



Report of Development Application

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

APPLICATION DETAILS

Application No.:	DA21/0213
Modification No.:	N/A
Council File No.:	D/2021/0213
Date of Lodgement:	15/04/2021
Applicant:	EJ Tomes 12 Macleay St TURVEY PARK NSW 2650
Proposal:	Demolition of existing shed and erection of shed in Heritage Conservation Area
Description of Modification:	N/A
Development Cost:	\$23000
Assessment Officer:	Emma Molloy
Determination Body:	Council - More than a 10% variation to a numerical control in which a submission was received.
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	Yes, 27 April to 4 May 2021.
Advertising:	No
Owner's Consent Provided:	Yes
Location:	The subject site is located on the western side of Macleay Street, approximately 82 metres from the intersection of Macleay and Erin Streets.

SITE DETAILS

Subject Land:	12 Macleay St TURVEY PARK NSW 2650 Lot 12 DP 37353
Owner:	JA Tomes & EJ Tomes

PLANNING CONTROLS / STATUTORY CLASSIFICATION

Pursuant to Part 4 (Division 1)

Description of Development

The proposed development seeks consent for the construction of a shed with an attached carport and rainwater tank within the rear yard. The existing shed will be demolished to accommodate the proposed shed.

The shed will be constructed of Colourbond and will comprise of two areas including vehicle storage accessible from the garage door and a workshop area on the northern elevation. The northern elevation will also have an elongated awning to provide a small sheltered area. An attached carport is located on the eastern elevation and will have a pitched roof slightly lower than the roof for the vehicle storage.

The Site and Locality

The subject land is known as Lot 12 DP37353 at 12 Macleay Street, Turvey Park. The site is rectangular in shape with an area of approximately 524.80m². The subject site contains an existing dwelling which can be described as an Inter-war Californian bungalow in face brick with a hipped and gabled corrugated metal roof. The subject site is within the Heritage Conservation Area (HCA) and the existing dwelling is considered contributory towards the HCA.

The locality is characterised by residential development of a similar size and scale with each lot stepped down to address the slope of the street towards the north. The existing streetscape is contributory to the conservation area.

Easements and Covenants

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

Previous Development Consents

A search of Council records has indicated that there are no previous consents issued for the subject land.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

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

Wagga Wagga Local Environmental Plan 2010

Under the provisions of the WWLEP2010, the subject site is within the R1 General Residential zone.

The development is permissible with consent.

Part 2 Permitted or prohibited development Land Use

1 Objectives of zone

Under the provisions of the WWLEP2010, the subject site is within the R1 General Residential zone. 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 provides facilities or services to meet the day to day needs of residents.*

The proposed development is consistent with the objectives of the zone as the development will allow for further development of the land to support the needs of the current residents.

Part 5 Miscellaneous provisions

5.10 Heritage Conservation

The subject site is within a Heritage Conservation Area, in the Residential Precinct. Pursuant to Part 5.10(2)(e)(i), Development Consent is required for the erection of a building on land within a Heritage Conservation Area. The subject site contributes to the heritage significance of the surrounding area as it is of a similar age, scale and style that characterises the residential precinct within a Heritage Conservation Area. The proposed development is to the rear of the existing dwelling and as such will retain the existing architectural features. The proposed shed has been designed using acceptable materials and is of an acceptable scale in relation to the constraints of the site. The proposed development is not considered to have an adverse impact on the heritage significance of the surrounding area.

Part 7 Additional Local Provisions

7.1A Earthworks

Minor earthworks will be required as part of the construction of the proposed development. The works will not have an adverse impact on the subject site or adjoining allotments.

Conditions of consent will also be imposed to ensure that the proposed earthworks will not have an adverse impact on the subject site or surrounding development.

7.2 Flood Planning

The subject site is mapped as prone to overland flow in a 1% flood event in the eastern and western portion of the site. Given the minor depth of inundation and nature of the proposed development no concerns are raised in regards to overland flow. The proposed development is not considered to have an adverse impact on overland flow or the hydraulic function of the land.

7.3 Biodiversity

The objectives of this clause are to protect, maintain or improve the diversity of native vegetation. The site is within an established residential area which has been previously cleared of all vegetation. Therefore, the proposed development is not considered to have an additional adverse impact on biodiversity values.

