



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

APPLICATION DETAILS

Application No.:	DA22/0260
Modification No.:	N/A
Council File No.:	D/2022/0260
Date of Lodgement:	02/06/2022
Applicant:	MJH Property Developments Pty Ltd 212 Edward St WAGGA WAGGA NSW 2650
Proposal:	Construction of 3 x 2 storey dwellings with detached triple garage and 4 lot community title subdivision
Description of Modification:	N/A
Development Cost:	\$1140000
Assessment Officer:	Bikash Pokharel
Determination Body:	Council. The development is for multi-dwelling housing and includes variations to more than one controls.
Other Approvals	AA22/0233 - Part B4 (Sewer) and Part B5 (Stormwater) - Private under Section 68 of <i>Local Government Act 1993</i> .
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	Yes, 12/08/2022 to 2/09/2022
Advertising:	Yes, 12/08/2022 to 2/09/2022
Owner's Consent Provided:	Yes
Location:	Located on the southern side of Edward Street (the Sturt Highway) approximately 75 metres west from the intersection of Edward Street (the Sturt Highway) and Brookong Avenue.

SITE DETAILS

Subject Land:	212 Edward St WAGGA WAGGA NSW 2650 Lot 8 DP 7850
Owner:	MJH Property Developments Pty Ltd

DESCRIPTION OF DEVELOPMENT

The applicant is seeking consent for the construction of three two-storey residential dwellings (units), a detached triple garage and associated landscaping and fencing. All three units will be constructed of mainly brick veneer cladding with a corrugated metal roof. A portion of the north and eastern elevations of all the units at first floor level will incorporate vertical cladding material as a design element.

Each unit will comprise an open plan living/kitchen/dining area, laundry, master bedroom with ensuite bathroom and outdoor entertainment area at ground floor level. The first-floor level will consist of two-bedrooms, bathroom and a lounge area with small external balcony.

The multi-dwelling development is proposed to be subdivided under community title. Lot 2 will have an area of 163.2m² containing Unit 1, Lot 3 will have an area of 160.3m² containing Unit 2 and Lot 4 have an area of 185.8m² containing Unit 3. Lot 1 will be the communal lot with an area of 246.9m². Lot 1 serves as a pedestrian access to all three units and will also incorporate the detached garage and visitor parking space at the rear of the property.

Unit 1 will present an acceptable frontage and landscaped setback to Edward Street. Units 2 and 3 are located behind Unit 1. Vehicular access to the proposed detached triple garage is via rear lane along the southern boundary. Pedestrian access is available from both Edward Street as well as from rear lane.

Landscaping and fencing are proposed to enhance the appearance of the development. A 1.2m high decorative fence and pedestrian gate is proposed along the front boundary. A 1.8m high fence is proposed within the front setback of Unit 1 to provide privacy to the rear private open space of that unit. A designated area for mailbox and electricity services is proposed on the north-western corner of the site along the primary frontage.

Variation to relevant controls under the Wagga Wagga Development Control Plan 2010 (DCP 2010) are sought with respect to the following matters:

- Off-street parking minimum requirements
- Total site coverage within R3 zone
- R3 Zone - Minimum frontage width
- Privacy - first floor balcony
- Total floor area of an outbuilding in residential

As the application is for a multi- dwelling development and proposes variation to more than one control under the DCP 2010, the application cannot be determined under delegation and will be determined by the elected Council in accordance with the provisions identified under Section 1.1 of the DCP. The details of the relevant controls and discussion of the variation are addressed in Section 1.11 below.

THE SITE & LOCALITY

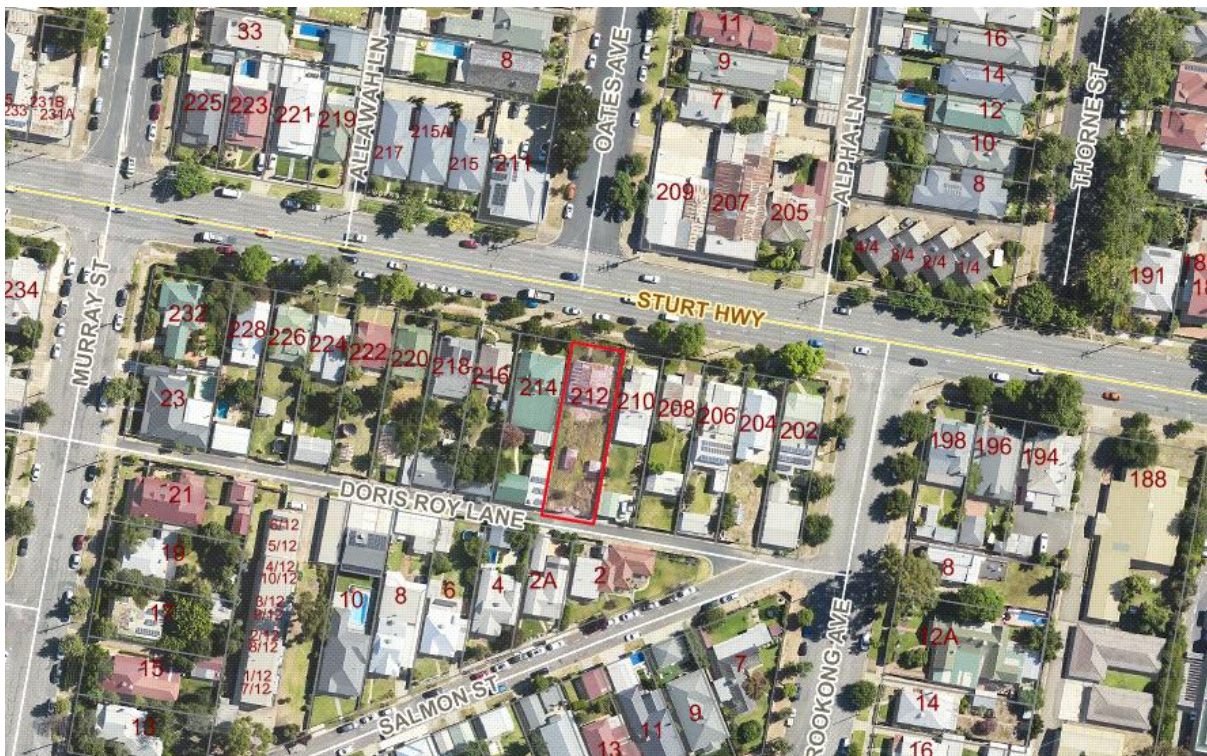
The subject site is legally known as Lot 8 DP 7850 and is identified as 212 Edward Street, Wagga Wagga. It is located on the southern side of Edward Street (the Sturt Highway) approximately 75 metres west from its intersection with Brookong Avenue.

The subject site has an area of 758.79m² and is rectangular in shape. The site currently contains a single storey dwelling and associated outbuildings however a development application was recently demolition under DA22/0129.

The locality is generally residential in character with a mix of single storey dwellings, low to medium-density residential development and multi-dwelling housing in proximity to the subject site. The subject site is within the Knowledge and Health Precinct as identified under the Health and Knowledge Precinct Master Plan, 2019.

Across Edward Street from the proposed development site are mixed land uses - i.e. residential, commercial and other health related land uses.

A site visit was conducted by the assessment officer on 23/06/2022.



(Source: Council Intramap 2022, WWCC)

PREVIOUS DEVELOPMENT CONSENTS

BA41/51 (Building Application) - Addition to garage

DA22/0129 - Demolition of dwelling and associated structures.

SUMMARY OF MAIN ISSUES

- Variation sought with regard to off-street parking requirement, front fence, total site

coverage, minimum frontage width, privacy and total floor area for an outbuilding on a residential lot.

- Fence of 1.8m high proposed forward of the building line of Unit 1.
- Privacy and solar access impacts on adjoining properties.

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, the site is within the R3 Medium Density Residential zone. The proposal is assessed as being entirely consistent with the zone objectives:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that medium density residential environments are of a high visual quality in their presentation to public streets and spaces.*

The proposal is multi dwelling housing that will provide for the housing needs of the community and will contribute to the variety of housing available within this area. The proposed development is considered to be of high visual quality in its presentation to the street.

