



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

APPLICATION DETAILS

Application No.:	DA20/0109
Modification No.:	N/A
Council File No.:	D/2020/0109
Date of Lodgement:	04/03/2020
Applicant:	SJ Bradley 23 Henschke Ave SAN ISIDORE NSW 2650
Proposal:	Multi Dwelling Housing – 2 x two storey units to rear of existing dwelling, new single garage and associated tree removal works.
Description of Modification:	N/A
Development Cost:	\$550,000
Assessment Officer:	Amanda Gray
Determination Body:	Council. There are variations to controls and objections have been received to a multi-dwelling development.
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	12- 26 June 2020
Advertising:	12- 26 June 2020
Owner's Consent Provided:	yes
Location:	On the eastern side of Simmons Street approximately 60 metres to the south of the junction with Kincaid Street.

SITE DETAILS

Subject Land:	51 Simmons St WAGGA WAGGA NSW 2650 Lot 1 DP 743421
Owner:	SJ Bradley

REPORT

Description of Development

The application is for a multi-dwelling development consisting of the retention of the existing dwelling at the front of the block and two new two storey units at the rear. In addition a new detached single garage is proposed to provide parking to the rear of the existing dwelling. No changes to the existing dwelling are proposed.

Each of the new units will have a double garage, three bedrooms, living dining and kitchen area, separate lounge, laundry and bathroom. A covered al-fresco area is provided to the rear of each of the dwellings.

Both units and the new garage will be accessed via an un-sealed laneway at the side of the block, this laneway runs the full length of the site and is also the rear access for four dwellings that front onto Kincaid Street.

The application proposes the removal of three trees from the rear garden area and the pruning of one tree within the laneway. The trees within the block are self-seeded and their proximity to the property boundary is resulting in damage to the existing fences. The tree within the laneway encroaches the subject site and the canopy needs to be reduced.

An existing detached shed within the rear garden is to be demolished.

The Site and Locality

The property is legally identified as Lot 1 DP743421 and is known as 51 Simmons Street. The subject site is on the eastern side of Simmons Street approximately 60 metres to the south of the junction with Kincaid Street. The site is rectangular in shape and extends to 834.70 sq.m and is a relatively flat block.

The street is predominantly residential, with a mix of densities and architectural styles dating back from the late nineteenth century. Simmons Street is lined with mature trees that create a pleasant avenue. The property is within the Heritage Conservation Area.

The existing dwelling is a Victorian style brick dwelling with partially in filled front verandah and a low brick fence across the front elevation. A metal fence is situated along the lane elevation. A metal shed is situated at the rear of the allotment. There is no driveway access to the site from the Simmons Street elevation. Access is required to be gained from the unsealed laneway, which also provides rear access to four properties with frontages to Kincaid Street.

To the south of the lot, there exists an unsympathetic 1960s/70s 2 storey unit development that detracts from the heritage conservation area. Beyond these units to the south are the two storey Quest apartments.

Easements and Covenants

There are no known easements or covenants.

Previous Development Consents

DA13/0480 - 2 x 2 Storey Units - approved 1.4.2014. This consent has lapsed, the details of this approval are very similar to that being applied for under the subject application.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

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

Wagga Wagga Local Environmental Plan 2010

Under the provisions of the WWLEP 2010 the land is zoned R3 Medium Density Residential. The objectives of the R3 zone 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.*

The proposed development is considered to satisfy the first two main objectives of the zone which is to provide housing within a medium density residential environment and to add to the variety of housing and density types. The proposed dwellings do not present to the street or public spaces.

Part 2 Permitted or prohibited development Land Use

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

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

Multi-Dwelling housing is specifically listed as a land use that is permitted with consent in the R3 zone.

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

Part 3 Exempt & Complying Development

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

Part 4 Principal development standards

There are no principal development standards that apply to this application.

Part 5 Miscellaneous provisions

5.10 Heritage Conservation

The objectives of this clause are:

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

The proposal for multi-dwelling housing will increase the density of development in this area which is what the land zoning seeks to achieve. Whilst not conserving the heritage area the proposal does not adversely affect the significance of the heritage area in this locality due to the development being generally set back from the main streetscape and within proximity of existing two storey unit developments. The proposed demolition of an outbuilding is not of concern as it has negligible heritage significance. Furthermore, the retention of the existing dwelling is a positive for the heritage of Wagga Wagga as the streetscape presentation is conserved.

