facility has a formal car park accessed off Lewisham Avenue that has 58 car parking spaces (including 2 accessible car parking spaces). There is adequate room adjacent to the entry for an ambulance. The parking is satisfactory.

The development complies with the applicable clauses of the SEPP.

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

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

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

Wagga Wagga Development Control Plan 2010

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

Section 1 - General

1.10 Notification of a Development Application

The application was advertised and notified to adjoining neighbours from 28 August - 11 September 2023 in accordance with the provisions of the DCP.

No submissions were received during the notification period.

Section 2 - Controls that Apply to All Development

2.1 Vehicle access and movements

Access to and from the site is from both Lewisham Avenue and Meurant Avenue. There are no changes proposed to existing access arrangements. All vehicles can enter and exit the site in a forward direction and there is room on site to cater for the loading and delivery of goods and services to the residential care facility.

2.2 Off-street parking

The proposed development is for alterations and additions to an existing 80 bed residential care facility. Parking requirements are based upon the number of beds and as there is no increase there is no additional parking demand as a result of the development.

The number of car parking spaces complies with the requirements of SEPP (Housing) as outlined earlier in the report.

2.3 Landscaping

The site benefits from existing planting and landscaped areas both externally to the building and within secure courtyards and gardens. It is proposed to remove some palm trees from the site that are overgrown and will hinder the bathroom additions. There is no objection to the removal of palm trees.

2.4 - Signage

No signage is proposed.

2.5 Safety and security

The overall site layout remains as existing and has a clearly defined secure entry. There are many parts of the building that offer natural surveillance across the site and the fencing and planting to the site do not hinder visibility. Internally the proposed works will improve the safety of residents by providing individual private bathrooms of varying sizes and layouts depending on the individual needs. Security is also improved with just one entry into the bathroom from within the private bedroom area.

2.6 Erosion and Sediment Control Principles

Temporary sediment and erosion control measures will be implemented during construction. Conditions of consent are imposed in this regard.

2.7 Development adjoining open space

The subject site does not adjoin public open space.

Section 3 - Heritage Conservation

The subject site is not within the heritage conservation area but is adjacent to a listed heritage item, Calvary Hospital. The impact upon the item was assessed as acceptable under the LEP section of this report.

Section 4 - Environmental Hazards and Management

The land is not mapped as bush fire prone or flood prone land.

Section 5 - Natural Resource and Landscape Management

This matter has been addressed under Clause 7.6 of the LEP above, given the nature of the works no issues are expected.

There are no applicable controls within Sections 6, 7, or 8 of the WWDCP2010.

Section 9 - Residential Development

The proposal is for alterations and additions to a residential care facility. As a type of residential accommodation, the chapter applies however the majority of controls relate to the construction of dwellings and are not considered applicable to the application.

The following controls are of relevance:

9.2.1 Site layout

The proposed site layout remains as existing. The works will have no impact upon the form or the function of the site.

9.2.2 Streetscape

The additions to the residential care facility will have negligible impact to the streetscape. There are additions proposed towards Lewisham Avenue but the additions will not project beyond the existing building line.

9.3.2 Site cover

The site cover of the building complies with the floor-space ratios outlined in the SEPP.

9.3.4 Solar access

The majority of the additions are proposed to the northern and eastern elevations of the existing building. The additions allow for increased floorspace and will maintain good solar access through the windows into the room(s). The existing internal courtyards will each maintain adequate sunlight for the benefit of the residents that use these areas.

9.3.5 Private open space

There are secure communal areas of private open space for use by the residents. The communal spaces are consistent with the requirements of the SEPP.

9.4.2 Materials and finishes

The materials and finishes of the additions, being brick with metal roof will be similar to the existing building and raise no concerns.

There are no applicable controls within Sections 10, 11, 12, 13, 14, 15 or 16 of the WWDCP2010.

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

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

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

Conditions have been imposed to ensure this development is consistent with the regulations including compliance with the BCA.

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

Context and setting

The residential care facility is set within an area that is dominated by hospital and medical uses. There are residential properties located in amongst the various health related uses. The alterations and additions will have negligible impact outside of the subject site and are entirely consistent with the existing context and setting.

Streetscape

The development will have minimal impact upon the streetscape given that the additions do not project forward of the existing building line fronting onto Lewisham Avenue.

Access, transport and traffic

The off-street parking spaces and the vehicle access to the site remain as existing.