Part 2 Permitted or prohibited development Land Use

The development is defined as a multi dwelling housing as follows:

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Multi dwelling housing is permitted with consent in R3 - Medium Density residential zone.

Part 3 Exempt & Complying Development

The proposed development is not Exempt or Complying Development.

Part 4 Principal development standards

There are no principal development standards that apply to the development.

Part 5 Miscellaneous provisions

Section 5.10 Heritage conservation

The objectives of this clause are:

- (a) *to conserve the environmental heritage of Wagga Wagga*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views*

The subject site is not within the heritage conservation area and is not identified as an item of

environmental heritage. Whilst the conservation is located nearby (Salmon Street to the south and Oates Avenue to the north) the development will have no impact on this area or any nearby items of environmental heritage.

5.21 Flood planning

(1) The objectives of this clause are as follows-

- (a) to minimise the flood risk to life and property associated with the use of land,*
 - (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
 - (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,*
 - (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.*
- (2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development-*

- (a) is compatible with the flood function and behaviour on the land, and*
 - (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
 - (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
 - (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*
- (3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters-*
- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
 - (b) the intended design and scale of buildings resulting from the development,*
 - (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
 - (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Whilst the subject site is located within the area protected by the Central Levee and is not identified as land affected by Riverine flood under the current flood model, it is within the flood planning area as identified on the Wagga Wagga Major Overland Flow Floodplain Risk Management Study and Plan 2021 and is susceptible to inundation in 1:100-year stormwater event.

Despite this, the potential impact due to overland flow flood on the proposed development is considered to be negligible given the areas of the site identified as being affected are identified as H1- low hazard and the depth of the flood water is less than 200mm. Council is satisfied that the proposed development is considered compatible with the flood hazard and unlikely to

increases in the potential flood affection on adjoining properties. The development will not adversely affect the safe occupation and evacuation needs in the event of flood and will not result in unsustainable social and economic costs to the community as a result of flooding. As such, the proposal is considered suitable and therefore satisfies the objectives of the clause.

Part 6 Urban Release Areas

The site is not located within an urban release area.

Part 7 Additional Local Provisions

7.1A Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land and to allow earthworks of a minor nature without requiring separate development consent.

Minor earthworks will be required for the construction of proposed dwellings and are within the limits imposed by DCP controls. It could therefore be concluded that proposed earthworks are unlikely to have a detrimental effect on drainage patterns and soil stability. The proposed earthworks are unlikely to have a detrimental effect on amenity for adjoining properties.

Clause 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, which applies to the subject land. The proposed development is not development specified for the purposes of this clause. The development site is connected to Council infrastructure including drainage for the site. A substantial area of the site will be hardstand area and therefore unlikely to adversely impact on existing groundwater sources. The development is acceptable with minimal impacts on ground water sources.

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 for residential accommodation within close proximity to the commercial core. Increased densities within walking distance of the CBD are anticipated to have a positive impact upon the primacy of the central area. The development is consistent with this clause.

State Environmental Planning Policies (SEPPs)

SEPP (Building and Sustainability Index: BASIX) 2004

A valid BASIX Certificate has been lodged for each of the new dwellings/units. Commitments made in the Certificates have been considered as part of this assessment. The prescribed condition for compliance with the BASIX Certificate will be imposed.

State Environmental Planning Policy (Resilience and Hazards) 2021

Section 4.6 of Chapter 4 of SEPP (Resilience and Hazards) 2021 requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on the land. Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. There is no indication that the site has

previously been occupied by any use that could have led to contamination of the site. The site has historically been in residential use and no changes to this use are proposed.

Furthermore, the land is not identified on Council's register of contaminated sites. Accordingly, it is not considered necessary to request any investigation reports on the subject site.

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

State Environmental Planning Policy ((Transport and Infrastructure) 2021

The proposed development was referred to Essential Energy pursuant to Section 2.48 of the State Environmental Planning policy (Transport and Infrastructure) 2021 given that there is an overhead electricity transmission (service) line that traverses the front corner of the site, servicing the adjoining dwelling at number 210 Edward Street.

Essential Energy have provided the following comments:

Strictly based on the documents submitted, Essential Energy has the following comments to make as to potential safety risks arising from the proposed development:

- *There are no distances shown on the plans from the service line to the adjoining property. A safety clearance distance of 1.8 metres is required.*
- *It is also not clear if the electricity connection at the front of the property is intended to be a padmount substation. If so then no ventilation system or gas should be located within 6 metres and no part of the building should be within 3 metres. The below diagram illustrates the clearance distances required.*

Essential Energy makes the following general comments:

- *If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;*
- *Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;*
- *Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure;*
- *Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW); and*
- *It is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au <<https://protect-au.mimecast.com/s/1nIQCJyo6ncqo7wFGgPKt?domain=safework.nsw.gov.au/>>) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice - Work near Overhead Power Lines and Code of Practice - Work near Underground Assets.*

The applicant has identified that a pad mount substation is not proposed as any upgrade of the substation will relate to the existing pole mounted transformer currently servicing the site on the northern side of Edward Street.

A condition of any consent will require that appropriate evidence be provided demonstrating

that the service line traversing the front of the site meet the minimum 1.8 metre clearance to any part of the proposed building. Alternatively, appropriate arrangements as approved by Essential Energy shall be in place to relocate the service line to ensure compliance prior occupation.

Other comments will be incorporated as conditions of development consent to ensure compliance with Essential Energy's requirements.

Section 4.15(1)(a)(ii) -The provisions of any draft environmental planning instrument

There are no draft environmental planning instruments relevant to this development.

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

In accordance with the Council's advertising and notification provisions outlined in Section 1.10 of the WWDCP the application was advertised and notified to surrounding lots for a period of 14 days between 12/08/2022 and 2/09/2022. No submissions were received during the notification period.

Section 1.11 Complying with the Wagga Wagga Development Control Plan 2010

The controls in the DCP support the Guiding Principles and Section Objectives. A development application must satisfy the Guiding Principles and the Objectives of the relevant sections. Equal emphasis must be given to both "numeric" and non-numeric controls relevant to a particular development. Compliance with controls will not necessarily guarantee approval of an application.

Where a variation is sought, the application must document the reasons and extent of the variation and how the variation meets the Guiding Principles and Section Objectives for the consideration of the Council.

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

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

Where an application involves the variation of one or more controls within the DCP Council staff have delegation to approve variations but only limited to certain developments. As the development is for multi-dwelling housing and includes variations to more than one controls, the proposal is required to be reported to Council for determination.

The variations proposed are as follows:

- C1 of Section 2.2 of the DCP - Off-street parking minimum requirements. The control requires a total of six car parking spaces whereas the plan identifies five spaces.
- C2 of Section 9.2.2 of the DCP - Front fence height forward of the building line is not to exceed 1200mm. A 1.8m high fence is proposed forward of the building line.
- C1 of Section 9.3.2 of the DCP - Total site coverage within R3 zone. The control permits a maximum of 40% of site coverage within the R3 zone however the development will result in a 47% site coverage (a 17.5% variation to the standard).
- C1 of Section 9.3.3 of the DCP - R3 Zone - Minimum frontage width. This controls requires that multi dwelling housing developments have a minimum frontage of 20m. The subject lot is 15.009m wide which does not satisfy the requirement.
- C1 of Section 9.4.3 of the DCP - Privacy from first floor balcony - the control states that windows, balconies and private open space areas between adjoining dwellings should be offset. The upper lounge room balconies and glass sliding doors of all 3 units have the potential for overlooking into private open space areas and windows of dwelling to the west.
- C3 and C4 of Section 9.4.4 of the DCP - Exceeds the total floor area of an outbuilding in a residential zone. Total floor area of proposed detached garage is 79.13m², which exceeds the floor area by 18.43m² (approximately 23%) from permissible limit for the lot.

The DCP requires that the following criteria must be considered in determining whether a departure from the DCP is warranted:

- *Whether there will be any detrimental impact on the amenity of the existing and future residents/occupants, as well as, its surrounds.*
- *The nature and magnitude of the departure.*
- *The degree of compliance with other relevant controls, objectives and principles and any compensatory measures proposed to offset the departure.*
- *The circumstances of the case, including whether the particular control(s) is unreasonable and/or unnecessary.*
- *Priorities identified in a site analysis being of greater importance than what is being departed from.*
- *Whether non-compliance will prejudice the objectives of the zone and the aims of the DCP.*
- *Section of the Environmental Planning and Assessment Act 1979 - matters for consideration in the determination of a development application.*

The proposed variations have been justified and discussed in more detail under the applicable sections of this report.