Requirement for consent:

Development consent is required for any of the following:

- (a) *demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,*
- (b) *altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior*
- (c) *altering a heritage item that is a building by making structural changes to its interior.*

This proposal includes demolition and new building work within a conservation area and therefore requires consent from Council. The lodgement of this application satisfies this clause.

Effect on heritage significance

The consent authority must before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted.

The proposed development retains the principal dwelling and sets the proposed new dwellings to the rear of the site. Despite the location in the conservation area, the site is zoned for medium density housing and the proposed additional dwellings are permissible in the zone. The additional dwellings are expected to have a discreet presence from the street, with access directly off a laneway. Council has therefore considered the effect of the proposed development on the heritage significance of the heritage conservation area and assessed that the effect is acceptable.

Part 6 Urban Release Areas

The proposal is not within an Urban Release Area.

Part 7 Additional Local Provisions

7.2 Flood Planning

The site is within the central area and is identified as being flood prone during the 1:100 flood event, this clause therefore applies.

(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.*

The site is within the area protected by the main city levee and thus is only impacted upon by very large flood events. The community has accepted the risk associated with continuing development of the central area in the face of this flood risk due to the substantial economic impacts that would result should development be halted or curtailed. The city levee is currently being upgraded to provide protection against floods up to the 1 in 100 year flood level, plus 500mm freeboard.

Notwithstanding, it is considered that the proposed development is compatible with the flood hazard of the land, will not significantly affect flood behaviour and will not result in unsustainable social and economic costs to the community as a result of flooding.

7.6 - Groundwater Vulnerability

Clause 7.6 of the WWLEP 2010 relates to groundwater vulnerability. The subject site is identified as sensitive on the Water Resources Map and as such this clause applies. The objective of this clause is to protect and preserve groundwater sources. The proposed development will not result in any adverse impacts to groundwater as the use is not development specified for the purposes of this clause

7.9 - Primacy of Zone B3 Commercial Core

Clause 7.9 states that development consent must not be granted to development on any land unless the consent authority is satisfied that the development maintains the primacy of Zone B3 Commercial Core as the principal business, office and retail hub of Wagga Wagga. The development relates to new residential accommodation within close proximity to the commercial core. Increased densities within walking distance of the CBD are anticipated to have a positive impact upon the primacy of the central area. The development is consistent with this clause.

State Environmental Planning Policies (SEPPs)

SEPP 55 Remediation of Land

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

contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use.

The subject site is not listed on Council's potentially contaminated land register and there is no evidence of any use of the site for a purpose listed in Table 1 of the guidelines. The site has historically been in residential use and no changes to this use are proposed.

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

SEPP (Building and Sustainability Index: BASIX) 2004

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

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

Draft State Environmental Planning Policy - Remediation of Land

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

Section 4.15(1)(a)(iii) - The provisions of any development control plan Wagga Wagga Development Control Plan 2010

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

Section 1 - General

1.10 Notification of a Development Application

The application was advertised and notified to adjoining neighbours from 12 to 26 June 2020. Six submissions were received during the notification period and are discussed in detail under section (d) of this report.

1.11 Complying with the Wagga Wagga Development Control Plan 2010

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

The variations proposed are as follows:

Clause 2.2 - the provision of off-street parking. The control requires six spaces whereas the plans identify five spaces.

Clause 9.3.3. - Minimum Frontage- The control requires 20 metres, the lot has a width of 14m.

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

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

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

Section 2 - Controls that Apply to All Development

2.1 Vehicle access and movements

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

Access to the site is from Simmons Street which is a non-arterial road. The laneway that is accessed from Simmons Street is 6 metres in width and allows for vehicle access to each of the proposed multi-dwellings.

The laneway currently serves the rear of four properties that front onto Kincaid Street and the existing dwelling. The proposal will result in an additional two properties using the laneway for vehicle access. The increase in vehicle movements requires the laneway to be upgraded (sealed) and appropriately drained, this upgrade will enhance the usability of this laneway to the benefit of existing and future users.