Noise and vibration

There is expected to be a degree of noise and disturbance during demolition and construction works. This will be a short-term impact and managed in a staged way across the facility. A condition relating to standard construction hours will apply.

Services

The site is fully serviced, the development will be subject to s68 approvals for any required sewer and stormwater connections.

Pollution and off-site environmental effects

Standard conditions will be included to secure management of sediment and erosion during construction.

Heritage

The subject site is not within the heritage conservation area but is adjacent to a listed heritage item (Calvary Hospital). The impact upon the heritage item is acceptable.

Flora and Fauna

The site has not been identified as containing any critical or protected species or habitat, there is no objection to the removal of palm trees.

Natural Hazards

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

The development has been considered against the relevant bushfire provisions of the WWLEP2010 and DCP. A risk assessment is not required as the development is not mapped as being on bush fire prone land.

Man-Made Hazards

The site is not subject to any known man-made hazards.

Socio- Economic Impact in the Locality

A positive economic impact as the construction phase will see the employment of tradespeople for a period of time and a positive social impact as the completed bathroom facilities will enhance the quality of accommodation being offered for a specific group within the local community.

Site Design and internal design

The design of the proposed alterations is dictated by the existing site layout and entirely informed by the existing internal layout that needs to be modernised. There are no concerns with the proposed layout.

Construction

Any impacts will be temporary and short term and there are no long term impacts from construction that raise concern.

Cumulative Impacts

There are no likely adverse cumulative impacts from this development. Each proposal is assessed on its merits at the time of the application.

The Principles of Ecologically Sustainable Development

The following are principles of ecological sustainability:

1 The precautionary principle

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

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

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

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

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

2 Intergenerational equity

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

3 Conservation of biological diversity and ecological integrity

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

4 Improved valuation, pricing and incentive mechanisms

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

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

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

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

The proposed development will not result in any anticipated irreversible environmental damage, the alterations and additions are proposed upon an existing developed site and are not considered to impact on biological diversity or ecological integrity. The proposal is consistent with the precautionary principle to the extent that all potential threats to the environment have been identified and assessed. Accordingly the principles of ESD are considered to have been followed.

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

The subject land is considered to be suitable for the proposed development because the land is already developed as a residential care facility on appropriately zoned land within an accessible location. The development is consistent with relevant standards and controls and there are no likely adverse impacts from the development occurring.

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

Referrals

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

Notification

The application was notified to adjoining neighbours from 28 August - 11 September 2023 in accordance with the provisions of the DCP. No submissions were received.

Advertising

The application was advertised between 28 August - 11 September 2023 in accordance with the provisions of the DCP.

Section 4.15(e) - the public interest

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

The proposed development will have a positive public interest as facilities are improved within the residential care facility for the benefit of residents. The development has no adverse impact upon the streetscape or existing levels of amenity in the area.

Taking into account the full range of matters for consideration under Section 4.15 of the *Environmental Planning and Assessment 1979* (as discussed within this report) it is considered that approval of the application is the public interest.

Other Legislative Requirements

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

In accordance with the above listed legislation there are a number of tests under part 7.2 that are required to determine whether the proposed development results in the need for offsets.

- Firstly, the test to determine whether the proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats according to the test in section 7.3.
- Secondly whether the proposed removal of native vegetation exceeds the biodiversity offsets scheme threshold as outlined in section 7.4, and
- Thirdly whether the development is within a declared area of outstanding biodiversity value. The published biodiversity values map does not include any declared areas at the subject site.

The published biodiversity values map does not include any declared areas of outstanding biodiversity value at the subject site and only non-native trees (palms) are recommended for approval therefore the biodiversity offsets scheme threshold will not be exceeded. There are no significant impacts anticipated upon any existing threatened species or ecological communities or their habitats.

Relevant matters under the Biodiversity Conservation Act 2016 have been considered.

Council Policies

POL 046 - Processing Development Applications lodged by Councillors, Staff and Individuals of which a Conflict of Interest may arise, or on Council owned land Policy is of relevance to the determination of the subject development application.

A Wagga City Councillor is a director of the company that is both the applicant and the owner of the land. In accordance with section 2.1.2 of POL if 'the applicant or land owner is a company where a director of the company is a Councillor, Director or the General Manager' the application shall be reported to Council for consideration and determination.