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.

Vehicular access to the site will be from Doris Roy Lane at the rear of the site. The lane is a secondary non arterial road. No vehicular access is proposed to Edward Street.

The laneway is accessed from both Murray Street and Brookong Avenue and is 6 metres in width and allows for vehicle access to the detached garage proposed for the multi-dwelling development.

The majority of properties within this section of Edward Street utilise the rear lane for access. The additional dwellings proposed in this development are not expected to result in an adverse impact on the current capacity or function of the laneway. The existing laneway is of an appropriate condition to cater for the additional vehicular movements.

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.

A traffic impact study was not required for this development.

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

As the property is serviced by a laneway, no objection is raised to the design of the development which will rely on vehicles reversing to the laneway when exiting the site. The six-metre width of the laneway will provide sufficient width for this manoeuvre and will allow for vehicles to pass side by side within the laneway.

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.

There are no loading areas provided for larger vehicles, nor would this be considered a necessity for a residential development of this nature. A visitor parking space is provided at the rear of the site which can be used by smaller vehicles for this purpose. In addition to this, street parking is also available at the front of the site in Edward Street.

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

Appropriate vehicular access will be provided to the garage and visitor parking area from the laneway at the rear of the site. The garage doors have been setback in the site by 1 metre in accordance with Council requirements for improved visibility when leaving the site.

C6 Ensure adequate sight lines for proposed driveways.

See comment above.

The proposal is consistent with the objectives of this clause and therefore satisfies above controls.

2.2 - Off-street Parking

The applicable standard for multi-dwelling housing is 2 spaces per 3 bedroom dwelling plus 1 visitor space per 4 dwellings where there are more than 4 dwellings. The proposed development requires 3 x 2 (6) spaces for the dwellings, no designated visitor spaces are required as there are less than 4 dwellings in this development.

The proposal provides 5 on-site car parking spaces in the form of a triple garage and two single external carparking spaces within the site. One of the external spaces will be directly accessible from the laneway and will be a shared space within the community allotment.

The other external space will be accessible only through the garage and will be located within the rear yard of Unit 3. As this space is in a stacked arrangement and not readily accessible as a result of its position, the space has not been considered for the purpose of this assessment.

The provision of parking for the development is therefore 4 spaces and results in a shortfall of 2 spaces with respect to the control. The shortfall requires a variation to this DCP control which has been justified by the applicant as follows:

- *Each dwelling will have dedicated, lockable car parking space which is safe and security.*
- *Additional area within the lockable garage will provide some personal storage space to the occupant including alternative modes of transport such as motorcycles and bicycles.*
- *Unit 3 will have hardstand space for second carparking space within the property that can be accessed through roller door from the lockable garage.*
- *Additional hardstand parking area has been supplied to the side of the garage.*
- *Reduction in one carparking will not have impact on proposed development.*
- *The main intension of proposed development is to provide short-mid-term rental accommodation for people requiring access to medical hub. Many of the occupants may not have vehicles or one vehicle and also may store their vehicles at their work place.*
- *Proposed development site is within central area of the city with medical services, recreational amenities and access to reliable public transport. Also, future occupants can utilize alternative mode of transport i.e. bicycles and walking given extended and safe footpath is readily available for active travel. Additional spaces within the lockable garage allows storage of couple of bicycles safely.*
- *Wagga also offers extensive taxi and ride-share network.*
- *There is street parking available within Edward Street (front of the property) as well as side roads within the vicinity if additional parking required by the occupant.*

Having considered the development and the matters raised above by the applicant, there is no unique circumstances that would warrant a variation of the standard. The only aspect raised in that applicant's submission is the location of the development with respect to the central business district and city's medical hub (Health and knowledge Precinct). Given that the site is within this locality and is zoned for medium density housing, the application was referred to Council's strategic planning team to review the application (including the shortfall in carparking) in context of the current strategies that are in place for the development of this area and the growth of the city. The comments received with respect to each relevant strategy are reproduced below:

Wagga Wagga Health and Knowledge Precinct Master Plan

The subject site is identified as 'Medium density health + accommodation' in the Health and Knowledge Precinct Structure Plan. In relation to population and demographics information, the plan also identifies the need to provide a greater variety of affordable housing typologies and increase housing diversity (pg 16). It is considered that this proposed development increases diversity in density.

The variation aligns with Aspiration 03 Improve and Diversify Mobility and Access (pg 12), and Aspiration 05 Empower Livable Communities that take control of their health and healthcare (pg 13) regarding public transport options and active travel linkages in the precinct. The subject site is located within walking distance to a bus stop, and the railway station is a 15-minute walk from the hospital (pg 21). It is located on a cycle route that traverses Sturt Highway (pg 21). The variation similarly aligns with Masterplanning Principle Six (pg 58) - Accessible, Safe and Respectable.

Local Strategic Planning Statement (LSPS)

The variation aligns with the following LSPS principles:

Principle 6 - A connected and accessible city (pg 33) - by supporting alternative transport options to facilitate sustainable, healthy and active travel choices, and connected and accessible places.

Principle 8 - Our City promotes a healthy lifestyle (pg 38) - through increasing connectivity, enabling higher densities closer to key services and facilities, and enhancing health and wellbeing through promoting walking and cycling opportunities.

To achieve a compact city with shorter journeys, Wagga Wagga must cater for additional housing, in a range of different styles and densities, close to shops, services and recreation and open space facilities. Key locations in the existing urban area, with ready access to services and amenities are primed, for renewal and intensification. This includes areas of central Wagga Wagga adjoining the CBD and the Health and Knowledge Precinct.

Principle 10 Provide for a diversity of housing that meets our needs (pg 40)- by planning for changing demographics and smaller housing types in suitable locations.

NSW Government Wagga Wagga Transport Plan

The Wagga Wagga Transport Plan identifies the Central Business District (CBD) and Health and Knowledge Precinct as key growth precincts, with Edward Street being identified as the pivot for being multi-modal, delivering equal priority to east west and north south trips, and providing greater activation for and uses fronting the corridor. The plan seeks to make walking, cycling and public transport attractive alternatives to the private vehicle, for both wellbeing and for achieving net zero. Additionally, the plan identifies the need to consider further active travel connectivity beyond the Active Travel Plan Project to better connect key precincts such as the Health and Knowledge Precinct.

Wagga Wagga Integrated Transport Strategy and Implementation Plan 2040 (WWITS)

The variation also aligns with the WWITS' desired outcome of providing transport choice where options are viable and fit for purpose, which include walking, cycling,

public transport and private vehicles (pg 10). The plan supports residential growth connected to sub-arterial roads, greenfield development with sufficient road network and higher density development closer to the CBD and health precinct in order to help to minimise congestion on key corridors (pg 25). It also supports further residential development that provides safe and permeable access for pedestrians, with footpaths provided on all local roads within neighbourhoods to promote walkability, active living and support neighbourhood shopping (pg 25). The plan also identifies opportunities to increase density at key sites within close proximity to the CBD, and to provide minimum density requirements along corridors, end of trip facilities with smart technology, and car share opportunities (pg 25). Additionally, a key ongoing project is ILU5.4 Improve walking and cycling access to, from and within the health precinct (pg 72). This reflects the key goals around connectivity and accessibility for the city.

Wagga Wagga Development Control Plan 2010

According to Part A Section 2, 2.2 Off-street Parking for Multi-dwelling housing two (2) spaces are required for three or more bedrooms or larger dwellings. However, one (1) space is required for Dwelling house, dual occupancy, attached dwellings, semi-detached dwellings. These development types are considered to be comparable in this context.