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

A traffic impact study was not required for this development.

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

The movement of vehicles to and from the garages has been demonstrated on the site plan and allows for all vehicles to enter and exit Simmons Street in a forward direction. The six metre width will allow for vehicles to pass side by side if required as there is not anticipated to be any parking of vehicles within the laneway. The upgrade works will result in a laneway of improved quality that will be able to accommodate larger vehicles and emergency vehicles if required.

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

There are no loading areas provided nor would they be considered a necessity for residential sites. Whilst vehicles could unload from the laneway to any of the dwellings this would have the potential of temporarily blocking the lane for other users and would require larger vehicles to either reverse in or out of the laneway.

There is space for vehicles to park to the Simmons Street frontage of the site and unload from the street as required and this is considered suitable and acceptable.

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

The existing laneway will provide access to the dwellings and no changes are proposed to its location which is 60 metres from the nearest intersection, being to Kincaid Street.

C6 Ensure adequate sight lines for proposed driveways.

Sightlines are clear in both directions from the laneway onto Simmons Street.

2.2 - Off-street Parking

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

The proposal provides 5 on-site car parking spaces in the form of 2 double garages for the new dwellings and a detached single garage for the existing dwelling. The provision of parking is short by 1 space. The shortfall requires a variation to this DCP control which has been justified by the applicant as follows:

- a) *New properties are provided with double garages and comply.*
- b) *Existing dwelling has a 6 metre driveway to park another car in front of the garage.*

In assessing the proposed variation, Council staff have noted the points raised in the SEE regarding the number of off-street parking spaces. In addition to these matters it is noted that:

- ☐ The adopted parking standard for a single residential dwelling is for one car -parking space; if the existing dwelling was viewed in isolation to the new units at the rear the proposal would comply.
- ☐ The layout of the detached single garage to the existing dwelling does allow for the possibility for stack parking to occur on site as it is set back by 6 metres from the laneway. Whilst stacked spaces cannot count towards the supply of off-street parking the ability to park in this manner does contribute towards the justification of a shortfall.
- ☐ The proximity of the subject site to the CBD and places of work and entertainment may mean less reliance on a private car as services are in walking distance and public transport is also available.
- ☐ Other multi-dwelling developments within the central area have recently been approved with a variation to the same control and with similar justification.

The proposed variation is not anticipated to result in any detrimental impact on the amenity of existing or future occupants. The development is an entirely suitable and appropriate form of development within the medium density residential zone. The non-compliance does not prejudice the objectives of the zone and the aims of the DCP.

The variation has been justified in accordance with the requirements of Section 1.11 of the DCP and is supported.

2.3 - Landscaping

A landscape plan has been submitted with the application. The landscaping includes shrubs and trees within the front set-back and driveway area to enhance the setting of the overall site and the individual units. The proposed landscaping within the front set back area will make a positive contribution to the laneway and is consistent with this section of the DCP. The removal of trees on site has been supported by the preparation of an arboricultural assessment. The trees to be removed are self-seeded, sited hard up against boundary fencing, not of significant amenity value and with low retention value. There is no objection to the removal of the trees or the pruning of the tree within the laneway that does have greater amenity value.

2.4 Signage

No signage is proposed as part of this application.

2.5 Safety and security

The multi-dwelling development will result in increased comings and goings to the site and enhanced levels of natural surveillance both to the laneway and within the site. The inclusion of secure on-site car-parking in the form of garages for each of the dwellings further improves security for future residents. Entry to the site and to the units is clear and there are no blank walls to the street or areas of potential concealment. The use of the laneway by pedestrians is likely from residents, visitors and deliveries. Although there is no footpath proposed as this is a no through road, a low speed environment used by a limited number of properties and there is only a short travel distance to be covered, the safety of pedestrians within this environment is acceptable.

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

2.6 Erosion and Sediment Control Principles

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

2.7 Development adjoining open space

The development does not adjoin open space.

Section 3 - Heritage Conservation

3.3.2 Residential precinct

Controls within this section are applicable as the development is for new residential works within the heritage conservation area.

Alterations, additions and infill development

The objectives of this section are as follows:

O1 Retain characteristic buildings from significant periods of development for the conservation area.