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

Section 7.11/7.12 of the Environmental Planning and Assessment Act 1979 and the City of Wagga Wagga's Local Infrastructure Contributions Plan 2019-2034 enables Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities.

As the development relates to seniors housing Section 7.12 contributions are not required, as per the exemptions under Section 1.7 of the Wagga Wagga Local Infrastructure Contributions Plan 2019 - 2034.

Section 64 of the Local Government Act 1993, Section 306 of the Water Management Act 2000 as well as the City of Wagga Wagga's Development Servicing Plan for Stormwater 2007 and/or City of Wagga Wagga Development Servicing Plan for Sewerage 2013 enable Council to levy developer charges based on the increased demands that new development will have on sewer and/or stormwater.

Sewer

As per the Water Directorate Section 64 Determinations of Equivalent Tenements Guidelines, seniors housing is charged at a rate of 0.75ET per bed. As there is no increase in beds, there is no Section 64 Sewer charge payable.

Stormwater

Section 64 Stormwater calculations will be based on the hardstand associated with the built form (as per Section 2.1.2 of the Implementation Guide). There is no additional hardstand and therefore Section 64 Stormwater charges are not required.

Other Approvals

None required

Conclusion

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

RECOMMENDATION

It is recommended that application number DA23/0389 for Staged Alterations and Additions to existing Residential Care Facility to extend rooms and provide private en-suite facilities be approved, subject to the following conditions:-

CONDITIONS OF CONSENT FOR APPLICATION NO. DA23/0389

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
001	Site plan	Sb architects		26/7/23
002	Existing floor plan / demolition plan	Sb architects		26/7/23
003	Overall floor plan	Sb architects		26/7/23
004	Floor plan A	Sb architects		26/7/23
005	Floor plan B and C	Sb architects		26/7/23
006	Elevations and Sections	Sb architects		26/7/23
007	Compartmentation plan	Sb architects		26/7/23
	Statement of Environmental Effects	Sb architects		July 23

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 release of Construction Certificate a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.

NOTE 1: 'Water management work' is defined in s283 of the Water Management Act to mean a 'water supply work', 'drainage work', 'sewage work' or 'flood work'. These terms are defined in that Act.

NOTE 2: Riverina Water is responsible for issuing compliance certificates and imposing requirements relating to water supply works for development in the Council's area. An application for a compliance certificate must be made with Riverina Water. Additional fees and charges may be incurred by the proposed development - please contact Riverina Water to ascertain compliance certificate water supply related requirements. A copy of such a compliance certificate is required prior to release of Construction Certificate.

NOTE 3: The Council is responsible for issuing compliance certificates and imposing requirements relating to sewerage, drainage and flood works for development in its area.

NOTE 4: Under s306 of the Water Management Act 2000, Riverina Water or the Council, as the case requires, may, as a precondition to the issuing of a compliance certificate, impose a requirement that a payment is made or works are carried out, or both, towards the provision of water supply, sewerage, drainage or flood works.

NOTE 5: The Section 64 Sewer base figure is nil.

NOTE 6: The Section 64 Stormwater base figure is nil.

NOTE 7: Section 64 contributions shall be indexed in accordance with CPI annually at the commencement of the financial year.

NOTE 8: The figures outlined in this consent are based on the current rate of CPI. Please be advised that CPI changes on a regular basis and you are advised to contact Council prior to payments being made, to ensure no further CPI increases/decreases have occurred since the date of this consent.

Requirements before the commencement of any works

C.3 If the work involved in the erection or demolition of a building or structure:

- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- b) building involves the enclosure of a public place,

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

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

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

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

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

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

C.4 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.5 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.6 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.7 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.8 Prior to works commencing all plans and specifications relating to any proposed sewer or stormwater works to be carried out within the site and / or works proposed to be connected to Council infrastructure shall be submitted to and approved by Council. The development will not be permitted to connect and discharge into Council's mains, without these service drawings being approved by Council.

C.9 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.10 The existing Street trees fronting the property shall be retained and protected from the proposed development. These trees shall not be impacted upon in any way without the consent of Council's Supervisor of Tree Planning and Management.

A Tree Protection Zone (TPZ) shall be constructed for all existing trees fronting the development in accordance with Australian Standards - AS 4970-2009 Protection of Trees on Development Sites.