7.6 Groundwater Vulnerability

The objective of this clause is to protect and preserve groundwater sources. This clause applies to land identified as "Groundwater" on the Water Resource Map. The subject development is not development specified for the purposes of this clause therefore this clause does not apply.

7.9 Primacy of Zone B3 Commercial Core

The objectives of this clause are to maintain the primacy of Zone B3 Commercial Core as the principal business, office and retail hub of the Wagga Wagga city centre and to ensure that development does not conflict with the hierarchy of commercial centres and to strengthen Wagga Wagga's position as an eminent regional centre by creating employment opportunities for tourism, commerce, education, health care, culture and the arts. The proposed development seeks consent to construct an outbuilding within an existing residential site, therefore the primacy of the Commercial Core will be maintained.

State Environmental Planning Policies (SEPPs)

State Planning Policy No. 55 - Remediation of Land

Clause 7 states that a consent authority must not grant consent unless it has considered whether the land is contaminated and if the land is contaminated, it is satisfied that the land is suitable in its current state for the purpose for which the development is proposed to be carried out. The subject site was subdivided for residential use in 1927 and is not identified on Council's contaminated land register. As such the subject site is considered to be suitable for the proposed development and no further investigation is deemed necessary.

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

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

Surrounding landowners were notified in accordance with Council policy for a period of 7 days from 27 April to 4 May 2021. One submission was received, the submission will be addressed later in this report.

1.11 Complying with the Development Control Plan 2010

The proposed development seeks a variation to the height within C4 3.3.2 Garages and Carports, and C3 and C4 within Section 9.4.4. One submission was received during the notification period. The submission raised concerns in regards to the proposed variations therefore Council staff in accordance with this section of DCP do not have delegation to determine the application and the application will be determined by Council.

Section 2 - Controls that Apply to All Development

2.1 Vehicle Access and Movements

Existing vehicular access is provided from Macleay Street. The proposed development does not seek to alter the existing access which is considered acceptable and generally complies with the controls and objectives within this section.

2.2 Off-street Parking

Off-street parking is provided by an existing shed to the rear of the existing dwelling. The existing shed will be demolished to allow for construction of the proposed garage. Therefore, adequate off-street parking will be provided within the proposed shed and carport which is considered acceptable and satisfies the objectives and controls within this section.

2.3 Landscaping

The proposal does include some removal of existing landscaping within the rear yard to accommodate the shed. However existing trees will be retained which is considered acceptable.

2.5 Safety and Security

The existing dwelling has a clearly defined entrance with no blank walls along the street frontage in accordance with the controls within this section.

2.6 Erosion and Sediment Control Principles

Conditions of consent will be imposed to ensure the proposed development does not have an adverse impact on the subject site and adjoining allotments.

Section 3 - Heritage Conservation

3.3.2 Residential Precinct

Garages and Carports

The proposal is for a shed to the rear of an existing dwelling within the Heritage Conservation Area. The proposed shed is well behind the building line is accessed from the existing driveway located on the southern elevation. The shed is subservient in scale to the existing dwelling and will be constructed of Colourbond which has been consistently used on outbuildings within the HCA and is therefore considered acceptable. The proposed shed is a total of 7 metres wide and 10 metres long to allow for an attached carport. The shed is a maximum of 4.3 metres at the apex however the height of the shed changes to mitigate the impact of the bulk of the building with the height reduced to 3.5 metres for the attached carport and 3 metres for the workshop area down to 2 metres for the awning. C4 limits the dimensions of a single and double garages, the proposed development is a single garage with an attached carport and skillion on the northern side to contain a workshop. The shed is above the height control and therefore a variation to the height is required. The development has been designed to provide articulation in the built form to mitigate the impact of building bulk on the existing dwelling and maintains the character of the rear yard. The applicant received advice from Council's Heritage Advisor whom raised no concerns in heritage terms. Therefore, it is considered that the proposed development will be an acceptable inclusion within the subject site and the HCA.

Section 4 - Environmental Hazards and Management

5.4 Environmentally Sensitive Land

Environmental sensitivities have been previously assessed in Sections 7.3 and 7.6 of this report.

