



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

## APPLICATION DETAILS

Application No.:	DA20/0427
Modification No.:	N/A
Council File No.:	D/2020/0427
Date of Lodgement:	28/08/2020
Applicant:	G & M Commins Pty Ltd Po Box 2 JUNEE NSW 2663 Michael Commins
Proposal:	Attached Dwellings (3) Multi dwelling housing with community subdivision
Description of Modification:	N/A
Development Cost:	\$900000
Assessment Officer:	Sam Robins
Determination Body:	Council - The application has been referred to Council under Section 1.11 of the Wagga Wagga Development Control Plan 2010 (WWDCCP) due to the variation of a numerical control for a multi dwelling housing development that has received submissions relating to that variation.
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal Transport for NSW
Adjoining Owners Notification:	10/09/20 - 24/09/20
Advertising:	10/09/20 - 24/09/20
Owner's Consent Provided:	Yes
Location:	The subject land is known as Lot 9 DP 12441, 334 Edward Street and is located on the southern side of the street between Cullen Road and Emblem Street.

## SITE DETAILS

Subject Land: 334 Edward St WAGGA WAGGA NSW 2650

Owner: Lot 9 DP 12441  
G & M Commins Pty Ltd

### **DESCRIPTION OF DEVELOPMENT**

The applicant seeks permission for the demolition of the existing dwelling on site and the construction of three attached two-storey dwellings (multi dwelling).

The units will be constructed in a linear development running back into the lot. Unit 1 will face Edward Street and the driveway runs down the eastern side of the property. All three units will be three bedroom with units one and two having double garages and unit three having a single garage with parking space to the side of the unit.

The units will be brick veneer construction at the lower level and clad at the upper level.

The application includes community title subdivision.

### **THE SITE & LOCALITY**

The subject land is known as Lot 9 DP 12441, 334 Edward Street and is located on the southern side of the street between Cullen Road and Emblem Street.

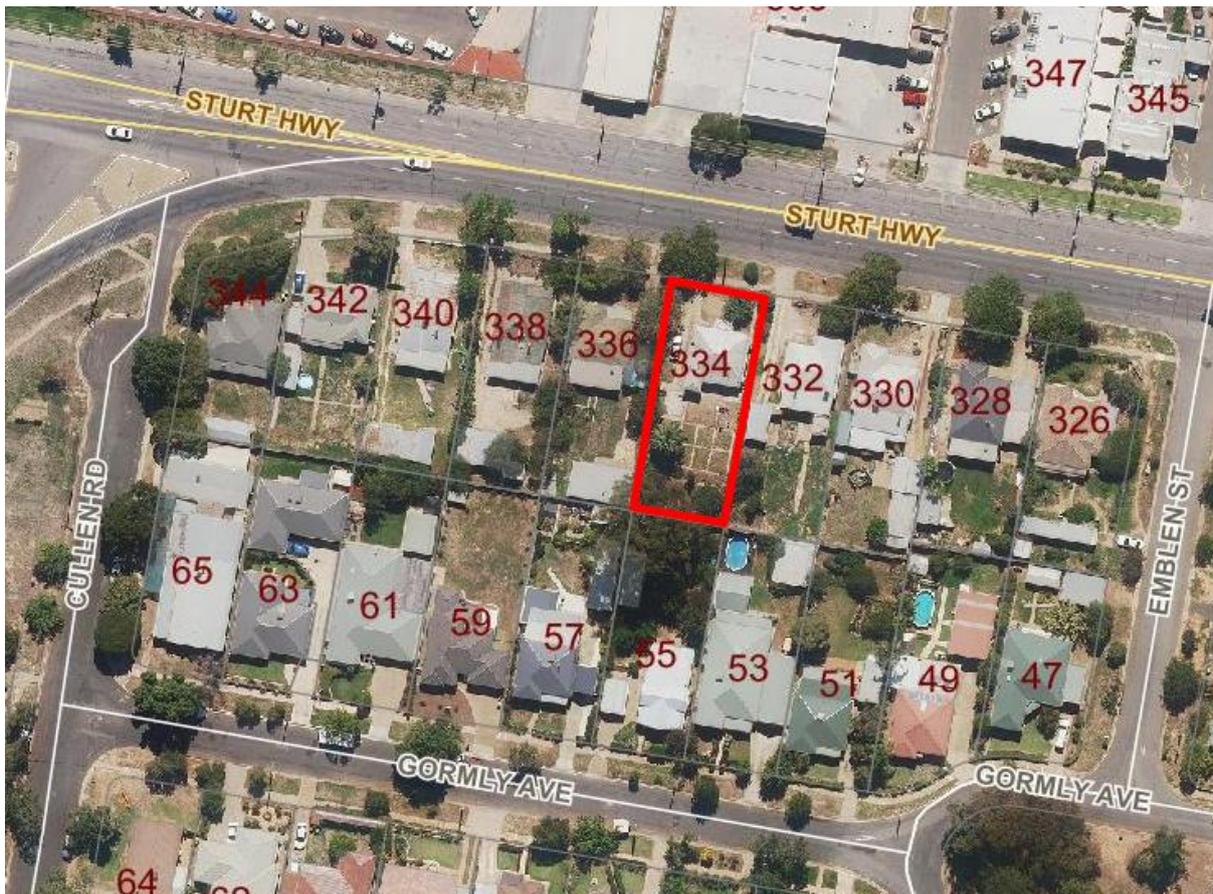
The site measures 714.50m<sup>2</sup> and is a flat residential lot that contains a single storey detached dwelling with access off Edward Street. The site contains garden plantings that are of no value and has a sewer easement to the rear.

The locality is a mix of land uses. Immediately to the east, west and south are residential properties. To the north is the Sturt Highway (Edward Street) and an existing service station opposite the site. The wider context includes medical practitioners and the hospitals to the south and east and commercial/industrial to the west and north.

It should be noted that Council currently has an application for the demolition of the five dwellings immediately to the west of the subject site and the construction of a Health Services Facility (DA20/0476). This application will be determined by the Southern Regional Planning Panel.

The subject site is located in the Health and Knowledge precinct.

A site visit was undertaken on 7/9/20 by the assessing officer.



