



Report of Development Application

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

APPLICATION DETAILS

Application No.:	DA21/0292
Modification No.:	N/A
Council File No.:	D/2021/0292
Date of Lodgement:	14/05/2021
Applicant:	RA Millard, SB Millard 1E Springvale Dr SPRINGVALE NSW 2650
Proposal:	Erection of a two-bedroom dwelling to the rear of the existing dwelling to create a dual occupancy
Description of Modification:	N/A
Development Cost:	\$240000
Assessment Officer:	Emma Molloy
Determination Body:	Council - Section 1.11 of the DCP variation to a numerical control by more than 10% in which submissions have been received.
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	Yes, 2 to 17 June 2021
Advertising:	No
Owner's Consent Provided:	Yes
Location:	The subject site is located on the eastern side of Brookong Avenue, across from the intersection of Brookong Avenue, Salmon Street and Doris Roy Lane.

SITE DETAILS

Subject Land:	8 Brookong Ave WAGGA WAGGA NSW 2650 Lot 1 DP 37366
Owner:	SB Millard & RA Millard

PLANNING CONTROLS / STATUTORY CLASSIFICATION

Pursuant to Part 4 (Division 1)

Description of Development

The applicant seeks consent to construct an additional two bedroom dwelling to the rear of the existing dwelling and the construction of a double garage to provide parking for both the existing dwelling and proposed dwelling. To facilitate the development the application comprises of the following:

- Demolition of the existing deck to the rear of the existing dwelling;
- Upgrade and extension of existing driveway and construction of a vehicle movement area to the rear provide two visitor carports and to provide access to the proposed garage;
- Removal of the existing trees; and
- Construction of a two bedroom dwelling in the rear portion of the site.

The dwelling will include an open plan living, kitchen and dining area, two bedroom, bathroom and laundry. The dwelling will also have access to a covered outdoor area in the northern portion of the site. The dwelling itself will consist of 82.5m² in area and no subdivision is proposed as part of the subject application.

The Site and Locality

The subject site is legally known as Lot 1 DP37366 located at 8 Brookong Avenue, Wagga Wagga. The subject site is, located on the eastern side of Brookong Avenue, across from the intersection of Brookong Avenue, Salmon Street and Doris Roy Lane. The site is rectangular in shape and has an area of 638.60m². The site currently contains a single storey Mid-century dwelling in face brick with a flat roof. Internally the dwelling was rebuilt in 2016 after being damaged by fire. The front fence dates back to the construction of the dwelling circa 1940s however the infill has since been replaced with timber pickets. The site adjoins both the Heritage Conservation Area to the south and a Medium Density Residential Zone to the north.

The surrounding locality is characterised by single storey dwellings from the Edwardian, interwar to post war periods of a similar size and scale to the subject site. The existing streetscape is contributory to the conservation area however the subject site is not within the Heritage Conservation Area itself.

Easements and Covenants

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

Previous Development Consents

- DA17/0243 - Dwelling alterations and additions; and
- CDC16/0104 - Reconstruction of Dwelling.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

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

Wagga Wagga Local Environmental Plan 2010

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

The development is permissible with consent.

Part 2 Permitted or prohibited development Land Use

1 Objectives of zone

Under the provisions of the WWLEP2010, the subject site is within the R1 General Residential zone. The relevant objectives of the zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*

The proposed development is considered to satisfy the outcomes sought for the R1 zone, particularly by satisfying the two main objectives of the zone which is to provide housing and to add to the variety of housing and density types. The proposed development is permitted in the R1 - General Residential Zone with consent.

2.7 Demolition Requires Development Consent

The proposed development includes the demolition of the rear deck for the existing dwelling. By submitting this application this clause is satisfied.

Part 5 Miscellaneous provisions

5.21 Flooding

The subject site is mapped as prone to overland flow in a 1% storm event as identified in MOFFS 2015. The depth of inundation is minor and infrequent therefore the development is not considered to have a detrimental impact on the overland flow path or disturb the hydraulic function of the site.