Section 9 - Residential Development

9.2.1 Site Layout

The proposed development makes good use of the site. The proposed shed is compatible with the existing built form and is located in an appropriate location to allow for an adequate amount of useable open private space. As such the proposed development is considered to comply with the objectives and controls within this section.

9.3.2 Site Cover

The maximum site cover for a site less than 600m² is 60%. The proposed development will result in a site cover of 47.25%. As such the proposal complies with the controls within this section.

9.3.4 Solar Access

The proposed shed replaces an existing shed located within the rear yard. The proposed shed will have negligible impact on the adjoining properties given the slope, orientation of the site and the existing vegetation within the rear yard. As such the proposed development is considered to comply with the objectives and controls within this section.

9.3.7 Side and Rear Setbacks

Adequate separation has been provided for privacy, natural light and ventilation. The proposed development is considered to comply with the objectives of this section.

9.4.2 Materials and Finishes

The proposed development will be constructed of Colourbond which has been used throughout the HCA. The design of the proposed shed will allow for articulation in built form to avoid large expanses of any single material and therefore the proposed development is considered to comply with the objectives and controls within this section.

9.4.3 Privacy

Visual and acoustic privacy are important for good residential amenity. No concerns are raised in regards to privacy as the shed is located in the rear of the site and will be screened by the existing boundary fencing and vegetation.

9.4.4 Garages, Carports, Sheds and Driveways

The proposed shed is located in the rear yard and is accessed from the existing driveway from Macleay Street. C3 requires that the floor area of any outbuilding on a residential lot must not be more than 8% of the site area. C4 also requires that the maximum cumulative area of all outbuildings on any one property shall not be more than 8% of the site area. The proposed shed will result in 13.33% of the site area therefore variations to both controls are required. The applicant provided justification to support the variation which stated:

“The additional area requested for the shed is composed of weather awnings to protect the access points to the shed. The shed is orientated front to the East, and in aspect, is similar to the current shed that has deteriorated and contains asbestos sheeting. These additional awnings will not have an impact on neighbouring properties”.

The proposed shed is located within the rear yard and will replace an existing shed on site. The shed has been located in an area to mitigate impacts on the surrounding properties and will be effectively screened by the boundary fencing and vegetation. It should also be noted that the site slopes towards the north and each lot is stepped down which further mitigates the impact of the proposed shed. Therefore, the variation is considered reasonable on merit and can be supported.

C6 specifies the total height of an outbuilding to be no more than 4.8 metres. The proposed garage is a total height of 4.3 metres. As such the proposed garage is considered an acceptable inclusion within the locality which generally complies with the objectives and controls within this section.

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

There are no planning agreements have been entered into under section 7.4.

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

Matters prescribed by the regulations have been satisfied.

Section 4.15(1)(b) - likely impacts of the development

	Satisfactory	Not Satisfactory	Not Relevant	Comment

Context & Setting	x			The proposed shed is located in the rear yard and therefore retains the significant features of the existing dwelling. The proposed shed is considered acceptable in the proposed location and is not considered to have an adverse impact on the context and setting of the site.
Streetscape	x			The proposal does not propose any alterations to the streetscape when viewed from Macleay Street. No adverse impacts have been identified.
Traffic, access and parking	x			Vehicular access is provided from Macleay Street. The proposed development does not seek to alter the existing arrangement which is considered acceptable.
Public Domain	x			No adverse impacts identified.
Utilities	x			All services are connected and available to the site.
Heritage	x			As discussed throughout this report.
Other land resources	x			None identified.
Water Quality & Stormwater	x			Stormwater from the shed will drain into the proposed water tank the overflow will be connected to the existing stormwater infrastructure.
Soils, soil erosion	x			Conditions of consent will be imposed to ensure the proposed development does not have an adverse impact on the subject site or adjoining allotments.
Air and microclimate	x			Dust is expected during demolition. A condition of consent will be imposed to require demolition to be carried out in accordance with the Australian Standard.
Flora and Fauna	x			The proposal does not include the removal of any significant vegetation.
Waste	x			Conditions of consent will be imposed to ensure waste is disposed of in an appropriate manner.
Energy	x			No adverse impacts have been identified.
Noise & vibration	x			Noise is expected as part of the construction of the proposed development conditions of consent will be imposed to require works to be undertaken within acceptable hours.
Hours of operation			x	Not applicable.
Natural hazards - Flooding - Bushfire Prone Area map	x			The land is identified as prone to overland flow in the eastern and western portion of the site. Given the use of the proposed development no concerns are raised, the depth of inundation is minor and therefore the proposed development is considered acceptable in this location.
Technological Hazards	x			Given the works include demolition there is a risk of coming into contact with asbestos. A condition of consent will be imposed to ensure that if any asbestos is found that it be handled and disposed of appropriately.
Safety, security and crime prevention	x			No adverse impacts have been identified.
Social impact in locality	x			The proposed development will allow the current residents to provide for their needs.
Economic Impact in Locality	x			The proposed development will provide continued work for the construction and related industries.
Site design and internal design	x			The proposed development makes good use of the site and addresses the sites constraints and opportunities. As such the development is