O2 Retain details and features that are characteristic of the conservation area, and encourage

reinstatement of these features where they have been removed.

O3 Encourage new buildings to respond positively to the character of adjoining and nearby buildings.

O4 Ensure that new work is sympathetic to the bulk, mass and scale of characteristic buildings in the conservation area.

Retain characteristic buildings and features

C1 Characteristic buildings are to be retained. Demolition will not be considered unless the applicant can demonstrate that the building or structure is not a characteristic building, is of little heritage significance or is structurally unsound or beyond repair.

The existing building will be retained in its current form with the only demolition being to rear outbuildings. The elements that are proposed to be demolished are not considered as contributory to the character of the heritage area.

C2 Original features and materials of characteristic buildings are to be retained. Reinstating features that have been removed is encouraged. This includes verandahs, decorative joinery, doors, windows and leadlights. The use of cladding (vinyl, metal, over timber weatherboards and brick work is not supported)

There are no original features being removed as part of the development.

C3 Changes that remove or obscure characteristic features are not supported. This includes enclosing open verandahs, removing decorative features, replacing timber windows and doors with aluminium or other materials, rendering or painting face brick and removing chimneys that are visible from the street.

No characteristic features are to be removed or obscured.

C4 Rendering or painting face brick is generally not supported.

The existing dwelling has a brick finish and no changes are proposed to this dwelling.

Infill development

C3 Infill development is to reflect the characteristic buildings in the vicinity in terms of bulk, scale, roof form, setbacks and materials.

The development is not infill in the traditional sense as this is not a vacant site being used for "infill" development. Rather the development is utilising a rear yard to intensify development as is supported by the land zoning. The form of development is different to the single storey dwellings that front the heritage streetscape but does relate to adjoining two storey units and two storey tourist accommodation nearby.

C4 Setbacks are to reflect the patterns of adjoining houses and the general pattern of the street.

As the new dwellings do not front the street there are no patterns of setback that need to be followed. The minimal setback to the laneway of 1.7 metres is considered acceptable due to the existing setbacks of outbuildings on the opposite side of the laneway and the low speed environment. The levels of privacy and residential amenity afforded to the dwellings facing onto the laneway is therefore considered to be satisfactory.

C5 Use pitched roofs with slate, terracotta tiles or corrugated metal.

The dwellings have pitched roof and use corrugated metal.

C6 Contemporary design is acceptable where it is sympathetic to the characteristic built form of the conservation area, particularly in terms of bulk, scale, height, form or materials.

The contemporary design is deliberately different in use of materials and form to be able to read the old and new development. It is not appropriate to mimic historical dwellings especially when their presentation to the streetscape is negligible.

There will be limited views of the new two storey dwellings from Simmons Street. The set-back is approximately 30 metres from the street and whilst the dwellings will not be completely screened they will only be viewed from a distance which is an acceptable outcome.

C7 Designs that open front verandahs are encouraged.

There are no verandahs to the dwellings. Again as they do not front onto the heritage streetscape where open verandahs are characteristic this is not of concern.

C8 Use a variety of wall materials to break up the mass of the building and provide detail to the front elevations.

The dwellings are to be constructed of weatherboard cladding. The front elevation includes a porch and windows that break up the façade.

Garages and carports

The objectives of this section are to:

O1 Minimise visual intrusion from garages and carports, and require structures to be located behind the building line.

O2 Establish parameters for the proportion and detailing of garage and carports.

Controls

C1 Where possible, car access should be from a rear lane.

All vehicle access will be from the laneway that runs alongside the subject site.

C2 Where no rear lane access is available locate the garage or carport behind the building line, or preferably to the rear of the property. Alterations that require removal of original features on a front elevation or require demolition of significant building fabric to enable car access will not be supported.

The detached garage is proposed at the rear of the dwelling in accordance with this control.

C3 Materials are to be compatible with the materials of the main building. Any detailing is to be subservient to the detailing or decorative features of the main building.

The garage is to be constructed in materials to match the new units being a weatherboard cladding with corrugated roof. The detached garage will be seen within the context of the new units and the use of this material is therefore suitable in this regard.

C4 Max size of garages:

Single garage - 3000mm wide x 7500mm long, 2400mm walls, 27 degree roof pitch rising to an apex 3400mm high. Garage roller door 2600mm wide.