Part 7 Additional Local Provisions

7.1A Earthworks

The objectives of this clause are to ensure that earthworks for which consent is required will not have a detrimental impact on environmental functions and processes and to allow earthworks of a minor nature without requiring separate development consent. Minor earthworks are expected as part of construction. The earthworks are not considered to have a detrimental impact on the subject site or adjoining land.

Additionally, conditions of consent will be imposed to ensure that adequate measures are put in place during construction to ensure that the proposed development will not have an adverse impact on the subject site or adjoining allotments.

7.6 Groundwater Vulnerability

The objective of this clause is to protect and preserve groundwater sources. The subject site is identified as "Groundwater" on the Water Resource Map. However, the proposed development is not specified for the purposes of this clause as such no further assessment is required.

State Environmental Planning Policies (SEPPs)

State Environmental Policy No 55 - Remediation of Land

Clause 7 of SEPP 55 requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be

contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. There is no indication that the site has previously been occupied by any use that could have led to contamination of the site. Furthermore, the land is not identified on Council's register of contaminated sites. Accordingly, it is not considered necessary to request any investigation reports on the subject site.

State Environmental Policy (Building Sustainability Index; BASIX) 2004

A Single Dwelling BASIX Certificate (Certificate numbers: 1196420S) was submitted with the application. Compliance with BASIX will be addressed as part of the construction certificate and at critical stage inspections for the development.

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

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

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

Wagga Wagga Development Control Plan 2010

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

Section 1 - General

1.10 Notification of a Development Application

The proposed development was notified to surrounding owners for a period of 14 days from 2 to 17 June 2021. Two submissions were received. Submissions will be addressed later in this report.

1.11 Complying with the Wagga Wagga Development Control Plan 2010

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. The limitations are that adequate justification must be provided by the applicant for the number of controls being varied, the variation must not relate to multi dwelling housing and no objections shall have been received in relation to any numerical control that is being varied by greater than 10%. Two objections were received during the notification and the proposed development proposes a variation of greater than 10%. Therefore, Council staff do not have delegation to approve this application. The variation proposed relates to the minimum land area per dwelling required under the provisions of Control 1 under Section 9.3.1 of the DCP 2010.

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.
- 4.15 of the Environmental Planning and Assessment Act 1979 - matters for consideration in the determination of a development application.

The proposed variation has been justified and is discussed in more detail under the applicable section of this report.

Section 2 - Controls that Apply to All Development

2.1 Vehicle Access and Movements

The proposed development will be accessed via a shared driveway from Brookong Avenue. The shared driveway will utilise the existing access which is considered suitable in terms of the scale of the development and provides adequate sightlines to the street. Therefore, the proposed development is considered to comply with the objectives and controls within this section.

2.2 Off-street Parking

A double garage has been proposed as part of the development and will provide secure parking for both the existing dwelling and the proposed dwelling. Two visitor parks have also been included within the development. It should be noted that visitor parking is not required for proposals under 5 dwellings however given the constraints of the site being in close proximity to the Wagga Base Hospital visitor parking has been provided. This is considered appropriate and addresses the constraints of the site.

2.3 Landscaping

An adequate Landscape Plan has been provided. Native species have been used throughout the proposed development to provide screening and minimise building bulk. Landscaping has also been provided to the front and side setback areas to improve the streetscape and soften the appearance of paved areas. As such, the proposed development is considered to comply with the objectives and controls within this section.

2.5 Safety and Security

The proposed development has been designed to make good use of the subject site. Each Unit is provided with a separate entry which is clearly visible and identifiable. The existing dwelling is sited to provide passive surveillance to the street in accordance with the objectives and controls within this section.

2.6 Erosion and Sediment Control

Standard conditions of consent will be imposed to ensure the proposed development does not have an adverse impact on the subject site or adjoining allotments in regards to soil erosion.