#### Previous relevant development consents

Nil

#### Easements and covenants

The site contains a sewer easement located along the southern boundary.

#### SUMMARY OF MAIN ISSUES

Impact on character of the area

Impact on the amenity of adjoining neighbours

Compliance with Councils Development Control Plan 2010

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#### MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

*For the purpose of determining this development application, the following matters that are of relevance to the development have been taken into consideration pursuant to the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act, 1979.*

#### **(a)(i) - The provisions of any environmental planning instrument (EPI)**

##### **Local Environmental Plan**

##### **Wagga Wagga Local Environmental Plan 2010 (LEP 2010)**

The following provisions of the LEP 2010 apply:

##### **Land Use Table**

Under the LEP the site is zoned R3 - Medium Density Residential

The objectives of the zone that would be considered relevant are;

- *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*

Under the LEP 2010 the proposal would be considered a Multi Dwelling Housing. Multi Dwelling Housing is defined 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.

Under Section 3 Part 2- Multi Dwelling Housing is permitted with consent, by making this application for consent, the proposed use can be considered under the relevant provisions of this section. The LEP 2010 provisions do not prohibit multi dwelling housing in this zone and the development is seen to be consistent with the relevant objectives of the zone.

## **2.7 Demolition requires development consent**

*The demolition of a building or work may be carried out only with development consent.*

By lodging this application the applicant has complied with this clause of the LEP.

## **Part 7 - Additional Local Provisions**

### **7.1A Earthworks**

(1) *The objectives of this clause are as follows:*

- (a) *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,*
- (b) *to allow earthworks of a minor nature without requiring separate development consent.*

(2) *Development consent is required for earthworks unless:*

- (a) *the work is exempt development under this Plan or another applicable environmental planning instrument, or*
- (b) *the work is ancillary to other development for which development consent has been given.*

(3) *Before granting development consent for earthworks, the consent authority must consider the following matters:*

- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
- (b) *the effect of the proposed development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the proposed development on the existing and likely amenity of*

*adjoining properties,*

*(e) the source of any fill material and the destination of any excavated material,*

*(f) the likelihood of disturbing relics,*

*(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

*Note. The National Parks and Wildlife Act 1974, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.*

Given the flat nature of the lot minimal earthworks will be required. The development is not expected to raise any issues with regards to the above considerations. Conditions on any consent granted would control sediment and erosion issues and the protection of the neighbouring property from any redirection of flows during construction.

The impact on the amenity of the neighbouring property has been discussed in the body of this report and deemed acceptable.

## 7.2 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 land's flood hazard, taking into account projected changes as a result of climate change,*

*(c) to avoid significant adverse impacts on flood behaviour and the environment.*

*(2) This clause applies to:*

*(a) land that is shown as "Flood planning area" on the Flood Planning Map, and*

*(b) other land at or below the flood planning level.*

*(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*

*(a) is compatible with the flood hazard of the land, and*

*(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*

*(c) incorporates appropriate measures to manage risk to life from flood, and*

*(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*

*(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

*(4) A word or expression used in this clause has the same meaning as it has in the NSW*

*Government's Floodplain Development Manual published in 2005, unless it is otherwise defined in this clause.*

*(5) In this clause:*

*flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard.*

*Flood Planning Map means the Wagga Wagga Local Environmental Plan 2010 Flood Planning Map.*

There is a minor encroachment of the 1% event onto the front of the lot that would make this clause relevant. However, this is under the modelling for the 2014 study which is about to be replaced by the 2018 study once the levee has been signed off as complete. Under the 2018 study, the site is not considered to be 'at or below the flood planning level' and therefore would not be subject to assessment under this clause.

Given that only a very small section of the front of the lot is subject to inundation the proposal would be considered to be acceptable with regard to the matters for consideration under (3) above. No issues are raised with regard to flood impacts.

### 7.3 - Biodiversity

This clause applies to land identified as "Biodiversity" on the Terrestrial Biodiversity Map. The site would be subject to assessment under this clause.

*(1) The objectives of this clause are to protect, maintain or improve the diversity of the native vegetation, including-*

- (a) protecting biological diversity of native flora and fauna, and*
- (b) protecting the ecological processes necessary for their continued existence, and*
- (c) encouraging the recovery of threatened species, communities or populations and their habitats.*

*(2) This clause applies to land identified as "Biodiversity" on the Terrestrial Biodiversity Map.*

*(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:*

*(a) any potential adverse impact of the proposed development on any of the following:*

- (i) a native vegetation community,*
- (ii) the habitat of any threatened species, population or ecological community,*
- (iii) a regionally significant species of plant, animal or habitat,*
- (iv) a habitat corridor,*
- (v) a wetland,*
- (vi) the biodiversity values within a reserve, including a road reserve or a stock route,*

*(b) any proposed measures to be undertaken to ameliorate any such potential adverse impact.*

*(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development is consistent with the objectives of this clause and:*

- (a) the development is designed, sited and managed to avoid any potential adverse*

- environmental impact, or*
- (b) if a potential adverse impact cannot be avoided, the development:*
- (i) is designed and sited so as to have minimum adverse impact, and*
  - (ii) incorporates effective measures so as to have minimal adverse impact, and*
  - (iii) mitigates any residual adverse impact through the restoration of any existing disturbed or modified area on the site.*

It is unclear from a site visit and desk top analysis why part of the site has been mapped. There does not appear to be any land of biodiversity value within the land mapped. It is reasonable to assume that this is an error with the mapping.

Furthermore, the site is located within the biocertified area. Development on land that is biocertified can be taken to be development that would not significantly affect threatened species, ecological communities or their habitats. The impacts of development on biocertified land have been assessed and offset in accordance with the Biodiversity Conservation Strategy.

#### 7.6 - Groundwater Vulnerability

As the application site is identified as 'Groundwater' on the Water Resource Map, the works would be subject to assessment under this clause.

The proposal is not a development listed under this clause and therefore no further assessment is required.

#### Clause 7.9 - Primacy of Zone B3 Commercial Core

*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 a Multi Dwelling Housing in a residential zone. The use is not of a type that would be appropriate or could be reasonably housed in the CBD. Therefore, it is considered that the development is unlikely to impact on the primacy of the B3 Commercial Core zone of the city.

