



Report of Development Application

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

APPLICATION DETAILS

Application No.:	DA20/0294
Modification No.:	N/A
Council File No.:	D/2020/0294
Date of Lodgement:	24/06/2020
Applicant:	The Leisure Company Integrated Recreation Inc c/o The Leisure Company Integrated Recreation Inc PO Box 5269 WAGGA WAGGA BC NSW 2650
Proposal:	Change of use to Community Facility at number 71, alterations and additions to premises and consolidation of lots (69, 71 and 73 Peter Street)
Description of Modification:	N/A
Development Cost:	\$312000
Assessment Officer:	Amanda Gray
Determination Body:	Council - a Councillor is nominated on the Development Application form as a Director of the company (POL046 applies).
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	10 -24 July 2020
Advertising:	10 - 24 July 2020
Owner's Consent Provided:	yes
Location:	On the eastern side of Peter Street approximately 75 metres to the south of the junction with Forsyth Street

SITE DETAILS

Subject Land:	69, 71, 73 Peter St WAGGA WAGGA NSW 2650 Lot 9 DP 1095201, Lot 1 DP 999542, Lot 1 DP 195287
Owner:	The Leisure Company Disability Services Pty Ltd

REPORT

Description of Development

This application is for the change of use from dwelling to community facility. The property is owned and occupied by the Leisure Company who are a disability service provider in Wagga Wagga. They provide recreation, work and life skills to people with a disability throughout Wagga and support people to develop the skills they need to achieve their goals, and increase their independence. The support is often provided within the community, accessing mainstream opportunities which increases social inclusion and community integration.

The development is to change the existing use of a dwelling into a community facility with associated alterations and additions to the property. The works include the demolition of the kitchen, bathroom and laundry at the rear of the dwelling as well as the demolition of a rear shed. Internally three existing bedrooms are to be converted into offices and the living area will become a fully fitted kitchen area to be used for training purposes. Beyond the kitchen a rear extension is proposed providing an activity area and ambulant toilets.

The properties on either side are currently approved for use by The Leisure Company, the subject application is for the conversion of an existing dwelling in between the existing two properties to allow for the expansion of their operation and for consolidation of all 3 properties. The proposed new activity area will be connected to the property to the north (number 73) by a ramp and to the south by a sliding door into the lobby area of number 69 Peter Street.

To the rear of the new activity area a new car-port is proposed that will provide three covered car-parking spaces. Car-parking will be consolidated across the three sites and allow for ten off street parking spaces. Of these spaces two are accessible spaces and two are large enough to accommodate the buses that the Leisure Company use to transport clients to and from the centre. Sliding gates are to be installed creating an entry and exit to and from the rear laneway.

The three properties are to be consolidated into one lot as part of the application.

The Site and Locality

The subject site is legally identified as Lot 9 DP1095201 and is known as 71 Peter Street. The lot is uniform in shape extending to 378.60sq.m and is located on the eastern side of Peter Street approximately 75 metres to the south of the junction with Forsyth Street. The additional lots to be consolidated are legally identified as Lot 1 DP 999542 and Lot 1 DP 195287 and known as 69 and 73 Peter Street respectively.

The premises consist of a single storey detached dwelling with detached outbuilding to the rear. There is rear lane vehicle access onto Tongaboo Lane. Properties on either side at number 69 and 73 are occupied by the Leisure Company who utilise each of the properties to provide services that support disabled persons and their families within the local community. Beyond each of these properties to the north and south are public car-parks. To the east of the subject site is the rear of commercial premises that front onto Baylis Street and to the west on the opposite side of Peter Street there are residential properties and some medical practices.

The opposite side of Peter Street to the west is within the heritage conservation area. The properties are characterised by distinctive facades and front elevations that contribute to the conservation area. Properties in general are accessed from rear laneways.

Easements and Covenants

The land is not subject to any known easements or covenants.

Previous Development Consents

DA17/0686 - Change of Use from dwelling to Community Facility and associated pole Sign at 69 Peter Street. Approved 20.12.17.