				considered to be an acceptable inclusion within the locality.
Overlooking - overshadowing	x			The proposed development replaces an existing structure within the rear yard. The development will be effectively screened by the boundary fencing and the existing vegetation. The slope of the lot also further mitigates impacts on surrounding lots and therefore the proposed shed does not raise any concerns.
Landscaping	x			No adverse impacts have been identified.
Construction	x			To comply with the BCA.
Private open space	x			An adequate amount of private open space will be retained by the development.
Cumulative Impacts	x			None identified.
Disabled access			x	Not applicable.
Signage			x	Not applicable.
Setbacks, Building Envelopes	x			The proposed development provides appropriate setbacks.

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 have been considered. 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

Matters relating to flooding have been previously assessed in regards to the WWLEP 2010 and WWDCP2010 within this report. The above assessment supports the application.

Bush Fire Risk Assessment

The subject site is not identified as prone to bushfire therefore no further assessment is required.

The Principles of Ecologically Sustainable Development

The following are principles of ecological sustainability:

1 The precautionary principle

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

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

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

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

2 Intergenerational equity

The present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations (that is, a

partnership among all of the generations that may use or expect to benefit from the nation's resources).

3 Conservation of biological diversity and ecological integrity

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

4 Improved valuation, pricing and incentive mechanisms

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

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

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

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

The subject land located at 12 Macleay Street, Wagga Wagga is considered to be suitable for the proposed development because it is residentially zoned land being developed for a residential purpose and is generally in accordance with the WWLEP2010 and WWDCP2010.

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

Referrals - The proposal was referred to the relevant Council officers. No concerns were raised, standard conditions will be imposed.

Notification - Adjoining landowners were notified in accordance with Council policy for a period of 7 days from 27 April to 4 May 2021. One submission was received.

Advertising - The proposed development was not required to be advertised.

Public Submissions and those from public authorities

One submission was received during the notification period. The submission raised concerns in regards to flooding, compliance with Section 9.4.4 of the DCP, safety and crime prevention issues, advice from Council's Heritage Advisor and materials of the proposed shed.

The submission raised concerns in regards to flooding stating that the lot is on a steep hill that in heavy rainfall is subject to flooding and therefore it is important to understand how water for the additional roof space is to be captured. The applicant was asked for additional information as to how stormwater specifically, how the overflow water from the proposed rain

water tank will be managed. The applicant provided an amended plan indicating that the proposed shed will be connected to the rain water tank and the overflow for the tank will be connected into the existing stormwater in the site which goes out to the street. This is considered acceptable and an additional application for a Section 68 will ensure that both the shed and tank are connected appropriately.

The submission also raised concerns in regards to compliance with Section 9.4.4 of the DCP. The submission stated that the floor area of the shed is 11% which is considerably above the control at 8%. In addition, the submission stated that the proposal exceeds the limit for cumulative area by 40% of that limit. The submission also stated that the proposed building is not single storey and therefore concerns are raised in regards to the proposed height of the structure and consideration should be given to the slope of the site.