Section 5 - Natural Resource and Landscape Management

5.2 Preservation of Trees

The proposed development includes the removal of a tree on the northern boundary and a tree on the eastern boundary. The trees are under 8 metres in height and therefore approval is not required for their removal.

5.4 Environmentally Sensitive Land

Environmental sensitivities have been previously assessed in Section 7.6 of this report.

Section 9 - Residential Development

9.2.1 Site Layout

The proposed development makes good use of the subject site. Access, landscaping and services are integrated to avoid under-utilised spaces. The open plan kitchen, dining and living area has been orientated to provide an acceptable amount of solar access. Cross ventilation is achieved through the location of doors and windows. As such, the proposed development is considered to comply.

9.2.2 Streetscape

The proposed development involves the construction of a 2 bedroom dwelling to the rear of the existing dwelling. There are no alterations proposed that would impact on the streetscape with the exception of an upgrade and extension of the existing driveway new driveway from Brooking Avenue which is considered acceptable given the context of the proposed development.

9.3.1 Site Area per Dwelling

The subject site is located within the R1 Zone as such the maximum site area for a dual occupancy is housing is 375m² per dwelling. The site has a total area of 638.60m² therefore a variation is required. Written justification was provided by the applicant on lodgement of the application which stated:

“Lot 1 is a valuable resource being located on fully serviced land in a central city location 400m from the base hospital capable of providing additional accommodation within the City Councils Medical precinct thus aiding in the realization of the Councils goals for this area without adversely impacting on the environment. Lot 1 is located outside the “conservation area” nor in proximity to any “heritage items”.

- *Zoning anomaly R3 should have been applied to Lot 1 300m² MAX area for the erection of a dwelling as on the adjoining north boundary and eastern boundary as it was to similarly located lots on Murray Street. Being outside the “conservation area”. The same treatment was not applied to the subject Lot 1 with the same locational circumstances prevailing. Then the 300m² Max area for a dwelling would apply.*
- *adjoining development (commercial, a place of public worship, backyard swimming pool) existing and future does not compromise or adversely impacted or the existing Brookong Ave streetscape*
- *There are no identified adverse impacts on the natural environment and the land has been subject residential occupation for more than 70 years with no evidence of indigenous heritage value identified.”*

The site is unique and is zoned as R1 General Residential however adjoins both the Medium Residential Zone which fronts Edward Street and the Heritage Conservation Area to the south. The variation is considered acceptable given the following:

- The proposed dwelling is 82.5m² in area and as such is much smaller in comparison to the surrounding dwellings including the existing dwelling on the subject site;
- The dwelling has been designed with a flat roof to mitigate impacts on the surrounding development and the private open space is located on the northern

- boundary to the front of the proposed dwelling to mitigate privacy impacts on the surrounding development;
- The proposed dwelling will not have an adverse impact on the adjoining Heritage Conservation Area given the location of the proposed dwelling in the rear of the lot and the proposed dwelling is smaller in scale to the adjoining development;
- The proposed development result in the compliance of the overall site coverage and provides for adequate servicing and parking without encroaching on the Heritage Conservation Area; and
- The proposed development satisfies all other relevant controls within the DCP.

The proposed development is considered to be an acceptable inclusion within the site that achieves the objectives of the R1 General Residential Zone by providing a choice in housing stock in close proximity to the city centre and the Wagga Base Hospital. The development is consistent with the objectives within this section of the DCP and also having regard to the overall assessment of the application under section 4.15 of the Act. Given the above assessment it is recommended that the variation be supported.

9.3.2 Site Cover

The subject site is located within the R1 Zone where 50% site cover is permitted. The development proposes 37.6% site cover which is acceptable. The proposed development provides adequate space for parking, landscaping and outdoor areas have been provided in accordance with the objectives and controls within this section.