DA11/0381 - Alterations & Additions to Rear of Existing Building at 73 Peter Street. Approved 11.10.11. These works were on behalf of the Leisure Company who already occupied the building at this time.

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 B3 Commercial Core. The objectives of the B3 zone are:

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

The development will serve the needs of both the local and wider community providing support services to a range of children and adults from different areas. The use will provide employment for the service providers and is in an accessible location that allows for clients to walk and catch the bus to utilise this service. The proposed changes to the building are minimal and the presentation to Peter Street will remain largely as existing.

Based on the above the development is seen to be consistent with the listed zone objectives.

Part 2 Permitted or prohibited development Land Use

The proposed use of the premises is defined as a **Community Facility** as follows:
a building or place-

- (a) owned or controlled by a public authority or non-profit community organisation, and*
 - (b) used for the physical, social, cultural or intellectual development or welfare of the community,*
- but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.*

Under Part 2 Section 3 - Community Facilities are permitted with consent in the B3 zone.

Under section 2.7 the demolition of a building or work may be carried out only with development consent. By lodging this application the applicant has complied with this clause of the LEP.

Part 3 Exempt & Complying Development

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

Part 4 Principal development standards

4.3 Height of buildings

The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map

The development site is shown on the Height of Buildings Map as being within an area that permits a maximum building height of twenty-five (25) metres. There are no changes proposed to the building that is much lower in height than the permitted maximum height.

4.4 Floor space ratio

The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map

The development site is shown on the Floor Space Ratio Map as being within an area that permits a FSR of '4:1'. As there are no changes to the building or the floor area as part of this application the premises remain well within the permitted floor space ratio.

Part 5 Miscellaneous provisions

There are no miscellaneous provisions that apply to the application.

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. It is not anticipated that there will be any adverse impacts on groundwater as the use is not identified under this clause as impacting on groundwater sources and the works are all associated with an existing building.

7.9 - Primacy of Zone B3 Commercial Core

Clause 7.9 states that development consent must not be granted to development on any land unless the consent authority is satisfied that the development maintains the primacy of Zone B3 Commercial Core as the principal business, office and retail hub of Wagga Wagga. The development is within the CBD and therefore satisfies this control.

State Environmental Planning Policies (SEPPs)

SEPP 55 Remediation of Land

Clause 7 of SEPP 55 states the following:

(1) A consent authority must not consent to the carrying out of any development on land unless-

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before

the land is used for that purpose.

The subject site is not listed on Council's potentially contaminated land register and there is no evidence of any use of the site for a purpose listed in Table 1 of the guidelines. All records and aerial photographs indicate residential use across the three lots.

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

Draft State Environmental Planning Policy - Remediation of Land

The Draft SEPP was placed on exhibition until 31 March 2018. The SEPP will replace SEPP 55. The Explanation of Intended Effects outlines that the key operation framework of SEPP 55 will remain. Changes in the SEPP relate primarily to land undergoing remediation work and have no impact on the assessment of this application.

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 10 - 24 July 2020 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

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

Access to the site is from the rear via Tongaboo Lane which is a non-arterial road.

C2 A Traffic Impact Study may be required where adverse local traffic impacts may result from the development. The traffic impact study is to include the suitability of the proposal in terms of the design and location of the proposed access, and the likely nature, volume or frequency of traffic to be generated by the development.

Whilst the proposed use may generate additional vehicle movements when compared to the existing dwelling the impacts are not anticipated to have an adverse impact upon the local road network. A traffic impact study was not required.

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

As the three lots are to be consolidated the car-parking across the three sites will also be consolidated resulting in an improved outcome. Across the three sites ten parking spaces will be laid out to the rear and a drive in, drive out arrangement will allow all vehicles to enter and exit in a forward direction. Vehicles will enter via the rear of 69 Peter Street manoeuvre to and from spaces within the car-park area and exit via the rear of 71 Peter Street. Remote control operated sliding gates will be installed to facilitate the vehicle movements with a new matching 1.8 metre fence to the remainder of the rear boundary.