#### **State Environmental Planning Policies**

##### ***State Environmental Planning Policy No. 55***

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. A site visit and detailed desk top analysis did not identify any areas of concern. Furthermore, the land is not identified on Councils 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 proposed use.

##### ***State Environmental Planning Policy (BASIX).***

Certificates are attached to this application.

## State Environmental Planning Policy (Infrastructure) 2007

### *Division 17 Roads and Traffic*

#### *Subdivision 2 Development in or adjacent to road corridors and road reservations*

##### *101 Development with frontage to classified road*

*(1) The objectives of this clause are:*

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

*(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
  - (i) the design of the vehicular access to the land, or*
  - (ii) the emission of smoke or dust from the development, or*
  - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and**
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The entrance and exit to the property is off Edward Street. The application was referred to Transport NSW for comment. Their comments were received on 7/10/20. The comments have been included below:

*TfNSW has assessed the Development Application based on the documentation provided and would raise no objection to the development proposal subject to the Consent Authority ensuring that the development is undertaken in accordance with the information submitted as amended by the inclusion of the following as conditions of consent (if approved):-*

- 1. Any proposed access driveway to the development shall be constructed with a minimum width to provide for two-way movement and so that the driveway rises to the level of the pedestrian footpath along the frontage of the site and does not have the footpath step down onto the roadway.*
- 2. The off-street car park layout associated with the proposed development including driveway design and location, internal aisle widths and parking bay dimensions are to be in accordance with AS 2890.1-2004 "Off-street car parking" and AS 2890.2-2002 "Off-street commercial vehicle facilities" and be designed in a manner to ensure all vehicles enter and exit the development site in a forward motion.*
- 3. All existing driveways or laybacks servicing the subject site to Edward Street are to be removed and the road reserve shall be reinstated to match the surrounding roadside landform, including kerb & gutter, in accordance with Council requirements.*
- 4. Any landscaping or fencing to be provided within the site or along the boundary with any*

*adjoining road reserve is to be designed and maintained to provide safe sight distance to pedestrians for motorists entering and exiting the subject site to minimise conflict in accordance with AS2890.1-2004 "Off-street car parking".*

5. *Stormwater run-off from the subject site onto the adjoining road reserve as a result of the proposed development is not to exceed the existing level of run-off from the subject site. Suitable provision should be made to retard any increased storm water run-off from the site.*
6. *A construction management plan to address demolition and construction activity, access and parking is to be prepared to ensure that suitable provision is available on site for all vehicles associated with the construction of the development to alleviate any need to park within, or load/unload from the road reserve of Edward Street (Sturt Highway). The storage of any material within the road reserve of Edward Street is denied. Appropriate signage and fencing is to be installed and maintained to effect this requirement.*
7. *Any works within the road reserve of Edward Street (Sturt Highway) which is a Classified Road requires concurrence from Transport for NSW under section 138 of the Roads Act 1993 prior to commencement of any such works. The developer is responsible for all public utility adjustment/relocation works, necessitated by the proposed development and as required by the various public utility authorities and/or their agents.*
8. *Any works associated with the proposed development shall be at no cost to Transport for NSW.*

*Further to the above the Council is requested to provide the following advice to the applicant*

*Traffic control measures, such as a raised central median, may be implemented within the Sturt Highway (Edward Street) adjacent to the development site in the future when traffic volumes and/or safety needs warrant such works. The installation of such measures may cause loss of on-street parking along Edward Street and is likely to restrict vehicular access to the subject site to left-in and left-out movement only.*

Taking the above comments into account and considering (2) above, Council staff do not consider the development to adversely impact on the safety, efficiency and ongoing operation of Edward Street. Relevant conditions will be included on any consent granted.

**(a)(ii) - The provisions of any draft environmental planning instrument**

**Draft local environmental plans**

N/A

**Draft state environmental planning instruments**

*Draft State Environmental Planning Policy - Remediation of Land*

The Draft SEPP was placed on exhibition until 31 March 2018. The SEPP will replace SEPP 55. The Explanation of Intended Effects outlines that the key operation framework of SEPP 55 will remain. Changes in the SEPP relate primarily to land undergoing remediation work. Therefore, for a development such as this, little will change between SEPP 55 and the Remediation of Land SEPP.

**(a)(iii) - Any development control plan**

### **Wagga Wagga Development Control Plan 2010**

The relevant controls of the DCP have been addressed below.

#### 1.11 Complying with the Development Control Plan 2010

*The controls in the DCP support the Guiding Principles of the Plan and principles and objectives within the various sections. Except as varied elsewhere in this Plan, all Development Applications, Section 96 Applications and Section 82A Applications should aim to satisfy all stated objectives and controls.*

*Whilst all developments should aim to satisfy all controls within the DCP, it is acknowledged that there may be circumstances where it may not be possible to achieve strict compliance.*

*Council may consent to an application which departs from any control, whether a “numeric” or non-numeric control. In such cases, a written submission must be lodged with the Development Application.*

*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.*

The application proposes the following variations:

- Clause 9.2.2 - Streetscape control C1

*C1 Provide a street address and front elevation that is consistent with the predominant scale, rhythm and form of the street.*

- Clause 9.3.2 - Site cover control C1

*C1 Maximum site cover 40%*

- Clause 9.3.3 - R3 Zone minimum frontage control C1

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

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 issues surrounding the variations have been discussed throughout this report.

## 2.1 Vehicle access and movements

The relevant controls for this section are as follows:

- C3 *Vehicles are to enter and leave in a forward direction unless it can be demonstrated that site conditions prevent it.*
- C5 *Access driveways are to be located in accordance with the relevant Australian Standard at the time of lodgement of an application.*
- C6 *Ensure adequate sight lines for proposed driveways*

The application proposes one access point off Edward Street that will service all three units. The design allows vehicles to enter and exit in a forward direction. The access driveway raises no unreasonable site line issues and will be conditioned to meet appropriate standards.

## 2.2 Off-street parking

The following controls of this section are relevant to this development:

- C1 *Parking is to be provided in accordance with the table below.*

The development would be subject to the following controls:

- 2 spaces/3 or more bedrooms

The development provides a double garage for units 1 and 2 and a single garage with separate car space for unit 3. The proposal would comply with this provision.