9.3.4 Solar Access

The proposed development has been designed to achieve an adequate amount of sunlight into the proposed development whilst addressing the constraints of the site in accordance with the controls of this section. The proposed development has been designed with a flat roof to mitigate impacts on the adjoining lots. Overshadowing is limited to the rear yard of the adjoining lot to the south the presence of two large trees in the lot already substantially overshadow the pool and yard area. Therefore, the overshadowing is considered negligible. It should be noted that the existing dwelling to the south is significantly setback from the northern boundary and therefore northern facing living areas will receive adequate solar access.

9.3.5 Private Open Space

The proposed dwelling is provided with an acceptable amount of private open space that is accessed from the living area. The dwelling has been sited to mitigate privacy impacts and both the existing dwelling and the proposed dwelling will be adequately fenced thus providing an acceptable amount of privacy.

9.3.7 Side and Rear Setbacks

Adequate side and rear setbacks have been provided and will ensure adequate separation between buildings for landscaping, privacy, natural light and ventilation in accordance with controls.

9.4.1 Building Elements

The proposed development has been designed to ensure quality built form. The proposed dwelling is provided with a covered outdoor area to link external and internal areas. The dwelling is also provided with a sheltered and clearly visible entry. Ancillary components are located within the development and will not be visible from the street. As such the proposed development complies with the objectives and controls within this section.

9.4.2 Materials and Finishes

The proposed development is to be constructed of a timber frame clad in differing forms of fibre cement sheeting with a flat roof and is a reflection of the design of the existing dwelling on site. The materials are to be used as to provide quality built form with a minimum number of reflective elements. As such the proposal is considered to comply with the objectives and controls within this section.

9.4.3 Privacy

The proposed development has been designed to mitigate potential privacy concerns. Windows have been offset and there is no direct line of sight between private open space areas. Also existing fencing and the presence of a solid wall on the southern elevation will provide further privacy within the site. As such the proposal complies with the objectives and controls within this section.

9.4.4 Garages, Carports, Sheds and Driveways

The proposed development makes provision for a double garage which will be utilised by both the existing dwelling and proposed dwelling. The garage is located to the rear of the existing dwelling off the internal vehicle movement area. The floor area of the proposed outbuilding (garage) is 40m² in area and result in 6.11% site coverage and is the only outbuilding on the site. The height of the garage is 3.2 metres. Therefore, the proposed garage complies with the objectives and controls within this section.

9.4.5 Site Facilities

Adequate space is provided within the site for all required site services in accordance with the provisions of this clause.

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

No planning agreements have been entered into under Section 7.4.

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

Matters prescribed by the regulations have been satisfied.

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

	Satisfactory	Not Satisfactory	Not Relevant	Comment
Context & Setting	x			The subject site is unique, the site adjoins both the Heritage Conservation Area and the Medium Density Zone. The proposed development is within the rear of the site and has been designed to mitigate the impacts on adjoining development. Therefore, the development is considered acceptable within the context and setting of the site.
Streetscape	x			The proposed development is to the rear of the site and therefore no alterations to the streetscape are proposed with the exception of the access driveway which is considered acceptable.
Traffic, access and parking	x			Vehicle access is provided from a shared driveway in Brookong Avenue. The driveway and associated vehicle movement areas are of an acceptable size to allow for movement within the site given the scale of the proposed development. Additional parking has been provided within the site to