- C4 Provide adequate areas for loading and unloading of goods on site. The loading space and facilities are to be appropriate to the scale of development.*

The hard-standing parking areas and car-port at the rear of the site provide sufficient space for any required loading and un-loading to the premises to occur. Tongaboo Lane is a service lane for larger vehicles and therefore provides suitable access for delivery vehicles as required.

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

- C6 Ensure adequate sight lines for proposed driveways.*

Tongaboo Lane is a one-way thoroughfare, visibility from the site as vehicles exit in a forward direction is acceptable.

2.2 Off-street parking

- C1 Parking is to be provided in accordance with the table below. For uses not listed, similar land uses should be used as a guide in assessing car parking requirements.*

There are no specific off-street car parking requirements for community facilities and previous approvals for the site have not specifically been conditioned to provide a minimum number of spaces. The application identifies ten off street parking spaces across the rear of the three lots.

The three properties have a gross floor area of 702sq.m, there are a mix of uses across the site including offices, training kitchen, activity room, art and craft room and bathrooms. Staff and client numbers can vary throughout the day as different activities and appointments are accommodated and therefore the demand for car parking can also vary.

Many of the clients attending the facility are picked up by the centre bus or arrive with a carer or family member who are likely to utilise one of the public car-parks sited adjacent to the centre to both the north and south.

The community facility is within the B3 zone and the use of public car-parks by clients and the carers throughout the day is entirely acceptable and allows the secure on-site parking to be utilised by staff. At night the buses can be securely parked within the rear car-parking area.

The provision of car parking is considered suitable for this use.

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

Car parking will be required to be set out to meet the requirements for general parking and this will be secured by condition.

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

As there are no specific parking standards for community facilities there is no variation required. As laid out under C1 above the parking is considered acceptable.

C9 Provide trees within the parking area at a rate of 1 tree per 5 spaces in a row. Each tree to have a minimum mature spread of 5m and to be located in a planting bed with minimum width of 1.5m (between back of kerbs) and minimum area of 3.5m².

The proposed layout does not include any tree planting. Given the fact that the majority of the rear area is already hard-stand, that almost half of the spaces are within car-port structures and that a 1.8 m fence will enclose the rear area the absence of any trees within this parking area is considered acceptable. The spaces are also within close proximity to buildings and infrastructure that would make planting within the parking area very difficult.

2.3 Landscaping

Existing landscaping to the front of all three properties will be retained and maintained as required.

2.4 Signage

There are no signs proposed as part of this application.

2.5 Safety and security

The entrance to each of the buildings is defined and signage indicating the main entrance (at 73) and staff only (at 69) will assist in a safe operational area for all users.

The consolidation of the lots and the linking of the buildings allows for a secure environment for all users and workers on site. Furthermore the enclosure of the rear area with automatic sliding gates and fence further enhances the safety of the site and provides a secure area for buses to be parked overnight.

There are office windows to the front of all buildings providing natural surveillance to the street. The property is located on a busy thoroughfare and therefore also benefits from natural surveillance from passing vehicles and pedestrians.

Lighting from street lights allows for a secure environment around the building. A standard condition will be included that requires the car-park to be illuminated in accordance with Australian Standards.

2.6 Erosion and Sediment Control Principles

Standard conditions of consent will be included.

2.7 Development adjoining open space

The development does not adjoin open space.

Section 3 - Heritage Conservation

The site is not located within the Heritage Conservation Area which extends along the west side of the street. The proposed works respond to the heritage conservation values and maintenance of the streetscape and this is reflected in the minimal works being done to the front of the building.

Section 4 - Environmental Hazards and Management

The subject site is not identified as flood prone or bush fire prone.

Section 5 - Natural Resource and Landscape Management

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

Section 6 - Villages

The proposal is for a community facility in the B3 zone. Section 6 is not applicable to this development.

Section 7 - Subdivision

The proposal is for a community facility in the B3 zone. The controls within this section are not of relevance to lot consolidation therefore Section 7 is not applicable to this development.

Section 8 - Rural Development

The proposal is for a community facility in the B3 zone. Section 8 is not applicable to this development.