The proposal complies with all other controls in this section.

## 2.3 Landscaping

A landscape plan was submitted with the proposal. The landscaping includes shrubs and trees within the front setback and driveway area to enhance the setting of the overall site and the individual units. The proposed landscaping within the front setback area will make a positive contribution to the streetscape and is consistent with this section of the DCP. A submission has raised concern regarding the species at the rear of the property and potential impact on the swimming pool at the rear of the neighbouring lot. There is no reason why the species cannot be altered to address this concern and therefore a condition will be included to address this issue.

## 2.5 Safety and security

The objectives and controls of this section that are relevant for this development are as follows:

### Objectives

- O3 *Maximise opportunities for natural surveillance of public spaces and building or site entrances.*

### Controls

- C1 *Use good site planning to clearly define public, semi-public and private areas.*
- C2 *Entries are to be clearly visible and identifiable from the street, and are to give the resident/occupier a sense of personal address and shelter. For non-residential uses, administration offices or showroom are to be located at the front of the building.*
- C3 *Minimise blank walls along street frontages.*
- C4 *Avoid areas of potential concealment and 'blind' corners.*
- C5 *Provide lighting to external entry areas, driveways and car parks in accordance with the relevant Australian Standards. The lighting is to be designed and sited to minimise spill and potential nuisance to adjoining properties.*
- C6 *Planting and fencing is not to reduce the safety of users or compromise areas of natural surveillance.*

The construction of dwellings will result in increased surveillance and activity within the street to the benefit of residents and local community. The battle-axe arrangement will result in dwellings hidden to the rear of the site, whilst this is not ideal it is a common arrangement within Wagga's medium density residential zones and it does not warrant refusal of the application.

### 2.6 Erosion and Sediment Control Principles

The site is unlikely to raise any sediment and erosion issues. Conditions of consent will ensure that measures are put in place during any construction.

## Section 4 Environmental Hazards and Management

### 4.2 Flooding

As mentioned, the site is flood prone but within the main city levee. The only relevant control of this section requires a floor level of 225mm above ground level for residential development. Whilst this is achievable it is considered unnecessary given it is only the front section of the lot that is impacted and no dwellings will be built on the impacted section. It is considered acceptable to vary this requirement.

## Section 5 Natural Resource and Landscape Management

### 5.4 Environmentally sensitive land

This issue has been addressed under Clauses 7.3 and 7.6 of the LEP above, given the nature of the works and the existing structures on site negligible issues are expected.

## Section 7 Subdivision

The objectives and controls of this section of the DCP relate to subdivisions to create new lots as opposed to the community or strata title of units on a single lot of land with no public infrastructure. Therefore, there are no specific controls that apply.

The application seeks to subdivide the Multi Dwelling Housing development into a four (4) lot community title plan. The community parcel (lot 1) consists of the entrance driveway. The developable lots (Lot 2 (Unit 1), Lot 3 (Unit 2) and Lot 4 (unit 3) will retain acceptable solar access, and will be serviced by existing infrastructure in the vicinity of the subject site.

## Section 9 Residential Development

### 9.1.3 R3 (medium density) Zone in-fill potential

The key priorities for these areas are:

- *Encourage contemporary medium density sustainable building design that increases housing choice while respecting the setting, layout and form of adjoining developments*
- *Provide quality landscaping, particularly to common areas and the public domain.*

#### *Edward Street*

- *Encourage increased development of medium density residential along Edward St.*
- *Encourage development appropriate to the highway frontage.*
- *Encourage site consolidation where possible and where vehicular access other than from Edward Street is possible.*
- *Provide quality built form addressing Edward Street, including quality landscaping.*
- *Improve the quality and consistency of the built form along Edward Street*

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. The proposed development provides a quality built form addressing Edward Street.

#### 9.2.1 Site layout

The site has few natural characteristics to incorporate into the development, with the development minimising wasted space. Cross ventilation is utilised in the design with the placement of windows considered to maximise privacy both within and outside of the development. Natural surveillance is maximised with good views to common areas.

Achieving good quality solar access is difficult on a lot with this orientation. The applicant has lodged compliant BASIX Certificates for all three units and all three have private open space areas that will receive adequate solar access. There are very limited options when it comes to designing multi-residential developments on lots of this size and orientation.

#### 9.2.2 Streetscape

The following controls apply:

- C1** *Provide a street address and front elevation that is consistent with the predominant scale, rhythm and form of the street.*

The application proposes a variation to this control and provides the following justification summarised below:

- *It is considered that two storey multi dwelling housing with reduced setback is appropriate for the R3 zone and future desired character of the land, consistent*

- with similar developments close to central services.*
- The proposed development aligns with the directions in the structure plan for the Health and Knowledge Precinct, which identifies the land be used for medium density accommodation and care.*
- The density proposed is consistent with the medium density development provisions of the DCP.*

Council staff are generally supportive of this justification. There will always be inconsistency with built form during transition from low scale (single dwellings on lots) to medium density developments. The proposal is supported by Councils strategic documents with the R3 zone under the LEP and the Master Plan of the Health and Knowledge Precinct both encouraging medium density development in this location. It should also be noted, that whilst inconsistent in the immediate context, the proposal would not be considered inconsistent in the wider context given the Hospital development, the medical centres and the variety of commercial and industrial developments on both sides of Edward Street.

The design would be considered an 'attractive streetscape' and provide a strong edge between the public and private domain.

The impact on streetscape would be considered acceptable.

**C2** *Front fence height forward of the building line is not to exceed 1200mm. However, a side boundary fence forward of the building line may be permitted to taper from the maximum permitted height (1.8 metres) at the building line down to the 1200mm maximum permitted height at the front boundary.*

The applicant has not proposed front fencing and therefore it would be required to meet the exempt provisions.

**C3** *Fence height at and behind the building line is not to exceed 1800mm in height.*  
Complies

**C4** *The majority of windows in dwelling wall which face the street should be windows of habitable rooms*

The proposal would comply with this control.

#### 9.3.1 Land area per dwelling

Within the R3 zone for Multi Dwelling Housing the maximum land area per dwelling is 350m<sup>2</sup>. As the site measures 714.50m<sup>2</sup> the proposal would comply with this control.