				address the constraints of the locality. Given the scale of the proposed development additional traffic created by the proposed development is able to be accommodated within the road network.
Public Domain	x			The proposed development is not considered to have a negative impact on the public domain given the dwelling's location within the rear yard.
Utilities	x			The site is connected to all essential services.
Heritage	x			The site adjoins the Heritage Conservation Area to the south. The proposed dwelling is sited within the rear yard and has been designed to complement the existing dwelling within the subject site. The dwelling is of an acceptable size and scale and given the setback of the contributory dwelling to the south is not considered to have an adverse impact on the Heritage Conservation Area.
Other land resources	x			None identified.
Water Quality & Stormwater	x			No adverse impacts have been identified.
Soils, soil erosion	x			Conditions of consent will be imposed to mitigate any potential impact on the subject site or adjoining allotments.
Air and microclimate	x			The demolition will have some effect on air quality. Conditions of consent will be imposed in regards to demolition.
Flora and Fauna	x			Two trees are identified on the submitted plans for removal however both trees are under 8 metres in height and therefore do not require consent to remove them.
Waste	x			Conditions of consent will ensure that construction waste is disposed of in an appropriate manner.
Energy	x			A valid BASIX Certificate was lodged with the application. Commitments identified on the certificate will form part of conditions of consent.
Noise & vibration	x			The construction of the development will generate some noise. Standard conditions of consent will be imposed to mitigate impact.
Hours of operation			x	Not applicable.
Natural hazards - Flooding - Bushfire Prone Area map	x			The subject site is identified as prone to overland flow in a 1% storm event. The depth of inundation is minor and in frequent. Therefore, no concerns are raised in relation to flooding.
Technological Hazards	x			None identified.
Safety, security and crime prevention	x			The proposed development provides adequate passive surveillance and has clearly defined public and private areas in accordance with Council requirements
Social impact in locality	x			The development will provide variety in housing choice in proximity to the centre and Wagga Base Hospital.
Economic Impact in Locality	x			The proposed development will provide work for the construction and related industries.
Site design and internal design	x			The proposed development has been designed to provide adequate solar access to living and private open space areas whilst responding to the constraints of the site. The proposed development is generally in accordance with controls and objectives within the DCP.

Overlooking - overshadowing	x			The proposed development has been designed to mitigate privacy impacts. The existing fence will provide adequate screening, living areas have also been sited in the middle of the dwelling and a solid wall on the southern elevation will prevent overlooking. The proposed development is likely to result in some overshadowing to the pool in the adjoining lot to the south the rear yard. It should be noted that the proposed development has been designed with a flat roof to mitigate impacts on the adjoining lots and the existing dwelling to the south is significantly setback from the northern boundary and a substantial amount of vegetation currently overshadows dwelling. Therefore, the impact of the proposed development is considered acceptable.
Landscaping	x			Adequate landscaping has been proposed. Plants are to be Australian natives and are generally in accordance with requirements.
Construction	x			To comply with BCA standards.
Private open space	x			An adequate amount of private open space has been provided which is appropriately located.
Cumulative Impacts	x			None identified.
Disabled access			x	Not required.
Signage			x	Not applicable.
Setbacks, Building Envelopes	x			The proposed development achieves desired side and rear setbacks.

The Principles of Ecologically Sustainable Development

The following are principles of ecological sustainability:

1 The precautionary principle

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

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

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

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

2 Intergenerational equity

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

3 Conservation of biological diversity and ecological integrity

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

4 Improved valuation, pricing and incentive mechanisms

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

- (a) polluter pays (that is, those who generate pollution and waste should bear the cost of*

containment, avoidance or abatement), and

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

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

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

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

The subject land located at 8 Brookong Avenue is considered to be suitable for the proposed development because it is residentially zoned land being developed for a residential purpose that generally complies with the controls and objectives within the WWLEP2010 and the WWDCP2010.

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

Referrals - The proposed development was referred to Council's relevant Officers. No concerns were raised. Standard conditions of consent were imposed.

Notification - The proposed development was notified for a period of 14 days from 2 to 17 June 2021.

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

Public Submissions and those from public authorities

Two submissions were received during the notification period. The submissions raised concerns in regards to the minimum lot size, solar access, privacy, the impact from the removal of vegetation, parking and traffic. Other concerns were also raised however the concerns are not considered planning related and therefore are not relevant to the assessment of the proposed development.