Construction of Tree Protection Zone's shall be completed and inspected by Council's Supervisor of Tree Planning and Management, prior to the commencement of any site works. Contact can be made by phoning 1300 292442 during normal business hours.

Removal, relocation or disruption of the Tree Protection Zone fencing will be considered as a breach of this consent. TPZ fences shall remain in place until the end of construction.

C.11 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.12 If an excavation associated with the erection/demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- a) must preserve and protect the building from damage, and
- b) if necessary, must underpin and support the building in an approved method, and

- c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the building being erected/demolished.

NOTE 1: The owner of the adjoining allotment of land is not liable for any part of the cost of the work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

NOTE 2: For the purposes of this condition allotment of land includes a public road or any other public place.

- C.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 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.16 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.17 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.
- C.18 Trees indicated on the submitted plans for removal, shall be removed from the site in accordance with the proposed development. Further consent is not required for removal of the subject trees in conjunction with this development.

The approved works shall be executed so as to comply with 'Safework NSW Tree work (arboriculture)'. Any works associated with tree removal shall be carried out in Accordance with Australian Standards - AS 4373-2007, Pruning of Amenity Trees.

All tree stumps shall be removed below ground level and the surface area reinstated to prevent potential injury. All waste material from the subject tree/s shall be removed from site in conjunction with clearing.

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

- C.19 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.20 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.21 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.22 This approval is for a development to be undertaken in eight stages in accordance with the approved plans (refer to Condition C1).

Stages are not required to be undertaken in any chronological order. Unless otherwise expressly stated, the conditions must be read as being applicable to all stages.

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

N/A

E. SCHEDULE E – Prescribed Conditions

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

- E1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 (clause 69 EP&A Reg 2021)
- (1) It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.
 - (2) It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.
 - (3) It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with the Building Code of Australia, Volume 1, Part B1 and NSW Part I5.
 - (4) In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the relevant date.
 - (5) In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.
 - (6) This section does not apply-
 - (a) to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental

Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or

(b) to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.

(7) In this section -

relevant date has the same meaning as in the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, section 19.

E2 Erection of signs (clause 70 EP&A Reg 2021)

(1) This section applies to a development consent for development involving building work, subdivision work or demolition work.

(2) It is a condition of the development consent that a sign must be erected in a prominent position on a 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 certifier for the work, and

(b) showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and

(c) stating that unauthorised entry to the work site is prohibited.

(3) The sign must be-

(a) maintained while the building work, subdivision work or demolition work is being carried out, and

(b) removed when the work has been completed.

(4) This section does not apply in relation to-

(a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or

(b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

E3 Notification of Home Building Act 1989 requirements (clause 71 EP&A Reg 2021)

(1) This section applies to a development consent for development involving residential building work if the principal certifier is not the council.

(2) It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following-

- (a) for work that requires a principal contractor to be appointed-
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer of the work under the Home Building Act 1989, Part 6,
- (b) for work to be carried out 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 the Home Building Act 1989-the number of the owner-builder permit.
- (3) If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.
- (4) This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

E4 Entertainment venues (clause 72 EP&A Reg 2021)

- (1) The requirements specified in this section are conditions of development consent for the use of a building as an entertainment venue.
- (2) During a stage performance at an entertainment venue, there must be at least 1 suitably trained person in attendance in the stage area at all times for the purpose of operating, if necessary, a proscenium safety curtain, drencher system and smoke exhaust system.
- (3) If a proscenium safety curtain is installed at an entertainment venue, there must be no obstruction to the opening or closing of the curtain and the curtain must be operable at all times.
- (4) When a film is being screened at an entertainment venue, there must be at least 1 person in attendance at the entertainment venue who is trained in-
 - (a) the operation of the projectors being used, and
 - (b) the use of the fire fighting equipment in the room in which the projectors are installed (the projection room).
- (5) If the projection room is not fitted with automatic fire suppression equipment and a smoke detection system, in accordance with the Building Code of Australia, the person required by subsection (4) to be in attendance must be in the projection suite in which the projection room is located during the screening of a film.
- (6) A member of the public must not be present in the projection suite during the screening of a film.