Section 9 - Residential Development

The proposal is for a community facility in the B3 zone. There is no residential accommodation included with the development and therefore Section 9 is not applicable to this development.

Section 10 - Business Development

The subject site is to the western edge of the Central Spine and is described under this section of the DCP as follows:-

Buildings are detached with a number dating from the early twentieth century. Setbacks to the street vary from nil to two to three metres in a reasonably closely built pattern. Full width footpath awnings are isolated and not prevalent in the street.

The area has a well established landscape character, with centre road plantings that contribute to a pleasant streetscape. The street trees define the edge of the commercial precinct and

support a positive transition to the adjoining residential precinct. Where buildings have a small setback landscaping is important to maintain the character of the street. The area is suited to a mix of service and professional uses such as real estate agents, employment and training uses, service and medical related uses.

Objectives

O1 Retain the close-built character that derives from the early twentieth century heritage items and streetscape reference buildings.

O2 Encourage professional and service uses that complement the commercial core, and which are better located in the Business Zone rather than the Residential Zone to the west.

O3 Reinforce the landscape character of the precinct.

O4 Improve the legibility of existing through site links and provide additional links where possible.

The development is consistent with the objectives for this part of the commercial core.

Controls

C4 Developments are to provide an active interface to the street. Avoid black walls and “back of house” services to Peter Street.

The façade to Peter Street maintains its traditional form and links well to the properties on the opposite side of the road.

C5 All parking, vehicle access, loading and unloading facilities to be from rear lanes where available.

Complies

C6 No off-street parking in the front setback.

Complies

Section 11 - Industrial Development

The proposal is for a community facility in the B3 zone. Section 11 is not applicable to this development.

Section 12 - Specific Uses and Developments

The proposal is for a community facility in the B3 zone. Section 12 is not applicable to this development.

Section 13 - Bomen Urban Release Area

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

Section 14 - Boorooma Urban Release Area

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

Section 15 - Lloyd Urban Release Area

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

Section 16 - Gobbagombalin Urban Release Area

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

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

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

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

There are no applicable matters prescribed by the regulations.

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

Context and setting

The subject site is a single dwelling in between two properties already in use as a community facility for the Leisure Company. On either side of the three properties there are public car-parks providing short term parking for visitors to the CBD. To the rear of the property is a laneway servicing commercial premises that front Baylis Street and that provides vehicle access to the subject site. The proposed change of use is entirely appropriate within the existing context and setting.

Streetscape

There will be no changes to the existing streetscape, the building is existing and the three properties are set as a group between the two open public car-parking areas. The character of the street is not adversely affected by the change of use as the form and design is consistent with properties on the opposite side of Peter Street.

Access, transport and traffic

Vehicle access to the building is via Tongaboo Lane to the rear of the property. As the three lots are to be consolidated the car-parking across the three sites will also be consolidated resulting in an improved outcome. Ten parking spaces will be laid out to the rear and a drive in, drive out arrangement will allow all vehicles to enter and exit in a forward direction. Vehicles will enter via the rear of 69 Peter Street manoeuvre to and from spaces within the car-park area and exit via the rear of 71 Peter Street. Remote control operated sliding gates will be installed to facilitate the vehicle movements with a new matching 1.8 metre fence to the remainder of the rear boundary.

Noise and vibration

Minimal impact during demolition and construction works but as the neighbouring properties are in the same ownership no issues are anticipated. The public car parks provide a further buffer to the closest neighbouring premises. Standard conditions of consent will apply. The use of the premises is not one that is likely to generate noise disturbance.

Hours of Operation

The proposed hours of operation are 9am - 5pm Monday to Friday with occasional evening meetings. These hours are suitable within the commercial core location.

Services

The site is fully serviced, upgrades to sewer and stormwater connections will be subject to a s68 application. As the lots are to be consolidated it will be necessary to have one single sewer spur with the others to be made redundant. This will be secured by condition.