The proposed development seeks to vary the minimum lot size requirement. The submitter stated that the land is too small to accommodate the proposed development and should be refused on the grounds of the impact that this will cause on the adjoining properties. Also, the justification for the proposed variation is either false, misleading or simply ludicrous. Whilst the proposed development does seek to vary a control within the DCP, the justification provided was used to guide the assessment however the assessment was conducted in terms of the DCP and the overall impacts as a result of the proposed development.

The submitter also stated that the development will impact on the solar access of the adjoining dwelling in winter and block the natural lighting to the house. In the summer the proposed development will also block the sun to the pool and yard and that this would be devastating. The proposed development will have some impact on the adjoining lot however as previously discussed within this assessment the impact will be limited to the rear yard.

The dwelling has been designed to mitigate impacts on the surrounding development by being adequately setback within the subject site and the presence of a flat roof. The surrounding development including that of the dwelling located to the south will still receive an acceptable amount of solar access in accordance with the controls within the DCP.

Concerns were also raised in regards to the removal of vegetation stating that the development will result in an increase in heat and cost of cooling. There are two trees being removed as part of the subject application. The trees are below 8 metres in height and therefore can be removed without approval from Council. The presence of the hardstand areas is unlikely to cause additional heat within or adjoining the subject site given that these are on ground level and will allow for air to pass over the area without being trapped.

Privacy was raised as a concern with vehicle movement areas and the proposed dwelling being located in the rear of the site. It should be noted that the site is fully fenced and therefore lights from cars will not pass onto neighbouring properties. In addition, given the nature of the proposed development being a two bedroom house, the development is unlikely to generate more traffic than a standard dwelling.

Parking was raised as concern with one submitter stating that no parking was provided. The development in this case provides a double garage for use by the existing dwelling and proposed dwelling and an additional two visitor parking spaces. This exceeds the requirements of the DCP and is therefore considered acceptable.

Concerns were also raised in regards to traffic and safety issues within the locality. One submitter stated that by having more cars within the area with already restricted parking is extremely dangerous. The proposed development is for a two bedroom dwelling to the rear of an existing dwelling. Cars are able to be accommodated within the site and will not rely upon on-street parking. Also, adequate sightlines to the street have been provided by the existing driveway.

Bin location was also raised as a potential issue however considering the proposed dwelling will add one set of additional bins this is considered reasonable and will not affect the servicing of the site. An adequate area is available within the yard space of each dwelling for the storage of garbage bins without obstructing other functions on the site.

Section 4.15(e) - the public interest

The public interest is a broad consideration relating to many issues, taking into account the full range of matters for consideration under Section 4.15 of the Environmental Planning and Assessment 1979 (as discussed within this report) it is considered that approval of the application is the public interest.

Other Legislative Requirements

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

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

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

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

No

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

No native vegetation is proposed to be removed.

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

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

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

Section 733 of the Local Government Act 1993

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

Flooding Risk Assessment

Matters relating to flooding have been addressed in both the LEP and DCP sections of this report. The assessment supports the development in regards to flooding.

Bush Fire Risk Assessment

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

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 of the EPA Act, 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019 - 2034 enable Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. A credit will be applied for the existing dwelling.

Calculations

Contribution rate for 3 or more bedroom dwelling = \$10,012 (credit to be applied)

Contribution rate for 2 bedroom dwelling = \$7,702

$$10,012 + 7,702 = 17,714 - 10,012 = \mathbf{\$7,702}$$

With CPI

$$7,702 \times 118.5/115.1 = \mathbf{\$7,929.51}$$

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

Sewer

Existing impact: Existing dwelling \$3538

Proposed: (1 existing dwelling, one additional dwelling) $2 \times 3538 = \$7,076 - 3538 = 3538$

CPI Added: $3538 \times 118/100.5 = \mathbf{\$4,154.06}$

Stormwater

Proposed = $0.83 - 0.74/0.74 \times 3007 = \365.71

No credit is applied as this calculation only calculates the incremental increase on the existing impact.