Summary

In consideration of the similarities of the above development types, and due to the application's alignment with the strategic plans as referred to above, the variation is considered reasonable, and it is recommended the variation is supported. The provision of one space per three-bedroom dwelling will reduce reliance on private vehicle use, increase the community's use of alternative transport methods such as walking, cycling or use of public transport; reduce congestion, noise and pollution from cars; and increase opportunities for incidental exercise. This contributes to the community's health and wellbeing. This may also encourage those who work in the Health and Knowledge Precinct to live in close proximity to their workplace. Implementing planning mechanisms that reflect this shift is considered to be vital as they contribute to accessible, liveable and connected places.

In future, another desired outcome would be to achieve greater diversity in housing size, for instance, by increasing the range of one and two-bedroom dwellings in the housing stock. This would align more fully with the strategic intent of the Health and Knowledge Precinct Masterplan and the LSPS principles. Additionally, in future it is anticipated that adjoining sites should be planned with adaptive capacity to better integrate into the transition to the planned precincts.

Having regard to the intent of these strategic documents, to refuse this development on a shortfall of carparking is considered unreasonable. It is recommended that the requested variation be supported.

2.3 Landscaping

A landscape plan has been submitted with the application. The landscaping includes shrubs within the front set-back area and along the western side of the subject property beside the pedestrian access area to enhance the setting of the overall site and individual units. Each unit will also be provided with a private yard area which will enable the occupants to undertake further landscaping on the site.

The development proposes a 1.8metre high privacy wall/fence within the front setback of the development to provide privacy for the open space area for unit 1 (refer to later discussion in this report). It is satisfied that the landscaping proposed will provide adequate screening of this wall to assist in reducing any visual impact on the streetscape.

The proposed landscaping is consistent with this section of the DCP.

2.4 Signage

No signage is proposed as part of this application.

2.5 Safety and security

The multi-dwelling development will result in increased movement of occupants and visitors to the site and therefore will enhance levels of natural surveillance both to the laneway and within the site. The layout of the site ensures a clear delineation of public and private areas. The entries as proposed are clear and visible along the entry pathway which extends the full length of the western boundary of the site. The design does not present any areas for potential concealment.

The inclusion of secure on-site car-parking in the form of detached garages for each of the dwellings further improves security for future residents. The use of the laneway by pedestrians is likely from residents, visitors and deliveries.

The planting and fencing are not considered likely to compromise safety for users. The proposal does propose a 1.8metre high fence (privacy wall) within the front setback to unit 1, however the fence will only enclose the rear private area of the unit and will not prevent surveillance from the main living area of the dwelling to Edward Street.

A crime risk assessment is not required for this development, the overall design and layout is consistent with the overall controls and principles of this section of the DCP

2.6 Erosion and Sediment Control Principles

It is recommended that a standard condition is imposed for the installation of sediment and erosion control measures during construction works.

2.7 Development adjoining open space

The development does not adjoin open space.

Section 3 - Heritage Conservation

The subject site is not located within heritage conservation area or identified as an item of heritage significance. No controls under this section will apply to proposed development.

Section 4 - Environmental Hazards and Management

Whilst the subject site is located within the area protected by the Central Levee and is not identified as land affected by Riverine flood under the current flood model, it is within the flood planning area as identified on the Wagga Wagga Major Overland Flow Floodplain Risk Management Study and Plan 2021 and is susceptible to inundation in 1:100-year stormwater event.

Although this section of the DCP technically applies as the land is identified as 'flood prone land', the controls of this section are based on the Wagga Wagga Floodplain Risk Management Study 2009 that related to riverine flooding associated with the Murrumbidgee

River and did not consider MOFFs/creek and stormwater flooding in villages. Therefore, it would be considered unreasonable to impose these controls as the impacts, such as the risk to life and property and the compatibility of development with the flood hazard, have the potential to be substantially different to those impacts in a riverine flood event.

Having established that the controls of this section are not relevant to this development does not immediately conclude that the development is acceptable. The flood prone nature of the land means that the relevant objectives of the DCP remain a consideration. The relevant objectives are as follows:

- O1 *Minimise the public and private costs of flood damage.*
- O2 *Minimise the risk of life during floods by encouraging construction and development that is "flood proofed" and compatible with the flood risk of the area.*
- O3 *Ensure that development and construction are compatible with the flood hazard.*

Despite this, the potential impact due to overland flow flood on the proposed development is considered to be negligible given the areas of the site identified as being affected are identified as H1- low hazard and the depth of the flood water is less than 200mm. Council is satisfied that the proposed development is considered compatible with the flood hazard and unlikely to increase in the potential flood affection on adjoining properties. The development will not adversely affect the safe occupation and evacuation needs in the event of flood and will not result in unsustainable social and economic costs to the community as a result of flooding. As such, the proposal is considered suitable and therefore satisfies the objectives of the clause.

There will be upgrades to the stormwater infrastructure in association with the residential development therefore no adverse impacts are anticipated. Conditions are included to address this matter and engineered designs will be subject to approval as part of the construction certificate application.

Section 5 - Natural Resource and Landscape Management

The proposal does not involve removal of any significant vegetation from the site.

Matters relating to natural resources sensitivities are discussed under 7.6 of the LEP above, given the nature of the works no issues are expected and further discussion are not required.

Section 6 - Villages

The proposal is for a multi-dwelling development within the R3 zone. Section 6 is not applicable to this development.

Section 7 - Subdivision

The proposal is for a multi-dwelling development within the R3 zone. The objectives and controls of this section of the DCP relate to subdivisions to create new lots as opposed to community or strata title of existing lots. Therefore, there are no specific controls apply.

Section 8 - Rural Development

The proposal is for a multi-dwelling development within the R3 zone. Section 8 is not applicable to this development.

Section 9 - Residential Development

9.1.3 R3 Zone - Infill potential

The R3 zone objectives encourage development to provide a variety of medium density housing types with a high-quality presentation to public streets and spaces. Infill and redevelopment sites are an excellent opportunity for quality contemporary development that will increase housing choice in accessible and attractive locations.

The application represents a modern medium density development that is encouraged within R3 zoned areas and is in close proximity to the city centre.

9.2.1 Site layout

The site is flat and unvegetated and there are few opportunities to use site characteristics as features. The main living areas of all the units have a north-eastern aspect which allows for passive solar design. All living areas have a direct connection with the private open space areas located on the eastern side of each unit. Cross ventilation is utilised in the design with the placement/design of windows considered to maximise privacy both within and outside of the development. Natural surveillance is maximised with good views to common areas. Similarly, the design successfully integrates access, landscaping and services in the layout. The proposed dwellings are setback from the lot boundary and separation between dwellings is adequate. As such, proposed development meets the intent of the control.

9.2.2 Streetscape

The predominant scale, rhythm and form of the street is undergoing change, being a medium density zone in the older inner-city area. Existing development in the immediate vicinity consists mainly of older style, modest dwellings addressing the highway. The locality is generally residential in character with mix of single storey dwellings, low to medium-density residential development, and multi-dwelling housing in proximity to the subject site. The subject site is within the Knowledge and Health Precinct as identified under Health and Knowledge Precinct Master Plan, 2019. Across Edward Street from the proposed development site are mixed land uses - i.e. residential, commercial and other health related land uses.

The proposed front elevation is considered appropriate with regard to the future desired character of a transitioning medium density housing area. It is noted that existing single dwellings would not comply with the maximum site area for the R3 zone and are therefore non-compliant development. It is further noted that the existing building is dilapidated but could not be replaced as is (i.e. as a single dwelling). Any residential development of this site must be of a medium density nature to satisfy the density controls in the DCP.

A decorative fence of 1.2m high is proposed along the front boundary along with some soft landscaping to complement proposed dwellings. This height is considered appropriate and provides the occupants with a territorial boundary, whilst allowing for passive surveillance of the street.

A 1.8m high fence (privacy wall) is also proposed in front of the building line of Unit 1 to allow privacy of the private open space area for unit 1. The fence/wall will be setback 2 metres from Edward Street and will only extend across part of the site to enclose the rear private area of the unit. The fence will not prevent surveillance from the main living area of the dwelling which will remain exposed to Edward Street. It has also been noted that there is an existing 1.8-metre-high brick fence on the front boundary of the property fronting Edward Street

immediately to the east (210 Edward Street). This fence will be immediately adjacent to and forward of the proposed fence/wall.