The garage has dimensions of 3.2m x 6.2m and extends to a maximum height of 3.2m. Whilst the width is marginally greater than the control stipulates the overall size is well within the parameters set by the maximum size dimensions.

C5 Specifications:

Walls can be in Custom Orb corrugated metal, weatherboards, fibre cement sheet or face brick Galvanised corrugated metal roof preferred rather than Zinalume.

Roll barge and roll top.

Gutters are to be quad or ogee profile and galvanised.

As mentioned the garage is proposed to be constructed of weatherboard cladding with corrugated roof and therefore complies with this control.

C6 Doors may be tilt doors of a simple design and neutral colour. Roller doors may be considered on merit.

The roller door raises no concern.

Section 4 - Environmental Hazards and Management

The subject site is identified as flood prone. Within Table 4.2.1 the subject site is within the Wagga Central Business Area (protected by levee). Requirements for residential development in this area are that the finished floor levels should be a minimum of 225mm above ground level. A condition of consent is included to satisfy this clause.

The site is subject to overland flow, there will be upgrades to the stormwater infrastructure in association with the residential development and the laneway works and therefore no adverse impacts are anticipated. Conditions are included to address this matter and engineered designs will be subject to approval as part of the construction certificate application.

The subject site is not identified as bushfire prone.

Section 5 - Natural Resource and Landscape Management

Section 5.2 of the DCP stipulates that consent is required for the removal of trees greater than 8 metres in height. As noted earlier in the report it is proposed to remove trees from the site in accordance with the proposed development.

An arboricultural assessment supports the removal of two trees towards the south-eastern corner and one tree on the northern boundary as each of these are self-seeded trees and their proximity to the property boundary is resulting in damage to the existing fences. The report recommends the retention of one tree within proximity to the existing house and new detached garage if an appropriate tree protection zone can be maintained. The tree removal works and retention of one tree will be secured by condition.

This issue has been addressed under Clauses 7.3 and 7.6 of the LEP above, given the nature of the works no issues are expected.

Section 6 - Villages

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

Section 7 - Subdivision

The proposal is for a multi-dwelling development in the heritage area within the R3 zone. No subdivision is included and therefore section 7 is not applicable to this development.

Section 8 - Rural Development

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

Section 9 - Residential Development

9.1.3 R3 Zone - Infill potential

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

The application represents a modern medium density development that is encouraged within R3 zoned areas and is in close proximity to the city centre. The proposed development is within the heritage conservation area and includes the retention of the existing building on site.

9.2.1 Site layout

The site has few natural characteristics to incorporate into the development, with the development minimising wasted space and being oriented to the north and north-west. 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.

9.2.2 Streetscape

The presentation of the dwelling to the heritage streetscape remains as existing. The proposed works are set to the rear of the existing dwelling therefore impact on streetscape is minimal. It should also be noted that there is a long 2 storey building of units built c.1970s adjacent to the property therefore any impact from the proposed dwellings is minimised by the presence of these units that detract from the conservation area.

9.3.1 Land area per dwelling

The maximum land size per dwelling is 350 square metres for multi-dwelling housing developments in the R3 Zone. The proposed development makes provision for 3 units on an 834.70m² lot which equates to 278m² per unit which satisfies this requirement

9.3.2 Site cover

The maximum permitted site coverage for land within the R3 zone adjoining the city centre is 50%. The proposed site coverage is 48% and therefore complies with this control.

9.3.3 R3 Zones - Minimum frontage

Minimum frontages are required for multi dwelling housing in the R3 Zone. The minimum frontage requirement is intended to ensure adequately proportioned development sites. Multi dwelling housing and residential flat developments are required to have a minimum frontage of 20m to the primary address, the site is 14m in width and therefore is inconsistent with this control.

The variation to the control has been justified by the applicant as follows:

This does not comply with the primary address only being 14.02m, however with the side lane being 59.9m and the multi-unit dwelling facing the lane way this would then comply with the 20m minimum frontage

In assessing the proposed variation, Council staff have noted the points raised in the SEE and also note that despite the block being only 14 metres in width it is adjoined by a 6 metres wide laneway that will provide access to the rear units. The minimum frontage is in place to allow for a dwelling to the street and some separation from the access driveway to the rear, the adjacent lane serves this purpose.