Plus CPI

$$365.71 \times 118/100.5 = \mathbf{429.40}$$

Referrals:

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

Plumbing Inspector: Yes, no concerns raised. Standard conditions of consent imposed.

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

Environmental Officer: N/A

Parks & Recreation Officer: N/A

Other Approvals:

Nil

Conclusion:

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

- The application is for the construction of a two storey dwelling to the rear of an existing dwelling to create a dual occupancy in the R1 General Residential Zone which is permitted with consent.
- The development complies with the requirements of the Environmental Planning and Assessment Act 1979 and will not compromise the outcomes sought for the Wagga Wagga Local Environmental Plan 2010.

- An assessment of the application against the relevant sections of the Wagga Wagga Development Control Plan 2010 demonstrates that the proposed development will not cause any significant adverse impacts on the surrounding natural environment, built environment, infrastructure, community facilities or local character and amenity.

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

RECOMMENDATION

It is recommended that application number DA21/0292 for Erection of a two-bedroom dwelling to the rear of the existing dwelling to create a dual occupancy be approved, subject to the following conditions:-

CONDITIONS OF CONSENT FOR APPLICATION NO.

Right click & select OR delete if NO deferred commencement consents

A. SCHEDULE A – Reasons for Conditions

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

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

B. SCHEDULE B – Deferred Commencement Conditions

N/A

C. SCHEDULE C – Conditions

Approved Plans and Documentation

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

Plan/DocNo.	Plan/Doc Title	Prepared by	Issue	Date
	Statement of Environmental Effects	Iris Planning		5.05.2021
1196420S	BASIX Certificate	Evergreen Energy Consultants Pty Ltd		22.04.2021
5533/1	Site Plan Layout	Darryl Forbes-Taber Building Design		8.04.2021
5533/2	Floor Plan Layout	Darryl Forbes-Taber Building Design		8.04.2021
5533/3	Elevations & Sections	Darryl Forbes-Taber Building Design		8.04.2021
5533/5	Landscaping Layout Plan	Darryl Forbes-Taber Building Design		8.04.2021
	Summary of BASIX Commitments	Evergreen Energy Consultants Pty Ltd		22.04.2021

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

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

Requirements before a Construction Certificate can be issued

- C.2 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)	\$7,702
Adopted CPI indexation applied at date of determination (as per Section 3.2 of Wagga Wagga Local Infrastructure Contributions Plan 2019-2034)	118.5/115.1 (see Note 1)
Indexed monetary contribution to be paid (valid for the financial year in which the date of determination was made)	\$ 7,929.51 (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.3 Prior to the release of Construction Certificate a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.
- NOTE 1: 'Water management work' is defined in s283 of the Water Management Act to mean a 'water supply work', 'drainage work', 'sewage work' or 'flood work'. These terms are defined in that Act.
- NOTE 2: Riverina Water is responsible for issuing compliance certificates and imposing requirements relating to water supply works for development in the Council's area. An application for a compliance certificate must be made with Riverina Water. Additional fees and charges may be incurred by the proposed development - please contact Riverina Water to ascertain compliance certificate water supply related requirements. A copy of such a compliance certificate is required prior to release of Construction Certificate.
- NOTE 3: The Council is responsible for issuing compliance certificates and imposing requirements relating to sewerage, drainage and flood works for development in its area.
- NOTE 4: Under s306 of the Water Management Act 2000, Riverina Water or the Council, as the case requires, may, as a precondition to the issuing of a compliance certificate, impose a requirement that a payment is made or works are carried out, or both, towards the provision of water supply, sewerage, drainage or flood works.
- NOTE 5: The Section 64 Sewer base figure is \$3538.

The Section 64 Sewer contribution (updated by the CPI 118/100.5) required to be paid is \$4154.06.
- NOTE 6: The Section 64 Stormwater base figure is \$365.71.