The applicant was asked to provide additional information to justify the variation to the control, the applicant stated that the proposed shed exceeds the controls due to the presence of the awning. The variation to the control has been assessed earlier in this report and is supported given that the proposed shed is located within the rear yard and will be effectively screened by the boundary fencing and vegetation. In addition, the site slopes towards the north and each lot is stepped down which further mitigates the impact of the proposed shed. It should also be noted that the subject control is consistently varied in locations such as this as the land area of the site is smaller than the predominant land size in Wagga. In addition, the proposal complies with the overall site cover required. The proposed shed is single storey in height and complies with the control at 4.3 metres. It should be noted that the location of the shed has been previously levelled to allow for the construction of the existing shed and therefore the slope of the site will not result in additional impact on the adjoining lot in regards to height.

The submission raised a concern and asked how has the development addressed “safety, security and crime prevention issues”. The proposed development is for a replacement shed within the rear yard. The development will provide secure storage of household items and vehicles which when considering the nature of the development is considered reasonable.

The submitter also wanted to be made aware of the advice provided by Councils Heritage Advisor. This request is not relevant to the assessment of the application. The advice is used to guide landowners prior to lodging a development application and by Council to help guide the assessment process. As previously discussed, Council’s Heritage Advisor did not object to the proposed development on heritage terms and an assessment in regards to the controls within the relevant section of the DCP can be found earlier in this report. Concerns were raised in regards to materials specially in regards to the doors and windows on the northern elevation. The proposed shed contains a door and three windows on the northern elevation, the windows are set high into the roof space and are located above the workshop area. The windows are to provide light only to the garage space and no direct views to neighbouring properties will be possible. In addition, one door is also located on this elevation to provide an alternate access to the shed rather than through the garage door. The door does contain some glass but is not unreasonable and no concerns raised in regards to overlooking as the subject site is adequately screened by the existing boundary fencing and vegetation. Door and window location and material is considered appropriate and any impact would be considered negligible.

Section 4.15(e) - the public interest

The public interest is a broad consideration relating to many issues. 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 in the public interest.

Other Legislative Requirements

Section 1.7 of the Environmental Planning and Assessment 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)

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)

There are a number of tests to determine whether the proposed triggers the NSW Biodiversity Offset Scheme under the NSW Biodiversity Conservation Act 2016 and results in the need for further assessments or offsets.

1. *Is the subject site identified as an area of outstanding biodiversity value on the biodiversity values map?*

No

2. *Does the amount of native vegetation being removed exceed the biodiversity offsets scheme threshold.*

No native vegetation is proposed to be removed.

3. *Test of Significance - the test to determine whether the proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats.*

Given that no native vegetation is being removed and the absence of any recorded endangered flora or fauna on the site of the proposed development, is not anticipated to significantly affect threatened species or ecological communities or their habitats.

Based on the above assessment it is satisfied that the development will not trigger the Biodiversity Offset Scheme and no further evidence is required regarding the proposed vegetation removal.

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

Section 7.12 of the EPA Act, 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 enable Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. The estimated cost of the proposed development is below \$100,000 and therefore no contribution will be charged.

Section 64 of the Local Government Act 1993, Section 306 of the Water Management Act 2000 as well as the City of Wagga Wagga's Development Servicing Plan for Stormwater 2007 / Development Servicing Plan for Sewerage 2013 enable Council to levy developer charges

based on increased demands that new development may have on sewer and/or stormwater infrastructure. A Section 64 sewer contribution is not payable as the proposed development will not place an increased demand on the sewer infrastructure. However, stormwater contributions will be charged as the proposed development includes additional hardstand.

Calculations

Additional hardstand 40m²

Developer Charge for Urban East of Willans Hill \$3007

$$DC = 40\text{m}^2 / 800\text{m}^2 \times 1/0.74 \times 3007 = \$203.17$$

With CPI

$$203.17 \times 118.0 / 87.9 = \textbf{\$272.74}$$

Referrals:

Building Surveyor: Yes, no concerns raised. Standard conditions imposed.

Subdivision Engineer: Yes, no concerns raised. Standard conditions imposed.