#### 9.3.2 Site cover

Within the R3 zone and for Multi Dwelling Housing the maximum site cover is 40%. The total site cover of the dwellings excluding those areas not included in site cover calculations would be 42.44% of the site and therefore would not comply with this control. The applicant has submitted the following justification summarised below:

- The proposed variation is minor in nature.*
- It is considered the proposed variation is justified on the balance of other planning provisions such as the minimum development density of 1 dwelling per 350m<sup>2</sup> and the overall planning outcome that would be achieved for the site.*
- If a dual occupancy were proposed the site cover permissible would be 50% yet the density would not be met.*
- The plans indicate the proposal would meet other DCP requirements for the*

*provision of private open space, setbacks, access, carparking, overshadowing, privacy and the like, despite the proposed variation.*

Failure to meet this control and the 9.3.3 below (minimum frontage of 20m) would indicate that the site is not suitable for the development proposed. However, as demonstrated by the applicant's justification above, the objectives and controls are somewhat conflicting with the R3 zone encouraging higher density developments yet restricting site cover to less than that of a dual occupancy development.

The reality is that if the proposal was for two dwellings with the same footprint the site cover would be well within the 50% permitted but the density requirement under the DCP would not be achieved. With the exception of the number of vehicle movements (which has been discussed and considered acceptable) the impacts of such a development on the amenity of the area and neighbouring properties would be very similar to that proposed.

On balance, Council staff are generally supportive of the justification provided. The discussion throughout the report has shown that whilst the proposal does cause a degree of impact on the amenity of the area and neighbouring properties it is not to a degree that would warrant refusal given the key priorities and objectives of the R3 zone and the adoption of the Health and Knowledge Precinct Master Plan.

Furthermore, reducing the site cover by 2.44%, which equates to 17.43m<sup>2</sup> would have negligible impact on the amenity of the neighbouring properties.

Council staff are supportive of the proposed variation.

### 9.3.3 R3 Zones - Minimum frontage

#### *Objectives*

- O1 *Ensure that multi dwelling housing and residential flat developments occur on suitably sized lots.*
- O2 *Support the intentions of the R3 Zone to encourage medium density developments.*

#### *Controls*

- 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.*

The site has a frontage of 16.675m and therefore must demonstrate that the development achieves a reasonable density and can satisfy the amenity considerations of this section. The applicant has provided the following justification:

- *Variation of 15% is considered relatively minor*
- *The proposed development would achieve the required density for the R3 zone*
- *Other elements such as landscaping, access, open space, privacy and the avoidance of overshadowing would be achieved.*
- *The proposal is in accordance with the strategic direction of the Health and Knowledge Precinct Master Plan.*

Council staff are generally supportive of this variation given the development has demonstrated that it has met the density requirements for a lot of this size in this zone and

provided adequate parking, landscaping, private open space and access without unreasonably impacting on the amenity of the neighbouring properties.

#### 9.3.4 Solar access

The relevant controls of this section that apply are as follows:

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

Whilst strictly non complaint with this control the design would be considered acceptable given the orientation of the lot. The driveway has been located on the eastern side of the lot to improve the morning sun to the development whilst reducing the developments impact on No.332 Edward Street to the east. This does increase impact on No.336 to the west, however, as mentioned above, Council currently has a development application to demolish No.336-344 and build a Medical Centre on this land. Furthermore, a complaint BASIX Certificate has been lodged for all three units.

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

As mentioned previously, given the orientation of the lot it is very difficult for all three units to be designed with north, north-east living areas and private open space.

Unit 1 has excellent northern exposure to the internal living spaces but the private open space is limited to mainly western orientation.

Unit 2 has north and east facing windows to internal living spaces and a northern exposure to the private open space.

Unit 3 has east and western exposure for the internal living space and north eastern exposure to the private open space.

Whilst not ideal, given the orientation of the lot the design would be considered acceptable.

*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.*

As discussed above.

*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*

As discussed above.

*C6 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 proposal complies with this control.

*C8 Proposed development design should take into account the location of any adjacent private open space and avoid excess overshadowing of that space.*

The proposal will overshadow the rear yards of neighbouring properties. The impacts have been discussed under each neighbouring property below.

No.336 Edward Street located immediately to the west of the subject site. The impact will be in the morning only and down the eastern edge of the lot where the carport and driveway to

the shed at the rear is currently located. The impact is considered acceptable. As mentioned above, this site is currently the subject of a development application where the house would be demolished and replaced with a Medical Centre.

No.332 Edward Street located immediately to the east of the subject site. The impact would be in the afternoon only and along the western edge of the lot where the driveway and shed are currently located. The area to the rear of the shed will be impacted but given the remainder of the yard that is not impacted and the location of the impact (western edge and not immediately to the rear of the dwelling) the impact is considered acceptable.

No.53 Gormly Avenue located to the south east of the subject site. The very rear north western corner of this lot will be impacted in the afternoon. There is a pool in this location that will be impacted by the proposal. Whilst this is not ideal, the amount of area impacted, the location of the impact and the time impacted for, could not reasonably be argued to be 'excessive' overshadowing of the private open space on No.53.

No.55 Gormly Avenue located immediately south of the subject site. The very rear portion of this lot is impacted throughout the day. However, the large Sugar Gum located at the very rear of this lot already causes substantial overshadowing of this portion of the lot. Given the location of the impact (being the very rear of the lot) and the fact that the existing vegetation already causes substantial shadowing the impact would be considered acceptable.

No.57 Gormly Avenue located to the south west of the subject site. The very rear north eastern corner of this lot will be impacted in the morning. Whilst this is not ideal, the amount of area impacted, the location of the impact and the time impacted for, could not reasonably be argued to be 'excessive' overshadowing of the private open space on No.57. Furthermore, the neighbouring vegetation (large Sugar Gum) already causes shadowing in this location. The impact would be considered acceptable.

#### 9.3.5 Private open space

The dwellings have the required 24m<sup>2</sup> private open space accessible from the main living areas. The private open space areas will receive adequate solar access.