The Section 64 Stormwater contribution (updated by the CPI 118/87.9) required to be paid is \$429.40.
- NOTE 7: Section 64 contributions shall be indexed in accordance with CPI annually at the commencement of the financial year.
- NOTE 8: The figures outlined in this consent are based on the current rate of CPI. Please be advised that CPI changes on a regular basis and you are advised to contact Council prior to payments being made, to

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

Requirements before the commencement of any works

C.4 Prior to works commencing on site, toilet facilities must be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a) a standard flushing toilet connected to a public sewer, or
- b) if that is not practicable, an accredited sewage management facility approved by Council, or
- c) if that is not practicable, any other sewage management facility approved by Council.

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

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

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

C.5 A CONSTRUCTION CERTIFICATE must be obtained pursuant to Section 6.7 of the Environmental Planning and Assessment Act 1979, as amended from either Council or an accredited certifying authority certifying that the proposed works are in accordance with the Building Code of Australia PRIOR to any works commencing.

NOTE 1: No building, engineering, excavation work or food premises fitout must be carried out in relation to this development until the necessary Construction Certificate has been obtained.

NOTE 2: YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE CONSTRUCTION CERTIFICATE, even if you made an application for a Construction Certificate at the same time as you lodged this Development Application.

NOTE 3: It is the responsibility of the applicant to ensure that the development complies with the provision of the Building Code of Australia in the case of building work and the applicable Council Engineering Standards in the case of subdivision works. This may entail alterations to the proposal so that it complies with these standards.

- C.6 Prior to works commencing a container must be erected on site for the enclosure of all building rubbish and debris, including that which can be wind blown. The enclosure shall be approved by Council and be retained on site at all times prior to the disposal of rubbish at a licenced Waste Management Centre.

Materials and sheds or machinery to be used in association with the construction of the building must not be stored or stacked on Council's footpath, nature strip, reserve or roadway.

NOTE 1: No building rubbish or debris must be placed, or be permitted to be placed on any adjoining public reserve, footway, road or private land.

NOTE 2: Weighbridge certificates, receipts or dockets that clearly identify where waste has been deposited must be retained. Documentation must include quantities and nature of the waste. This documentation must be provided to Council prior to application for an Occupation Certificate for the development.

NOTE 3: The suitable container for the storage of rubbish must be retained on site until an Occupation Certificate is issued for the development.

- C.7 Prior to the commencement of works erosion and sediment control measures are to be established and maintained to prevent silt and sediment escaping the site or producing erosion. This work must be carried out and maintained in accordance with Council's:-

- a) Development Control Plan 2010 (Section 2.6 and Appendix 2)
- b) Erosion and Sediment Control Guidelines for Building Sites; and
- c) Soils and Construction Volume 1, Managing Urban Stormwater

Prior to commencement of works, a plan illustrating these measures shall be submitted to, and approved by, Council.

NOTE: All erosion and sediment control measures must be in place prior to earthworks commencing.

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

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

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

Requirements during construction or site works

- C.9 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.

- C.10 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.11 The demolition must be carried out in accordance with the provisions of Australian Standard AS2601-2001: The Demolition of Structures.

Within fourteen (14) days of completion of demolition, the following information shall be submitted to Council for assessment and approval:

- a) an asbestos clearance certificate prepared by a competent person; and
- b) a signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with any Waste Management Plan approved with this consent. In reviewing such documentation Council will require the provision of actual weighbridge receipts for the recycling/disposal of all materials.

NOTE 1: Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.

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

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

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

- C.12 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.

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

- C.13 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.14 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.15 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.16 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)

N/A

E. SCHEDULE E – Prescribed Conditions

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

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

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

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

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

NOTE 1: This condition does not apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental

Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

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

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

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

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

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

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

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

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

- (a) protect and support the building, structure or work from possible damage from the excavation, and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.

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

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

N/A