Heritage

The opposite side of Peter Street falls within the heritage conservation area but the subject site does not. As there are no changes to the front of the building the façade maintains the existing character of the street and there is no adverse impact to the heritage streetscape.

Natural Hazards

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.

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

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

Man-Made Hazards

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

Socio- Economic Impact in the Locality

The development introduces a facility that will have positive social impacts to users and their families as training opportunities and support services are increased in an accessible and secure location.

Construction works will have a positive economic impact as local trades are employed and the use of the site will also provide employment for the staff at the centre.

Site Design and internal design

The changes to the site layout and the internal layout of the building have been described within the report and raise no concern.

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 proposed change of use utilises an established building within the commercial core 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 site is an existing building that was last used as a residential dwelling. The neighbouring properties to both sides are in use as a community facility by the same company as the applicant. The development allows the group of three properties to be consolidated and used as one large community facility for the benefit of local clients and their families.

The use is permissible within the B3 zone and the proposed alterations and additions are contained to the rear of the property allowing the streetscape to be maintained as existing.

The site is easily accessible and is consistent with existing controls with no adverse impacts identified. The site is suitable for the intended development.

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 10-24 July 2020 in accordance with the provisions of the DCP. No submissions were received during the notification period.

Advertising

The application was advertised from 10-24 July 2020 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 development allows for an existing community facility to be upgraded for the benefit of both staff and clients. There is no detrimental impact upon the streetscape and on-site alterations allow for parking improvements. The proposal is considered to have a positive public impact.

Other Legislative Requirements

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

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

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

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

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

Therefore, no further consideration of these matters is required.

Council Policies

Under section 2.12 of *POL046 - Processing Development Applications Lodged by Councillors, Staff and Individuals of Which a Conflict of Interest May Arise, or on Council Owned Land Policy*, Development Applications received by Council where the applicant or land owner is a company where a director of the company is a Councillor, Director or the General Manager shall be reported to Council for consideration and determination.

A Councillor is listed as a Director of the company that owns the land and who is the applicant for the development and therefore the application will be reported to and determined by Council.

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. A Section 7.12 contribution applies to developments that have a value greater than \$100,000. The cost of development is \$312,000 and therefore the following contribution is payable.

$$\$312,000 \times 1\% = \$3120.00.$$

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

Following the proposed alterations and additions the property at number 71 Peter Street will have a floor area of 197.29sq.m. The most comparable use of the building against the water directorate guidelines is office which is charged at the rate of 0.01ETs per square metre of floor area as follows:

$$197.29 \times 0.01 = 1.97 \text{ ETs}$$

Less existing credit of 1 ET for the dwelling on site = 0.97ETs

$$0.97 \times \$3538 \text{ (standard sewer charge)} = \$3431.86 \text{ plus CPI } 117.1/100.5 = \$3998.71$$

This is also consistent with a sewer charge applied to the change of use application at 69 Peter Street under DA17/0686.

Stormwater

A section 64 stormwater contribution is applicable for this development as there is an increase in impervious area where the carpark is being constructed. The existing garden to the rear of the property extends to 73.33sq.m and this is the equivalent increase in hardstand. The calculation is as follows:-

$$\frac{73.33}{800} \times \frac{1.0}{0.74} \times \$1721 = \$213.17 \text{ plus CPI } 117.1/87.9 = \$283.98$$

Other Approvals

None required

Conclusion

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

RECOMMENDATION

It is recommended that application number DA20/0294 for Change of use to Community Facility at number 71, alterations and additions to premises and consolidation of lots (69, 71 and 73 Peter Street) be approved, subject to the following conditions:-

CONDITIONS OF CONSENT FOR APPLICATION NO. DA20/0294

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
20021-2	Site Plan	BCM Design		14.4.2020
20021-3	Floor Plan & Demolition Plan	BCM Design		14.4.2020
20021-4	Elevations	BCM Design		14.4.2020
	Statement of Environmental Effects	BCM Design		14.4.2020