#### 9.3.6 Front setbacks

*C1 Minimum front setbacks for residential development*

*Primary street frontage (other roads) 6m*

*Secondary frontage (corner lot) 3m*

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

The applicant has proposed a front setback of 3m. This is considered acceptable as it increases the ability of the site to be developed in a manner suited to the R3 zone in which it is located without unreasonably impacting on the streetscape.

*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*

The articulation of the front elevation of the unit that front the street ensures the proposal complies with this control.

#### 9.3.7 Side and Rear Setbacks

There are no specific side and rear setback controls for Multi Dwelling Housing on R3 zoned land. However, consistency with the following objectives must be considered:

##### *Objectives*

- O1 *Ensure adequate separation between buildings for landscaping, privacy, natural light and ventilation.*
- O2 *Ensure new development continues the rhythm or pattern of development in the locality.*
- O3 *Provide access for maintenance.*
- O4 *Building setbacks from the side and rear boundaries shall have careful regard to the impact of proposed structures on adjoining landowners.*

The units have traditional side setbacks with 1m proposed off the western boundary and the driveway along the eastern boundary. This is consistent with neighbouring properties.

The inconsistency is created by the rear setback of 3.8m. Generally, in the immediate vicinity the dwellings have larger rear setbacks with the outbuildings more traditionally set to the rear of the site. However, as discussed throughout the report the transition to the desired built form in line with Council's strategic documents will result in these inconsistencies that are somewhat unavoidable and often encouraged. Therefore, the important consideration is the associated impacts from these inconsistencies and in this instance the impact from this development within the site and external from the site on balance is considered acceptable.

The building setback allows access for maintenance and the impact on rhythm of the development in the locality has been discussed under 9.2.2 above.

#### 9.4.1 Building elements

The relevant controls of this section are as follows;

- C1 *Use verandahs or pergolas to link internal and external living areas*
- C2 *Porches are to be integrated into the building design, and are to be used to create a sheltered and clearly visible entry.*
- C3 *Locate ancillary components such as aerials, satellite dishes, air conditioning units and the like so they are not visible from the street.*

The buildings have been designed to incorporate the majority of the abovementioned design elements. No issues are raised under this section of the DCP.

#### 9.4.2 Materials and finishes

The materials and finishes would not raise any issues.

#### 9.4.3 Privacy

Visual and acoustic privacy are important for good residential amenity.

The lot is flat and therefore the ground floor elements of the proposal raise little concern. No further assessment of these impacts is required.

The first floor has the potential to cause overlooking concerns to the east, west and south. However, high level and obscurely glazed windows and room locations have been well considered to ensure the impact remains acceptable.

#### 9.4.5 Site facilities

The design of the building raises no issues with site facilities, conditions of consent will ensure all requirements are met.

#### 9.4.6 Changing the landform - cut and fill

The site is generally flat. No earthwork has been included in this application and therefore all earthworks would be required to meet exempt provisions. It is not expected that this will be an issue.

#### **(a)(iia) - any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and**

No planning agreement has been entered into under section 7.4.

#### **(a)(iv) - any matters prescribed by the regulations**

Matters prescribed by the *Environmental Planning and Assessment Regulation 2000* have been satisfied

#### **(b) - The likely impacts of the development** **Context and setting**

As discussed above, the proposal will impact on the context and setting of the area as it is out of character with the immediately surrounding properties. Given the transition from low scale (single dwellings on lots) to medium density developments that is encouraged by Council's strategic documents this will always be the case with the first few sites to be developed.

Council staff are comfortable to accept the impact on context and setting to allow for a development more consistent with the aims and objectives of the strategic documents.

#### **Access, transport and traffic**

As discussed above, the access to the site, parking and movement areas would all be considered acceptable and compliant with the controls of the DCP

#### **Noise and vibration**

Minimal impact during construction and will be controlled by conditions of any consent granted.

#### **Natural Hazards**

The site is not bush fire prone. The flooding issue has been discussed above.

#### **Waste**

Conditions of consent will ensure that the site is kept in an appropriate state during demolition and construction. Given the proximity to the highway RMS have requested a construction management plan be prepared and this will be recommended in the conditions of consent.

The property has adequate street frontage from general waste collection and has shown designated bin areas for each unit that can be accessed through the garages for units 1 and 2.

#### **Services/Utilities**

As the subject development is located within a residential area, all power, water, sewer and telecommunications are available to the site.

#### **Public domain**

No issues raised.

#### **Other land resources**

No issues.

#### **Water**

The proposed units have approved Basix Certificates, Council imposes no additional requirements that relate to water saving. The site is serviced by water and has appropriate stormwater facilities.

#### **Soils**

Soil tests will determine the building requirements at Construction Certificate stage.

#### **Air and microclimate**

Conditions of consent will minimise impacts during construction. No adverse impacts are expected

#### **Safety, security and crime prevention**

The proposed units raise negligible issues in a residential zone.

#### **Social/economic impacts**

The construction of new dwellings and any required infrastructure improvement works will support local businesses such as builders, decorators and building supply companies. 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

#### **Flora and fauna**

The site is currently void of vegetation. The proposal will not involve the removal of any vegetation. The landscaping proposed is considered adequate subject to minor amendments to species as discussed above.

The proposed units will come in close proximity to an established Sugar Gum located at the very rear of No.55 Gormly Avenue that backs onto the subject site. Council Staff requested an Arborist report to address this relationship.

Wade Ryan Contracting prepared an Arboricultural Impact Assessment (AIA) dated 21/10/2020. The AIA recommended that the development can proceed in its current layout subject to a number of recommendations. The report was reviewed by Council's Supervisor Tree Planning and Management who was satisfied with the findings of the report.

The recommendations of the AIA have been included as conditions of consent.

#### **Site Design and internal design**

The site design and internal design is very much restricted by the size, shape and orientation of the lot. There are very limited ways to develop this lot in line with the density that the DCP requires.

Whilst the site layout is constrained, the units have been designed to minimise impacts. The first floor has been set in and the use of high level and obscurely glazed windows reduces overlooking concerns.

Overall the development would be considered acceptable on a merits based assessment for the site.

## **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 would result in residential development in a residential zone. The impacts assessed above have concluded that the development would be acceptable with minimal impact on the environment.

#### **(c) - The suitability of the site for the development**

##### **Suitability of the site in terms of the likely impacts identified under (b)**

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 character of the area or the amenity of the neighbouring properties.