Environmental Officer: N/A

Parks & Recreation Officer: N/A

Other Approvals:

Nil

Conclusion:

An assessment of the application has resulted in the application being supported on the following grounds:

- ☐ The application is for a shed to the rear of the existing dwelling in the R1 - General Residential Zone which is permitted with consent.
- ☐ The development complies with the requirements of the Environmental Planning and Assessment Act 1979 and will not compromise the outcomes sought within the Wagga Wagga Local Environmental Plan 2010.
- ☐ An assessment of the application against the relevant provisions within the Wagga Wagga Development Control Plan 2010 demonstrates that the proposed development will not cause any significant adverse impacts on the surrounding natural environment, built environment, infrastructure, community facilities or local character and amenity.

The application is subsequently recommended for approval, subject to conditions.

RECOMMENDATION

It is recommended that application number DA21/0213 for Demolition of existing shed and erection of shed in Heritage Conservation Area be approved, subject to the following conditions:-

It is recommended that application number DA21/0213 to modify Development Consent for Demolition of existing shed and erection of shed in Heritage Conservation Area be approved subject to the following conditions:-

It is recommended that application number DA21/0213 for Demolition of existing shed and erection of shed in Heritage Conservation Area be refused for the following reasons:-

It is recommended that DA21/0213 to modify Development Consent for Demolition of existing shed and erection of shed in Heritage Conservation Area be refused for the following reasons:-

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	Applicant		09.04.2021
	Additional Information	Applicant		20.05.2021
	Site Plan	Applicant		Received 20.05.2021
01 of 02	Plan View	Endurance Sheds & Structures		17.03.2021
02 of 02	Elevations	Endurance Sheds & Structures		17.03.2021

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 and ongoing bond.

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

NOTE 4: Works in the form of driveways, kerb and gutter and footpath may require you to obtain a Section 138 Roads Act 1993 approval. Please contact Councils Road Reserve Officer on 1300 292 442 prior to undertaking such works.

NOTE 5: Council will accept a once off security deposit for the kerb and gutter and footpath for applicants who lodge multiple DA's with council. If the applicant has security deposits held by Council for kerb and gutter and footpath at the time of Construction Certificate application, then Council may waive the need for an additional bond to be paid.

NOTE 6: The bond held on the kerb and gutter and footpath is fully refundable upon completion of all works and upon inspection by Council to ensure that any damage to Council infrastructure has been repaired.

The bond will not be refunded in the event that damage done to Council's infrastructure is not repaired to the satisfaction of Council. All damage is to be repaired at the full cost of the applicant

- C.3 Prior to the release of Construction Certificate a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.

NOTE1: 'Water management work' is defined in s283 of the Water Management Act to mean a 'water supply work', 'drainage work', 'sewage work' or 'flood work'. These terms are defined in that Act.

NOTE 2: DELETED

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 \$203.17.

The Section 64 Stormwater contribution (updated by the 117.1/87.9) required to be paid is \$272.74.

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

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

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

Requirements during construction or site works

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

C.11 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.12 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.13 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.14 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.

Requirements before a Subdivision Certificate can be issued

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

- C.15 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.16 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.17 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.18 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).
 - (e) must be wholly located within the subject site (including footings of any retaining structures)

- C.19 Should asbestos material be found, it is to be handled, transported and disposed of in accordance with the legislative requirements and standards determined by NSW WorkCover. All weighbridge receipts must be provided to Wagga Wagga City Council, within 14 days of the completion of the demolition/removal.

NOTE 1: All asbestos material needs to be double wrapped in 200µm thick plastic and disposed of at an EPA licensed facility. In this regard it should be noted that Wagga Wagga City Council's Gregadoo Waste Facility is the only EPA licensed facility within the Local Government Area to accept asbestos material. Council's Waste Management Supervisor requires 24 hours notice prior to disposal of this material

NOTE 2: Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover — Demolition Licence and a current WorkCover — Class 2 (Restricted) Asbestos Licence.

NOTE 3: Competent Person (as defined under Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)]) means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill, for the safe performance of the specific work.

NOTE 4: A licence may be required for some of the tasks described in the document entitled Safe Removal of Asbestos 2nd Edition as requiring a competent person.

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

- D.1 "Delete entire row and add N/A if no conditions are added"

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