It is recommended that a condition of any consent require final details of the material of the fence to be provided to Council for approval prior to the release of the construction certificate. Subject to an appropriate material being used and the establishment of screen landscaping (as discussed earlier in this report), no objection is raised to the fence/wall being located within the front setback.

The proposal is considered to satisfy the intent of medium density zone and the future desired character of the area.

9.2.3 Corner lots and secondary facades

The site is not a corner lot.

9.2.4 Sloping sites

The site is not a sloping site.

9.3.1 Land area per dwelling

The maximum land size per dwelling is 350 square metres for multi-dwelling housing developments in the R3 Zone. The proposed development makes provision for 3 units on a 758.79m² lot which equates to 252.93m² per unit which satisfies this requirement.

9.3.2 Site cover

The maximum permitted site coverage for multi-dwelling housing within the R3 zone is 40%. The proposed site coverage is 47%. The proposal does not comply with the control. The applicant seeks variation to this control and have provided written justification in the Statement of Environmental Effects (SEE) report.

Summary of justification provided is discussed below:

- *Each dwelling provides adequate private open space and common living areas which will allow occupants and visitors to have additional space.*
- *Non-compliance with this control does not cause any adverse impact on the development or surrounding area.*
- *Streetscape is maintained by allowing sufficient green space and minor variation to this control is unnoticeable and unlikely to cause negatively impact.*
- *The objective of the R3 zone is to increase the density therefore the proposal satisfies the intent of the control.*

Having regard to proposed variation request, the proposal is considered acceptable for the following reasons:

- Proposed development is generally consistent with the objectives of the control given the proposal still provides adequate green-space, usable outdoor areas within the site. Also, maintains access and reasonable amount of parking space within the site.
- Proposed development is not consistent with the existing built form however the proposal achieves the intent of zoning by providing medium density housing within R3 zone.
- Adequate separation is provided between each dwelling to maintain amenity of

occupants of each dwelling.

It is recommended that the variation proposed be supported.

9.3.3 R3 Zones - Minimum frontage

C1 Multi dwelling housing and residential flat developments are required to have a minimum frontage of 20m to the primary address.

Variations can be considered to the minimum frontage requirement where it can be demonstrated that the resulting development achieves a reasonable density and can satisfy the amenity considerations of this Section.

This controls requires that multi dwelling housing developments have a minimum frontage of 20m. The subject lot is 15.009m which falls short of the required minimum frontage width.

As permitted under the control, the applicant is seeking a variation and has provided the following justification in support of the departure:

- *The width of frontage will not cause adverse impact on proposed development or exiting streetscape. There are number of developments within Edward Street that were allowed variation to minimum width of the frontage therefore sets precedence for this variation request to be supported.*
- *If the proposal was for single or dual occupancy development the objectives of the DCP within medium density zone for increased housing wouldn't have met, thus resulting conflict between DCP control and its objectives.*
- *Proposed development aligns with the strategic direction of the Heath and Knowledge Precinct Master Plan.*
- *Although the proposal seek variation to this control by 25%, the development is designed to minimise the visual impact on streetscape, maximise utilization of usable space, providing sufficient private open space areas on the site for each dwelling, and minimising amenity impacts i.e. privacy, safety, overshadowing.*

As stated in the control, variations can be considered where it is demonstrated that the resulting development achieves a reasonable density and can satisfy the amenity considerations of this section (Section 9 of the DCP 2010). Having regard to the overall assessment under the DCP 2010 contained in this report, it is satisfied that the amenity and density considerations have been demonstrated as follows:

- Sufficient private open space is provided to each dwelling as per the DCP requirement.
- Vehicle access and movement satisfies minimum standards.
- Safety provisions are satisfied.
- Minimum solar access standards are satisfied.
- Setbacks are greater than the minimum standards;
- Overshadowing of adjoining properties is within acceptable limits.
- Privacy impacts are mitigated through design and screening.

It is recommended that the variation proposed be supported.

9.3.4 Solar access

The proposal generally meets the objectives of this section.

C1 Locate garages, laundries and bathrooms to provide insulation from western sun.

The design of the individual dwellings is supported with respect to these matters as discussed

under control C4 below.

C2 Locate living areas and private open space to ensure orientation to the north and north east where possible

Each dwelling has internal living spaces with north-eastern aspect and outdoor entertainment area including private open space areas are at south-eastern side of the dwellings.

C3 Building design and site layout is to ensure adequate sunlight access to the internal living spaces and private open space of the proposed development

All the dwellings have been designed to received adequate sunlight to the internal living spaces and private open space areas.

C4 Variations can be considered to C1, C2 and C3 where it can be demonstrated that site constraints, existing built form and good design practices limit the ability of the proposal to comply with these controls

Proposed floor plan of the dwellings in the development does not strictly comply with C1 however variation to this control is accepted for the following reasons:

- All the dwellings are designed to received adequate sunlight into internal living areas and private open space areas to comply with C2 and C3 above.
- The proposal is generally consistent with the objectives of R3 zone i.e. to provide for housing need and housing types within a medium density residential environment and high-quality presentation to streetscape.
- Impact on the amenity of the adjoining properties are very minimal.

C5 For any adjacent dwellings that have north facing living areas, maintain 3 hours sunlight access to the windows of the living areas between 9am and 3pm in mid-winter (June 22).

The submitted shadow diagrams demonstrate that sunlight access to north facing windows of adjoining lots will not interrupted in the winter afternoons. The southern lot is a laneway therefore raises no concerns.

C6 Proposed development design should take into account the location of any adjacent private open space and avoid overshadowing of that space.

The proposed development has been designed to minimise overshadowing of adjoining private open space by breaking the units into separate blocks. Minor overshadowing impact on adjoining lots to the east and west is expected as a result of the proposed development at different times of the day. The impact however is not considered to be unreasonable as both adjoining lots will only be impacted for few hours at particular times of the day. During the remainder of the day, the adjoining properties will not be impacted by the proposed development as depicted on the submitted shadow diagrams.

Immediately to the south of the development is a laneway which does not raise concerns with respect to overshadowing impacts.

9.3.5 Private open space

C1 At least 24m² of private open space is required per dwelling. The private open space is to be directly accessible to the main living area and have a minimum dimension of 4m.

Each of the dwellings has an area of private open space to the rear extending to 24sq.m and is accessible from the living and dining area.

C2 Enclosure of approved private open space will be permitted, however at least one side of the approved private open space is to remain open. Roofing of approved private open space is permitted provided that BASIX requirements are not compromised.

Enclosure of private open space is not proposed.

C3 Use screening where necessary to ensure the privacy of private open space areas.

Existing boundary fencing along maintains a reasonable level of privacy for private open space areas within and adjacent to the development.

9.3.6 Front setbacks

C1 Minimum front setbacks for residential development (site areas smaller than 2000m²):

Primary frontage to a main or arterial road 9m #

Primary street frontage (other roads) 6m #

Secondary frontage (corner site) 3m # -

For residential accommodation in R3 Zones a minimum setback of 3m may be considered.

A minimum of 3m setback from the external wall of the Unit 1 (front dwelling) is proposed. The proposal is for multi-dwelling housing which is a type of residential accommodation therefore the proposed setback complies with the control.

A 1.8m high fence (privacy wall) proposed in front of the building line of Unit 1 to allow privacy of the private open space area for unit 1. The fence/wall will be setback 2 metres from Edward Street and extend across part of the frontage. As discussed earlier in this report and subject to a condition of consent requiring final details of the fence/wall, no objection is raised to the fence/wall being located within the front setback.

C3 The front elevation of a dwelling as visible from a public road shall include at least one change in plane of the dwelling wall (that encloses a habitable room) of a minimum of 500mm. The front of the garage shall not protrude in front of the face of the forward most wall of the dwelling enclosing a habitable room. In all instances, the garage shall not encroach on the front setback identified under C1. The forward most part of a building/dwelling wall shall not project forward of the building line. Refer to diagrams opposite.

The Unit 1 (front dwelling) is well articulated and includes one change in plane of the dwelling wall enclosing habitable room. Garaging is proposed to the rear of the property along the laneway. The proposal is compliant with the control.