#### **(d) - any submissions made in accordance with this Act or the Regulations**

##### **Referrals**

Internal  
Transport NSW

### **Notification and advertising**

In accordance with the Council's advertising and notification provisions outlined in Section 1.10 of the WWDCP the application was notified and advertised for a period of 14 days on the following dates 10/09/2020 to 24/09/2020 and referred surrounding tenancies. Three submissions were received and have been addressed below.

### **Public Submissions and those from public authorities:**

#### **Public Authorities Submissions**

TfNSW - Submission has been addressed in the body of the report.

Riverina Water made the following comments:

- *Additional fees and charges for water supply may be incurred by the proposed development*
- *Developer must make an application for a Certificate of Compliance for water supply*
- *Certificate of Compliance for water supply required prior to issuing of Construction Certificate*
- *Riverina Water Plumbing Certificate required prior to Occupation Certificate*

Appropriate conditions will be applied to any consent granted.

#### **Public submissions:**

**Issue:** Potential impact on the Sugar Gum tree located on neighbouring property.

**Comment:** This issue has been discussed in the body of the report and appropriate conditions imposed.

**Issue:** Impacts of overshadowing

**Comment:** This issue has been addressed in the body of the report. The impact is acknowledged, however, on balance considered acceptable.

**Issue:** The proposed plantings to the rear are deciduous and will cause maintenance issues for neighbouring pool.

**Comment:** A condition of consent is recommended to ensure a suitable species is planted in this location.

**Issue:** Whilst compliant with the carparking controls the potential occupants should be considered when addressing whether this number is adequate.

**Comment:** Given the proposal complies with Councils parking requirement for a development of this nature it would be unreasonable to request additional spaces. It should also be noted that Council has no control over who tenants the development. Therefore, to request additional spaces due to the 'likely' tenant and associated vehicles would again be unreasonable.

**Issue:** Vehicle movements and traffic safety issues with entering and exiting from the site.

**Comment:** The vehicle movement areas have been shown to comply with relevant standards. Whilst it is acknowledged that the development will increase traffic movements to and from Edward Street the application was referred to TfNSW who raised no concerns

subject to appropriate conditions.

**Issue:** Non-compliance with the 20m frontage requirement

**Comment:** This issue has been discussed in the body of the report.

**Issue:** Non-compliance with the site cover control.

**Comment:** This issue has been discussed in the body of the report.

### **(e) - the public interest**

#### **Federal, state and local government interests and general community interests**

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.

Councils Strategic Planning Section have provided the following comments with regards to the relationship with the Health and Knowledge Precinct.:

*Council's City Strategy section has reviewed the content of the application and the proposal is generally consistent with the strategic intent of Council's adopted and draft strategies. The adopted Health and Knowledge Precinct Master Plan flags the area for residential apartments. Whilst the proposal is not at the density envisioned in the Master Plan, the proposal is generally consistent in that it is proposing higher density residential development and will contribute to increasing residential accommodation in the precinct.*

#### **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)**

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

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

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

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

Therefore, no further consideration of these matters is required.

### **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. Although the site is identified as being prone to flood no further risk assessment is required as the development is within the main city levee.

### **Bush Fire Risk Assessment**

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

### **Council Policies**

N/A

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### **Comments by Council's Officers**

Council's other relevant officers have reviewed the application in accordance with Council's processing procedures.

### **Development Contributions**

Section 7.11/7.12 of the Environmental Planning and Assessment Act 1979 and the City of Wagga's Local Infrastructure Contributions Plan 2019-2034 enables Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. A Section 7.11 contribution applies to this development that will be put towards the provision high quality and diverse public facilities to meet the expectations of the residents of the city.

The calculation is as follows:

S7.11

The contribution rate for medium density developments in central Wagga is \$10,012 per dwelling. The existing lot has a credit of 1.

Contribution                   = 3 units - 1 credit = 2 x \$10,012  
  = \$20,024

Plus CPI = \$20,024 x 117.4/115.1 = \$20,424.13

Development Servicing Plan for Stormwater 2007 and/or City of Wagga Wagga Development Servicing Plan for Sewerage 2013 enable Council to levy developer charges based on the increased demands that new development will have on sewer and/or stormwater. A Section 64 contribution of for sewer and stormwater is payable for this development as a source of funding towards infrastructure within the urban area.

The calculation is as follows:

S64 Sewer:

The subject site contains a dwelling, a credit of 1ET exists for the dwelling. It is only required to charge the additional two (three bed) dwellings, the calculation is as follows:

$$\$3538 \times 2 = \$7076$$

$$\$7076 \times (\text{CPI}) 117.1/100.5 = \$8244.77$$

S64 drainage:

The lot is located on the west of Willans Hill so the charge is \$3007. Given the lot is less than 800m<sup>2</sup> the calculation is as follows:

$$(0.83 - 0.74)/0.74 \times 3007 = \$365.71$$

$$\text{Plus CPI} = \$365.71 \times 117.1/87.9 = \$487.20$$

### Other Approvals

Nil

### 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. The submissions received have been addressed in the body of the report.

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## RECOMMENDATION

It is recommended that application number DA20/0427 for Attached Dwellings (3) Multi dwelling housing with community subdivision be approved, subject to the following conditions:-

## CONDITIONS OF CONSENT FOR APPLICATION NO.

### 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
20-431	Statement of Environmental Effects	NGH	-	27/08/20
1108869M	BASIX Certificate	BCM Design	-	14/08/20
20009-1	General Details	BCM Design	-	11/08/20
20009-2	General Details	BCM Design	-	11/08/20
20009-3	General Details	BCM Design	-	11/08/20
20009-4	General Details	BCM Design	-	11/08/20

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

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

### Requirements before a Construction Certificate can be issued

- C.2 Prior to the issue of Construction Certificate the applicant must lodge a bond with Council of:-

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

Plus a non-refundable administration fee as per Councils fees and charges.

NOTE 1: Applicants will be required to contact Council PRIOR to making the payment to arrange a bond (BKG) number. This must be done prior to making payment at Council's customer service desk.