- (7) An entertainment venue must not screen a nitrate film.
- (8) An emergency evacuation plan must be prepared, maintained and implemented for a building, other than a temporary structure, used as an entertainment venue.
- (9) The emergency evacuation plan must specify the following-
 - (a) the location of all exits, and fire protection and safety equipment, for the part of the building used as an entertainment venue,
 - (b) the number of fire safety officers that must be present during performances,
 - (c) how the audience will be evacuated from the building if there is a fire or other emergency.
- (10) A fire safety officer appointed to be present during a performance must have appropriate training in evacuating persons from the building if there is a fire or other emergency.
- (11) In this section exit has the same meaning as in the Building Code of Australia.

E5 Maximum capacity signage (clause 73 EP&A Reg 2021)

- (1) This section applies to a development consent, including an existing development consent, for the following uses of a building, if the development consent contains a condition specifying the maximum number of persons permitted in the building-
 - (a) an entertainment venue,
 - (b) a function centre,
 - (c) a pub,
 - (d) a registered club,
 - (e) a restaurant or cafe.
- (2) It is a condition of the development consent that a sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in the development consent, that are permitted in the building.

E6 Shoring and adequacy of adjoining property (clause 74 EP&A Reg 2021)

- (1) This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.
- (2) It is a condition of the development consent that 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 on adjoining land from possible damage from the excavation, and
 - (b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.
- (3) This section does not apply if-
- (a) the person having the benefit of the development consent owns the adjoining land, or
 - (b) the owner of the adjoining land gives written consent to the condition not applying.

E7 Fulfilment of BASIX commitments (clause 75 EP&A Reg 2021)

It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled-

- (a) BASIX development,
- (b) BASIX optional development, if the development application was accompanied by a BASIX certificate.

E8 Deferred commencement consent (clause 76 EP&A Reg 2021)

- (1) A development consent with a deferred commencement, as referred to in the Act, section 4.16(3), must be clearly identified as a “deferred commencement” consent, whether by using the expression, referring to that section or otherwise.
- (2) A deferred commencement consent must clearly distinguish between-
 - (a) conditions that relate to matters about which the consent authority must be satisfied before the consent can operate (the relevant matters), and
 - (b) other conditions.
- (3) A consent authority may specify the period within which the applicant must produce sufficient evidence to the consent authority to enable it to be satisfied about the relevant matters.
- (4) If the applicant produces evidence in accordance with this section, the consent authority must notify the applicant whether it is satisfied about the relevant matters.
- (5) If the consent authority does not notify the applicant within 28 days after the applicant produces the evidence, the consent authority is taken to have notified the applicant, on the day on which the period expires, that it is not satisfied about the relevant matters.
- (6) Subsection (5) applies for the purposes of the Act, section 8.7 only.

E9 Conditions for ancillary aspects of development (clause 77 EP&A Reg 2021)

- (1) If a consent authority grants development consent subject to a condition referred to in the Act, section 4.17(2) in relation to an ancillary aspect of the development, the consent authority may specify the period within which the ancillary aspect must be carried out to the satisfaction of the consent authority or a person specified by the consent authority.
- (2) The applicant may produce evidence to the consent authority, or to the person specified by the consent authority, sufficient to enable the consent authority or the person to be satisfied in relation to the ancillary aspect of the development.
- (3) For the purposes of the Act, section 4.17(3), the relevant period is the period of 28 days after the applicant's evidence is produced to the consent authority or a person specified by the consent authority.

E10 Conditions for State significant development (clause 78 EP&A Reg 2021)

A development consent may be granted subject to a condition referred to in the Act, section 4.17(4A) or (4B) only if the development is State significant development.

E11 Review conditions-the Act, s 4.17(10C) (clause 79 EP&A Reg 2021)

- (1) A development consent that is granted subject to a reviewable condition may, as referred to in the Act, section 4.17(10B), be granted subject to a further condition (a review condition) if the development consent relates to the following kinds of development-
 - (a) an entertainment venue,
 - (b) a function centre,
 - (c) a pub,
 - (d) a registered club,
 - (e) a restaurant or cafe.
- (2) A development consent that is subject to a review condition must contain the following-
 - (a) a statement that the development consent is subject to the review condition and the purpose of the review condition,
 - (b) a statement that the consent authority will carry out the reviews,
 - (c) when, or at what intervals, the reviews must be carried out.
- (3) The consent authority must give written notice to the operator of a development that is subject to a review condition at least 14 days before carrying out a review.
- (4) The consent authority may notify other persons of the review as it considers appropriate.

- (5) The consent authority must take into account submissions that are received from any person within 14 days after notice of a review is given to the person.

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

N/A