9.3.7 Side and rear setbacks

The objectives of this section are as follows:

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

The multi-dwelling development makes optimum use of the site and the proposed dwelling/units are to be built within close proximity of each other and the side boundaries.

There are no specific controls relating to distances of side and rear setbacks within an R3 zone. The medium density land zoning supports an increased density of development in this locality, hence the likelihood of buildings being developed closer to existing boundaries.

It is considered that there is adequate separation between buildings for landscaping, privacy, natural light and ventilation. Impacts on adjoining landowners have been considered in the design and setbacks from side and rear boundaries. The layout and design of the units is considered suitable in this locality.

9.4.1 Building elements

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

Not applicable.

C2 Porches are to be integrated into the building design, and are to be used to create a sheltered and clearly visible entry.

Entry to the units is protected by the building overhang, thus complying with this control.

C3 Locate ancillary components such as aerials, satellite dishes, air conditioning units and the like so they are not visible from the street.

Not detailed in plans. These components are likely to be exempt development.

C4 For dual occupancy developments, each dwelling is to have a separate entry.

The subject proposal is not a dual occupancy.

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

Not applicable

9.4.2 Materials and finishes

All three units will be constructed of mainly brick veneer cladding with a corrugated metal roof. A portion of the north and eastern elevations of all the units at first floor level will incorporate vertical cladding material as a design element. These materials are considered to be durable and will have a high-quality appearance. No highly reflective materials are proposed.

9.4.3 Privacy

Visual privacy

C1 Offset windows, balconies and private open space areas between adjoining dwellings.

Council has identified potential privacy impact of proposed development on private open space areas and windows of dwelling on adjoining western lot from the balconies and attached glass sliding doors of upper lounge room of all 3 units.

Council recommended to the applicant that consideration shall be given to the need for an upper level balcony with regard to the potential privacy impacts as well as requested them to come up with window design and treatment so that impact on adjoining private open space can be minimised.

The applicant proposed a variation to this control and have provided justification why proposed

balcony and windows and sliding doors of lounge room at the upper level would not cause privacy impact on private open space areas and windows of dwelling to the west. Summary of justification provided is as follow:

- *The proposed balcony on Unit 1 will not pose any privacy impact on the adjoining property to the west given its distance from the boundary, distance to the adjoining dwelling and location of the balcony. Given the balcony is located higher than the dwelling there is no direct line of sight between the two dwellings.*
- *There are several outbuildings present on the adjoining property to the west and private open space areas of this property is mainly on the western side of that lot. Given the distance of both units 2 and 3 from the western boundary, the presence of the existing outbuildings and the existing 1.8m boundary fence height, the direct lines of sight to the adjoining private open space area are significantly reduced.*
- *The proposed balcony is not a primary outdoor space for these units as all the units will have ground level alfresco areas directly accessible from main living areas. Time spent on the proposed upper balconies would be minimal and therefore a privacy screen is not warranted as there are no significant privacy impacts resulting from these balconies.*

It is satisfied that the information provided by the applicant above adequately justifies why the balconies will not poses a significant impact with respect to privacy in relation to the property immediately to the west.

C3 Screening is required where there is direct line of sight between neighbouring balconies or private open space areas, or between windows and door openings of habitable rooms.

Screening is utilised where potential conflict has been identified.

9.4.4 Garages, carports, sheds and driveways

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

The proposed triple garage is located to the rear laneway and is setback 1m from rear boundary.

C3 The floor area of an outbuilding on a residential lot must not be more than the following: (a) 8% of the site area if the lot has an area of less than 600m², (b) 8% of the area or a maximum area of 175m², whichever is the lesser, if the lot has an area of at least 600m² but less than 4000m², (c) Lots greater than 4000m² will be considered on their merits.

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

The total floor area of an outbuilding permissible on the subject site is 60.70m². Proposed detached triple garage is 78.84m² therefore exceeds the permissible total floor area allowed on the subject site. The applicant seeks variation to this control and provided written justification which is summarised as below:

- *Whilst the outbuilding exceeds the permissible size it does not cause any adverse impact on surrounding development and adjoining properties.*
- *No impact to private open space for proposed units.*
- *Proposed garage is designed to allow for each Unit to have lockable private safe parking space.*

- *The size of the garage will ensure enough space for any car to be able fit easily and allow for additional storage areas.*
- *Additional storage space will benefit the occupant by not needing occupant to utilise their private open spaces for additional sheds.*
- *Proposed garage is to the rear of the site and therefore will have no visual impact on the streetscape or out of character.*

The proposed building is modest in size with respect to the provision of 3 secure and enclosed parking spaces for the proposed units. The garage building will be consistent with built form, scale and character of the area and will not result in any unreasonable amenity impact. For these reasons, it would be unreasonable to restrict the development with respect to this control and it is recommended that the variation be supported.

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

Proposed garage is associated with the proposed multi-dwelling development and will be ancillary to the residential use of the land.

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

Proposed garage is approximately 4.4m in height and the roof pitch will be less than 27 degrees. Complies with the control

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

Proposed garage is located to the rear of the property and behind the building line. Therefore, complies with the control.

9.4.5 Site facilities

The development has been provided with adequate and appropriately located mail boxes, garbage storage areas and clothes drying areas.

9.4.6 Changing the landform - cut and fill

The proposed development does not require cut and fill that would need consent.

Standard conditions will ensure that stormwater does not become a nuisance to adjoining properties.

Section 10 - Business Development

The proposal is for a multi-dwelling development in the heritage area within the R3 zone. Section 10 is not applicable to this development.

Section 11 - Industrial Development

The proposal is for a multi-dwelling development in the heritage area within the R3 zone. Section 11 is not applicable to this development.

Section 12 - Specific Uses and Developments

The proposal is for a multi-dwelling development in the heritage area within the R3 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

It is considered that the matters prescribed by the *Environmental Planning and Assessment Regulation 2000* have been satisfied.

61 Additional matters that consent authority must consider

Clause 61(7) applies to development in the Wagga Wagga Local Government Area and is as follows:

(7) In determining a development application for development on land to which Wagga Wagga Local Environmental Plan 2010 applies, the consent authority must take into consideration whether the development is consistent with the Wagga Wagga Special Activation Precinct Master Plan published by the Department in May 2021.

The development site is not in proximity to the Wagga Wagga Special Activation Precinct Master Plan area. It is considered given this remoteness that the development is consistent with the Master Plan.

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 site is located within an established residential area within the central part of the city and within the Health and Knowledge Precinct. The locality is generally residential in character with mix of single storey dwellings, low to medium-density residential development, and multi-dwelling housing in proximity to the subject site. The development is consistent with the desired future context and setting.

Streetscape

The proposed multi-dwelling development will have negligible impact upon the streetscape given the subject site and the properties to the east and west are zoned as R3 medium-density residential where an increased density of development is permitted and encouraged. The development complies with this objective of the zoning.

Access, transport and traffic

As previously outlined in the report access will be via the rear of the site utilising an existing laneway. The laneway is six metres in width and will be used to access the proposed rear garages servicing each dwelling. There is sufficient room within the laneway for vehicles to manoeuvre in and out of proposed garage. The provision of garages to each of the dwellings will remove the need for parking in the laneway. An additional space will be available at the rear that can be used for visitor parking. Additional street parking is available at the front of the site in Edward Street.

Services

The site is currently adequately serviced. A sewer main runs within the road reserve to the front of the subject property. Relevant conditions have been included in the development consent.

Heritage

The site is not noted as having any Aboriginal or non-Aboriginal heritage significance and the site is not within the heritage conservation area or identified as an item of heritage significance. The proposal does not adversely affect the significance of the heritage area within the locality.

Natural Hazards

The development has been considered against the relevant flood provisions of the WWLEP2010 and DCP. Whilst the subject site is located within the area protected by the Central Levee and is not identified as land affected by Riverine flood under the current flood model, it is within the flood planning area as identified on the Wagga Wagga Major Overland Flow Floodplain Risk Management Study and Plan 2021 and is susceptible to inundation in 1:100-year stormwater event. Refer to earlier discussion.

The development has been considered against the relevant bushfire provisions of the WWLEP2010 and WWDCP2010. A risk assessment is not required as the development is not mapped as being bushfire prone and the surrounding land would all be considered managed urban land.