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

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

- NOTE 4: Works in the form of driveways, kerb and gutter and footpath may require you to obtain a Section 138 Roads Act 1993 approval. Please contact Councils Road Reserve Officer on 1300 292 442 prior to undertaking such works.
- NOTE 5: Council will accept a once off security deposit for the kerb and gutter and footpath for applicants who lodge multiple DA's with council. If the applicant has security deposits held by Council for kerb and gutter and footpath at the time of Construction Certificate application, then Council may waive the need for an additional bond to be paid.
- NOTE 6: The bond held on the kerb and gutter and footpath is fully refundable upon completion of all works and upon inspection by Council to ensure that any damage to Council infrastructure has been repaired. The bond will not be refunded in the event that damage done to Council's infrastructure is not repaired to the satisfaction of Council. All damage is to be repaired at the full cost of the applicant

C.3 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)	117.4/115.1 (see Note 1)
Indexed monetary contribution to be paid (valid for the financial year in which the date of determination was made)	\$20,424.13 (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.

For payments within the 2019/20 financial year, no indexation will be applied to the base monetary contribution as it is within the first year of the Contributions Plan.

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

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 \$7076

The Section 64 Sewer contribution (updated by the 117.1/100.5) required to be paid is \$8244.77

NOTE 6: The Section 64 Stormwater base figure is \$365.71

The Section 64 Stormwater contribution (updated by the 117.1/87.9) required to be paid is \$487.20

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

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

C.5 Prior to the 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.6 Prior to the issue of the Construction Certificate a revised site plan shall be submitted to the Principal Certifying Authority for approval that indicates;

- i) The stormwater connecting to the legal point of discharge
- ii) The sewer connection to the spur provided
- iii) The finished paving levels demonstrating that the stormwater overland flow path is directed towards the street or an alternative appropriate point of discharge.
- iv) A stormwater plan indicating pipe and pit levels, inverts and sizes. This plan shall also show existing and proposed surface contours within the site and along its boundaries with immediately adjacent properties, and shall define overland flow paths for storms which exceed a 1 in 10 year event.

C.7 Prior to the issue of a Construction Certificate, a Construction Management Plan (CMP), addressing the following items must be submitted to Council and approved as part of the development consent for this allotment.

1. Dust suppression and vibration management throughout the demolition and construction process
2. Site specific erosion and sediment control
3. Noise management
4. Traffic and pedestrian control
5. Parking arrangement for construction vehicles
6. Hours of operation

C.8 A detailed or revised landscape plan and legend shall be submitted and approved prior to the release of the Construction Certificate.

- (1) Landscape plan shall be in accordance with Council's Landscape Guidelines and Landscape Application Checklist.
- (2) A Plant Schedule indicating all plant species, pot sizes, spacings and numbers to be planted within the development shall be submitted with the Landscape Plan. Plant species are to be identified by full botanical name. All plants proposed in the landscape plan are to be detailed in the plant schedule.
- (3) The trees proposed along the southern boundary are to be replaced with a smaller evergreen species.

C.9 Prior to the release of the Construction Certificate the site plan must be amended to clearly indicate the recommendations and requirements of the Arboricultural Impact Assessment (AIA) prepared by Wade Ryan Contracting, dated 21/10/20. This site plan must be included in the Construction Certificate plan set and onsite at all times during construction.

### **Requirements before the commencement of any works**

C.10 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.11 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.12 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.13 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.14 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.15 A Tree Protection Zone (TPZ) shall be constructed for the tree located at the rear of 55 Gormly Avenue in accordance with Australian Standards - AS 4970-2009 Protection of Trees on Development Sites.

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

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

If damage of any sort should occur to any protected trees / vegetation within the development, contact shall be made with Council's Supervisor of Tree Planning and Management to determine what remedial action should be taken. Throughout the construction period regular inspections of protected trees shall be carried out to ensure trees retained are of good health and vigour.

- C.16 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.

- C.17 Prior to works or activities commencing within the road reserve, approval under Section 138 of the Roads Act 1993 is required from Council.

The applicant is required to submit and have approved a written application for Consent to Work on a Road Reserve. All works shall be carried out in accordance with the approved details. Please contact Council's Activities in Road Reserves Officer on 1300 292 442.

Note: This condition may be satisfied by utilising a Council approved contractor to carry out works within a road reserve (Driveways and Layback Only)

- C.18 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.19 Vehicular access within the road reserve must be constructed to Council standards, at full cost to the developer, by a licensed Council approved contractor. Driveway design and grades shall comply with AS2890.1: 2004 (or as amended) and Council's Engineering Guidelines for Subdivisions and Developments.

- C.20 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.

- C.21 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.22 The concrete slab floor shall be treated against termites in accordance with AS 3660-1 2000 Termite Management:

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

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

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

C.23 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.24 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.25 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.26 All works shall comply with the recommendations of the Arboricultural Impact Assessment prepared by Wade Ryan Contracting dated 21/09/20. During initial excavation within the TPZ an inspection shall be carried out by a suitably qualified person (arborist) to ensure the recommendations of the report are being complied with. Evidence of this inspection must be submitted to Council.
- C.27 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated “spoil” material.
- C.28 A Compliance Certificate for the plumbing and drainage work identified in Column 1 at the times specified in Column 2 must be obtained from Council.

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

### Requirements before a Subdivision Certificate can be issued

- C.29 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.30 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.31 Prior to issue of occupation certificate the redundant driveway and kerb layback in Edward Street shall be reinstated with conventional barrier kerbing, and Council's footway rehabilitated, in accordance with Council's Engineering Guidelines for Subdivisions and Developments.
- C.32 Prior to the issue of Occupation Certificate, the paving of all vehicular movement areas must be either a minimum of 150mm thick flexible pavement and sealed or 150mm thick reinforced concrete.
- C.33 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.34 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.35 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.36 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.37 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.38 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).
- C.39 Any landscaping or fencing to be provided within the site or along the boundary with any adjoining road reserve is to be designed and maintained to provide safe sight distance to pedestrians for motorists entering and exiting the subject site to minimise conflict in accordance with AS2890.1-2004 "Off-street car parking".
- C.40 The vehicle movement areas must be laid out in accordance with Australian Standard AS2890.1.2004.

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

- D.1 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)**

F.1 N/A

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