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

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

Requirements before a Construction Certificate can be issued

- C.2** Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority illustrating compliance with the relevant requirements of the Building Code of Australia.
- a) Pursuant to Clause 98 of the Environmental Planning and Assessment Regulation 2000, the proposed building work must comply with the Building Code of Australia (BCA), including but not limiting to:
 - i) Structure - Section B- (Part B1)
 - ii) Fire Resistance - Section C- (Parts C1, C2, C3)
 - iii) Access and Egress - Section D- (Parts D1, D2, D3)
 - iv) Services and Equipment - Section E- (Parts E1, E2, E3, E4)
 - v) Health and Amenity - Section F- (Parts F1, F2, F3, F4, F5)
 - vi) Ancillary Provisions- Section G- (Parts G1, G2, G3, G4, G5)
 - vii) Special Use Buildings- Section H- (Parts H1, H2, H3)
 - viii) Energy Efficiency- Section J- (Parts J0, J1, J2, J3, J5, J6, J7, J8)
 - b) The application for a construction certificate shall detail all the existing fire safety measures in buildings No 69 and No 73.
 - c) The application for a construction certificate shall detail measures required as part of the upgrade of the building pursuant to clause 94 - refer to consent.
 - d) The provisions of an “affected part” specified in the Premises Standards apply to the development. A continuous accessible path shall be provided, from the building entry point (with a minimum 920 door) through the building, and to the new extension.

Note: Part E.14 of the BCA 2019 the installation of fire hose reels does not apply to class 5 (office buildings) as current.

- C.3** Pursuant to s7.12 of the Environmental Planning and Assessment Act 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, a monetary contribution of \$3120.00 must be paid to Council, prior to the issuing of the Construction Certificate unless, before the time due for payment, the applicant and the Council enter into a legally binding agreement for the applicant to provide works-in-kind or any other material public benefit(s) to the Council in part or full satisfaction of the monetary contribution.

The monetary contribution payable under this condition will be indexed in accordance with Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-

2034 from the endorsed date of this Development Consent until the date of payment.

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

NOTE 2: The monetary contribution identified above remains applicable if paid within the same financial year as the date of determination. If payment is to be made outside this period, you are advised to contact Council prior to payment being made to determine if CPI increases/decreases have occurred since the date of this consent. The applicable rate of CPI at the time of consent is 117.4.

NOTE 3: A copy of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, is available for inspection at Council Chambers, corner Baylis and Morrow Streets, Wagga Wagga, or on Council's website.

C.4 Prior to the release of Construction Certificate a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.

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

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

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

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

NOTE 5: The Section 64 Sewer base figure is \$3431.86
The Section 64 Sewer contribution (updated by the CPI 117.1/100.5) required to be paid is \$3998.71.

NOTE 6: The Section 64 Stormwater base figure is \$213.17

The Section 64 Stormwater contribution (updated by the 117.1/87.9) required to be paid is \$283.98.

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

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

C.5 Prior to the release of the Construction Certificate a stormwater management plan shall be submitted that demonstrates stormwater from the new car parking area is to be discharged to the Council drainage system to the satisfaction of Council.

Requirements before the commencement of any works

C.6 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.7 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.8 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.9 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.10 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.11 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.
- C.12 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.13 The concrete slab floor shall be treated against termites in accordance with AS 3660-1 2000 Termite Management:

- a) NON CHEMICAL - where a non chemical treatment (physical barriers) is to be used the applicant shall submit details to Council prior to any work commencing.
- b) CHEMICAL RETICULATION - where a chemical method of treatment is to be used by way of reticulation, details shall be provided to Council for approval prior to installation accompanied by a signed maintenance contract with a Pest Control Operator.

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

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

- C.14 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.15 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.16 All earthworks, filling, building, driveways or other works, must be designed and constructed (including stormwater drainage if necessary) so that at no time, will any ponding of stormwater occur on adjoining land as a result of this development.
- C.17 No construction materials, plant or equipment relating to work authorised by this consent are to be placed or stored within the road reserve during the period in which work authorised by this consent will be carried out without the prior written approval of the Council.
- C.18 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.
- C.19 A Compliance Certificate for the plumbing and drainage work identified in Column 1 at the times specified in Column 2 must be obtained from Council.