Man-Made Hazards

Council records indicate the land has been in residential use historically and the site is not on the contaminated land register. Further investigation is not considered necessary.

Due to the age of the buildings on site, asbestos could be found during demolition of existing dwelling however standard conditions have been included under the original application for demolition for the handling and disposal of asbestos attached to the consent.

Economic and Social Impact in the Locality

The proposed works are expected to be a major financial commitment by the proponent. The proposal will support local businesses and trades such as builders, plasterers, painters and

decorators, soft furnishing specialists, building supplies and other retailers/suppliers in the locality.

The new properties will provide an alternative housing choice within close proximity to the CBD. Such variety of housing has a positive social impact as increased options are made available and a mix of residents live within the central area. There are no adverse economic or social impacts anticipated from the proposed development.

Energy Impacts

A valid BASIX Certificate has been lodged for each of the new dwellings/units. Commitments made in the Certificates have been considered as part of this assessment. The prescribed condition for compliance with the BASIX Certificate will be imposed.

Site Design and Internal Design

The siting of the new dwellings is determined by the current layout of the property and site orientation. Optimum use is made of the site area which is generally acceptable in the R3 zone. Impacts associated with the development such as overlooking can be mitigated by the use of window design, privacy screen and treatments.

Cumulative Impacts

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

Other Land Resources

Not applicable

Pollution and off-site environmental effects

Standard conditions of consent would ensure that soil and runoff would be captured on site.

Flora and fauna

There are no threatened species identified on the site.

Noise and Vibration

Construction noise is likely to disrupt the amenity of adjoining properties however this will be temporary and short term. Disruption will be managed via a standard condition of consent dictating hours of work.

On occupation, it is not expected that the development would substantially increase the ambient noise in the vicinity.

Site Design and internal design

The development provides each dwelling with a private entrance and one dwelling has street frontage. The site allows for each dwelling to have a north-easterly orientation for the proposed ground level private open space.

Privacy is maintained through the use of opaque glazing, window screens, highlight windows and landscaping.

Construction

The site is accessible and construction activities should have minor and temporary impact on

nearby properties. Conditions of consent will regulate hours of construction, erosion control and other construction matters.

Cumulative Impacts

The proposed development makes efficient use of land. Cumulative impacts of similar developments in the vicinity would be expected to be positive and desirable.

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*

The proposed development will not result in any anticipated irreversible environmental damage, as the proposal utilizes an existing urban site for redevelopment. 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(1) (c) - The suitability of the site for the development

The subject land is considered to be suitable for the proposed development because the development is for multi-residential development in an R3 zone. The development is permissible in the zone, is consistent with developments in the residential area and does not detrimentally impact the significance of the heritage area.

Section 4.15(1) (d) - any submissions made in accordance with this Act or the Regulations

Referrals

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

Notification

The application was advertised and notified to surrounding lots for a period of 14 days between 12/08/2022 and 2/09/2022 in accordance with the Council's advertising and notification provisions outlined in Section 1.10 of the WWDCP. No submissions were received during the notification period.

Public Submissions and those from public authorities

Nil submissions have been received at the time of this report.

Section 4.15 (e) - the public interest

The public interest is best served by the consistent application of the requirements of the relevant planning controls and by Council ensuring that any adverse effects on the surrounding area and the environment are avoided. The proposed development has been assessed against the applicable DCP controls and assessed as acceptable.

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

Other Legislative Requirements

Section 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)

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 being 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 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.

Section 733 of the Local Government Act 1993

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

Flooding Risk Assessment

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. The site is subject to major overland flow flood however the finished floor level of proposed dwellings is above flood level and unlikely to pose risk to life and property during such events therefore the impact is considered to be very minimal.

Bush Fire Risk Assessment

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. A risk assessment has been completed and as per the assessment no additional conditions are required.

Council Policies

Nil

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

Council's other relevant officers have reviewed the application in accordance with Council's processing procedures. Relevant comments or requirements are discussed in the body of the report and full details are available on the file.

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 7.11

The contribution rate for medium density (3 bedroom dwelling) in Wagga Wagga is \$10,012 (base rate) per dwelling as shown in the Wagga Wagga Local Infrastructure

Contribution Plan. The original lot has a credit. The calculation is as follows:

$$\begin{aligned}\text{Section 7.11} &= 3 \text{ dwellings} - 1 \text{ credit} \\ &= (\$10,012 \times 3) - \$10,012 \\ &= \$20,024 \text{ (base rate)}\end{aligned}$$

$$\begin{aligned}\text{CPI S7.11} &= \$20,024 \times 123.7/115.1 \\ &= \$21,520 \text{ (to the nearest dollar)}\end{aligned}$$

Section 64 Sewer

As the original lot was charged 1ET at subdivision it has a credit. As the dwellings are 3 bedrooms they are equal to 1ET each. The calculation is as follows:

$$\begin{aligned}\text{Section 64 Sewer} &= 3 \text{ dwellings} - 1 \text{ credit} \\ &= (\$3,538 \times 3) - \$3,538 \\ &= \$7,076 \text{ (base rate)}\end{aligned}$$

$$\begin{aligned}\text{CPI S64 Sewer} &= \$7,076 \times 121.6/100.5 \\ &= \$8,562 \text{ (to the nearest dollar)}\end{aligned}$$

Section 64 Stormwater

Section 64 Stormwater calculations will be developed as per Section 2.1.2 of the Implementation Guide Development Servicing Plan Stormwater May 2022. The Section 64 Stormwater infrastructure contribution is based on the follow formula. The lot is currently vacant.

$$\begin{aligned}\text{Section 64 Stormwater} &= \text{area of new hardstand}^*/800 \times \text{area of additional hardstand as a \%} \\ &\text{of the lot area}/0.6 \times 1\text{Et} \\ &= (355.735-223.5)/800 \times 0.17/0.6 \times \$3,004 \\ &= \$141 \text{ (base rate)}\end{aligned}$$

$$\begin{aligned}\text{Area of hardstand as a \% of the lot area} &= \text{area of hardstand}/\text{lot area} \\ &= (355.735-223.5)/758.79\text{m}^2 = 0.17\end{aligned}$$

$$\begin{aligned}\text{CPI S64 Stormwater} &= \$141 \times 121.6/87.9 \\ &= \$195\end{aligned}$$

Other Approvals

AA22/0233 - Part B4 (Sewer) and Part B5 (Stormwater) - Private under Section 68 of *Local Government Act 1993*.

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. No objections to the proposal were received.

RECOMMENDATION

It is recommended that application number DA22/0260 for Construction of 3 x 2 storey dwellings with detached triple garage and 4 lot community title subdivision be approved, subject to the following conditions:-

CONDITIONS OF CONSENT FOR APPLICATION NO. DA22/0260

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
AA1	Site Plan, Floor Plans - Proposed	Matt Jenkins Homes	A	25/07/2022
AA2	Ground Floor Plan - Proposed	Matt Jenkins Homes	A	25/07/2022
AA3	First Floor Plan - Proposed	Matt Jenkins Homes	A	25/07/2022
AA4	Elevations and Section A-A - Proposed	Matt Jenkins Homes	A	25/07/2022

AA6	Shadow Diagrams - Winter June 21st	Matt Jenkins Homes	A	22/02/2022
Certificate No. 1303055S	BASIX Certificate - Unit 1	Matt Jenkins Homes	-	5/005/2022
Certificate No. 1303085S	BASIX Certificate - Unit 2	Matt Jenkins Homes	-	5/005/2022
Certificate No. 1303086S	BASIX Certificate - Unit 3	Matt Jenkins Homes	-	5/005/2022
-	Statement of Environmental Effects (Revised)	Matt Jenkins Homes	1	24/06/2022
Sheet 01	Subdivision Layout	Matt Jenkins Homes	1	14/09/2022

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 Any Construction Certificate that may be issued in association with this development consent must ensure that any certified plans and designs are generally consistent (in terms of site layout, site levels, building location, size, external configuration and appearance) with the approved Development Application plans.

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

\$2000 for security deposit on the kerb and gutter and footpath

Plus a non-refundable administration fee as per Council's Fees and Charges.

NOTE 1: The applicant currently has an ONGOING security bond lodged with Council bond number (BKG 0026). This ongoing bond will be attached to this development to act as a security deposit on the kerb and gutter and footpath. No further payment under this condition is required.

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

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

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

NOTE 5: Council will accept a once off security deposit for the kerb and gutter and footpath for applicants who lodge multiple DA's with council. If the

applicant has security deposits held by Council for kerb and gutter and footpath at the time of Construction Certificate application, then Council may waive the need for an additional bond to be paid.

NOTE 6: The bond held on the kerb and gutter and footpath is fully refundable upon completion of all works and upon inspection by Council to ensure that any damage to Council infrastructure has been repaired. The bond will not be refunded in the event that damage done to Council's infrastructure is not repaired to the satisfaction of Council. All damage is to be repaired at the full cost of the applicant

C.4 Pursuant to s7.11 of the Environmental Planning and Assessment Act 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, a monetary contribution as identified in the table below must be paid to Council, prior to the issuing of the Construction Certificate. The monetary contribution payable under this condition will be indexed in accordance with Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 from the endorsed date of this Development Consent until the date of payment.

Base monetary contribution (Contribution Rate in Wagga Wagga Local Infrastructure Contributions Plan 2019-2034)	\$20,024
Adopted CPI indexation applied at date of determination (as per Section 3.2 of Wagga Wagga Local Infrastructure Contributions Plan 2019-2034)	123.7/115.1
Indexed monetary contribution to be paid (valid for the financial year in which the date of determination was made)	\$21,520 (see Note 2)

NOTE 1: Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 provides for Section 7.11 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. Indexed developer contributions are adopted annually by Council for the financial year.

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

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

C.5 Prior to the release of Construction Certificate, a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.

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

NOTE 2: Riverina Water is responsible for issuing compliance certificates and imposing requirements relating to water supply works for development

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

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

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

NOTE 5: The Section 64 Sewer base figure is \$7,076.

The Section 64 Sewer contribution (updated by the CPI 121.6/100.5) required to be paid is \$8,562.

NOTE 6: The Section 64 Stormwater base figure is \$141.

The Section 64 Stormwater contribution (updated by the CPI 121.6/87.9) required to be paid is \$195.

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

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

C.6 Prior to the issue of a Construction Certificate stormwater drainage shall be designed to limit post development flows from the site to pre-developed flows for all storms up to and including the 100 Year ARI event. Full plan details of any proposed On-Site Detention (OSD) system and supporting calculations shall be provided.

C.7 Prior to the release of the Construction Certificate, the applicant shall provide a revised plan specifying the final details of the privacy fence/wall located within the front setback to unit 1 as follows:

- The selected material to be consistent with the material used in the front elevation of unit 1.
- The final setback of the fence/wall so as not to encroach within 2 metres of the Edward Street boundary.
- Final details of landscaping between the Edward Street boundary and the fence/wall to assist in screening when viewed from Edward Street.

The plan shall be to the satisfaction of the General Manager or their delegate.

Requirements before the commencement of any works

- C.8 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.9 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.10 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.11 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.12 Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).

C.13 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.14 Prior to the commencement of works, an Activity Approval is required under Section 68, Part B - 4, 5 and 6, of the Local Government Act 1993 for any public infrastructure sewer / stormwater works, where that work is proposed to be carried out on public or private owned land.

i) Upgrade of the sewer spur to 150mm diameter.

NOTE 1: Works carried out under an approved Section 68 prior to a Development Consent and/or Construction Certificate being issued are subject to change and are at the applicant's risk.

NOTE 2: Prior to the commencement of works a bond may be required to be lodged with Council for public infrastructure works. Refer to Council's Section 68 Activity Approval Application Guide for detail.

C.15 No works are to take place to any services without prior written approval from the relevant authority.

NOTE: Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au <<http://www.1100.com.au>> or telephone on 1100 before excavating or erecting structures.

Requirements during construction or site works

C.16 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.

C.17 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.18 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.19 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.20 During works, no building materials or refuse shall be stored in the laneway or Edward Street nature strip. The laneway shall remain trafficable and open to traffic throughout the construction period. Any damage caused to the laneway during the construction period shall be repaired immediately to ensure the laneway remains trafficable and safe.

C.21 The following requirements of Essential Energy shall be complied with:

- Works must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
- It is the responsibility of the person/s completing any works around power lines to understand their safety responsibilities. SafeWork NSW has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice - Work near Overhead Power Lines and Code of Practice - Work near Underground Assets.
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property shall be complied with.

C.22 Any upgrades or alterations to existing Council infrastructure required as a result of the development shall be at the full cost of the applicant. Contact Council's Development Engineer to confirm what approval is required prior to commencing work on any Council infrastructure. Such work includes (but is not limited to) upgrade

or connection to sewer or stormwater mains, and alteration of stormwater pits and sewer manhole levels.

- C.23 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated “spoil” material.

Requirements before a Subdivision Certificate can be issued

- C.24 A Subdivision Certificate, pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended must be obtained from Council, prior to its lodgement with the Lands Titles Office.

The Final Survey Plan (two paper copies and an electronic copy) must be submitted to Council along with the application for Subdivision Certificate and associated checklist.

NOTE: Council will only consider issuing a Subdivision Certificate in relation to this subdivision when it is satisfied that all conditions of development consent relating to the subdivision have been complied with and the appropriate fee paid.

- C.25 Prior to the issue of the Subdivision Certificate the following documents shall be submitted to Council to demonstrate that the requirements of the public utility services have been met:-

- i) Essential Energy: Notice of Arrangement (to be made to the Contestable Works Section at Essential Energy);
- ii) APA Gas: Certificate of Acceptance;
- iii) Riverina Water: Certificate of Compliance;
- iv) Certification from an approved telecommunications provider.

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

- C.26 Prior to issue of an occupation certificate the building number must be displayed in a position clearly visible from the street in letters having a height of not less than 75 mm. The number must be visible against the background on which it is placed.
- C.27 Prior to the issue of an Occupation Certificate, Works-As-Executed (WAE) plans of the constructed On-Site Detention system shall be submitted to Council. The WAE plans shall confirm the volume of constructed storage areas, installation of orifice plates, pipe and pit levels and surface levels of overland flow paths. Certification shall be provided by a practising Civil Engineer that the constructed On-Site Detention system will function as intended in accordance with the approved plans.
- C.28 Prior to the issue of an Occupation Certificate the sewer spur servicing the development shall be upgraded to 150mm diameter. These works shall be carried out under a Section 68 (PUBLIC) approval by a Council approved contractor.
- C.29 Prior to the issue of an Occupation Certificate, appropriate arrangements shall be in place for the relocation of the existing electricity service line servicing the dwelling at traversing the site and 210 Edward Street. Appropriate evidence shall be provided to the Principal Certifying Authority demonstrating that these arrangements have been endorsed by Essential Energy.

No occupation certificate shall be issued for any of the proposed dwellings approved under this consent until such time that occupation certificate has been issued with respect to the proposed garage building.

- C.30 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.31 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.32 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.33 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)

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

- D.1 The plumbing work/s listed must be inspected as indicated below in accordance with AS/NZS 3500 and Plumbing Code of Australia.

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

- D.2 No works are to be undertaken on the site prior to the issue of a Construction Certificate or Complying Development Certificate. Details of the approved Construction Certificate or Complying Development Certificate are to be submitted with the required “Notice of Works” and approved by Council prior to the commencement of work.
- D.3 Sewerage and stormwater drainage work must comply with AS3500 and the Plumbing Code of Australia except where otherwise provided in the Local Government Act 1993 or the Local Government (General) Regulation 2005. In this regard, it may be necessary for you to contact a Licensed Plumber and Drainer.
- A copy of the document entitled - Contractor’s Copy shall be provided to the nominated plumbing contractor prior to the commencement of works.
- D.4 Council requires a “Notice of Works” to be submitted and approved by Council prior to the commencement of work. A “Certificate of Compliance” and “Works as Executed Diagram” are to be submitted and approved by Council prior to the issue of a Final Plumbing Certificate. The Works as Executed Diagram must be submitted in electronic format in either AutoCAD or PDF File in accordance with Council/NSW Fair Trading requirements.

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