COLUMN 1	COLUMN 2
Internal Sewer Drainage	When all internal plumbing and drainage work is installed and prior to concealment.
External Sewer Drainage	When all external plumbing and drainage work is installed and prior to concealment.
Stormwater Drainage	When all external stormwater drainage work is installed and prior to concealment.
Final	Prior to occupation of the building or structure.

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

- C.20 Prior to the issue of Occupation Certificate, the paving of all vehicular movement areas must be either a minimum of 150mm thick flexible pavement and sealed or 150mm thick reinforced concrete.
- C.21 Prior to the issue of an Occupation Certificate, interim or otherwise, the development shall be serviced by a single sewer spur. All other existing sewer spurs shall be made redundant. The sewer spur servicing the development shall be upgraded to a 150mm diameter SN8 sewer grade spur. These works must be carried under a Section 68 (PUBLIC) Activity Approval.
- C.22 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.23 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.24 Prior to the issue of an Occupation Certificate, Lot 1 DP999542 , Lot 9 DP 1095201 and Lot 1 DP195287 are to be consolidated into one lot.

NOTE: Evidence of consolidation must be provided to Council

General requirements

- C.25 The owner must submit to Council and the NSW Fire Brigade an Annual Fire Safety Statement, each 12 months, commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.
- C.26 The car park and all associated facilities must be laid out in accordance with Australian Standards AS2890.1.2004 AS2890.2 2002 and AS/NZS2890.6.2009.
- C.27 Illumination of the car park must be in accordance with AS 1158.3.1.2005, as amended, lighting for roads and public spaces.

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

N/A

E. SCHEDULE E – Prescribed Conditions

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

E.1 Fulfilment of BASIX commitments (clause 97A EP&A Reg 2000)

The commitments listed in any relevant BASIX Certificate for this development must be fulfilled in accordance with the BASIX Certificate Report, Development Consent and the approved plans and specifications.

E.2 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 (clause 98 EP&A Reg 2000)

- (1) For development that involves any building work, the work must be carried out in accordance with the requirements of the Building Code of Australia.
- (2) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance shall be in force before any building work authorised to be carried out by the consent commences.
- (3) For a temporary structure that is used as an entertainment venue, the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.

NOTE 1: This condition does not apply:

- (a) to the extent to which an exemption is in force under clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000 (the Regulation), subject to the terms of any condition or requirement referred to in clause 187(6) or 188(4) of the Regulation, or
- (b) to the erection of a temporary building, other than a temporary structure to which part (3) of this condition applies.

NOTE 2: In this condition, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:

- (a) development consent, in the case of a temporary structure that is an entertainment venue, or
- (b) construction certificate, in every other case.

NOTE 3: There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.

E.3 Erection of signs (clause 98A EP&A Reg 2000)

For development that involves any building work, subdivision work or demolition work, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

NOTE 1: This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

NOTE 2: This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

NOTE 3: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained.

E.4 Notification of Home Building Act 1989 requirements (clause 98B EP&A Reg 2000)

Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and

- ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

NOTE: This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

E.5 Entertainment venues (clause 98C EP&A Reg 2000)

If the development involves the use of a building as an entertainment venue, the development shall comply with the requirements set out in Schedule 3A of the Environmental Planning and Assessment regulation 2000.

E.6 Maximum capacity signage (clause 98D EP&A Reg 2000)

For the following uses of a building: a sign must be displayed in a prominent position in the building stating the maximum number of persons permitted in the building if the development consent for the use contains a condition specifying the maximum number of persons permitted in the building:

- (a) entertainment venue,
- (b) function centre,
- (c) pub,
- (d) registered club,
- (e) restaurant.

NOTE: Words and expressions used in this condition have the same meanings as they have in the Standard Instrument.

E.7 Shoring and adequacy of adjoining property (clause 98E EP&A Reg 2000)

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the building, structure or work from possible damage from the excavation, and

- (b) where necessary, underpin the building, structure or work to prevent any such damage.

NOTE: This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

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

N/A