This variation is supported.

9.3.4 Solar Access

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

The garage locations are dictated by the laneway location on the northern side of the block. As the units are a mirror of each other the bathroom and laundry are to the west for one dwelling and to the east for the other. The site is limited in area and the layout does not present any concerns.

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

Both dwellings have a lounge with northern aspect. Private open space is at the southern side of the dwellings which is not ideal but this is influenced by the orientation of the block.

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.

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 noted above there is direct solar access into the existing living space at the front of the dwellings. The alfresco areas to the southern side of the site will have some eastern sunlight but this will be minimal. The variation to this clause is acceptable based on the lot size and orientation and objective to increase density of development within the R3 zone.

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

The submitted shadow diagrams demonstrate that sunlight access is interrupted for the adjacent unit development to the south in the winter afternoons. Historical floor plans identify living areas to the southern side of these units and therefore the living areas will not be affected. Notwithstanding, the reduction in solar access is not along the entire length of the unit block and it is satisfied that solar access to the upper level will be maintained. It is also noted that there are 2 mature trees situated on the boundary that currently cast substantial shadow over the unit block.

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

Overshadowing to the southern units impacts different parts of the building at different times of the day. Courtyard areas afforded to the units to the south will maintain an acceptable degree of natural light and the removal of trees on this boundary fence that currently cast consistent shadows to the units may improve the situation.

9.3.5 Private open space

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

Each of the new dwellings has an area of private open space to the rear extending to 24sq.m.

The majority of the open space is beneath a pergola, this is acceptable and in accordance with the controls in this section.

9.3.6 Front Setbacks

There are no changes to the front setback of the dwelling that presents as 51 Simmons Street. The new dwellings will have minimal set back to the laneway with the building line set back by 1.8 metres and the garages set back 4.3 metres.

The minimal setback to the laneway of 1.7 metres is considered acceptable due to the existing setbacks of outbuildings on the opposite side of the laneway and the low speed environment. The levels of privacy and residential amenity afforded to the dwellings facing onto the laneway is therefore considered to be satisfactory

9.3.7 Side and rear setbacks

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

There are no specific controls relating to distances of side and rear set-backs within an R3 zone. The medium density land zoning supports an increased density of development in this locality hence the likelihood of buildings being developed closer to existing boundaries. The layout and design of the units is considered suitable in this locality.

9.4.2 Materials and finishes

The proposal is within the Conservation area, therefore Section 3 of the DCP applies and the provisions for new building works within that section take precedence. The new dwellings are to be constructed and finished in weatherboard cladding. Whilst most surrounding properties are brick built it is not necessary to copy or mimic older buildings and the contemporary use of modern materials allows for the old and new developments to be easily read. As noted elsewhere there will be negligible impact to the streetscape and there is no issue with the choice of materials.

9.4.3 Privacy

*C1 Offset windows, balconies and private open space areas between adjoining dwellings.
C3 Screening is required where there is direct line of sight between neighbouring balconies or private open space areas, or between windows and door openings of habitable rooms.*

The upper floor windows have the potential to result in overlooking and loss of privacy. The upper floor windows to the northern (front) elevation are to bedrooms. Windows to the northern elevation allow for natural light into the property which is important and therefore the windows need to be retained. The treatment of the glazing to these windows must be amended though to limit overlooking towards the rear of the dwellings opposite. Equally the bedroom window on the side elevation must also be subject to the same screening treatment. The amendment to the window treatments will be secured by condition. To the rear of the new dwellings there is one upper floor window to a study, this window is a high-level window with narrow width and overlooking from this window is therefore not considered to be an issue and these windows can be retained as existing.

9.4.4 Garages, carports, sheds and driveways

The new detached garage has been assessed against the applicable controls of the heritage

chapter.

9.4.5 Site facilities

C3 Locate mail boxes so that they are clearly visible from the street or main entry. The plans are to include details of the location for letter boxes and any associated shelter structure.

C4 Garbage areas are to be easily accessible within the site and are to have adequate lighting. The area should be visually screened from adjoining developments and public spaces.

C5 Provide an external drying area in an area that receives reasonable solar access. The drying area is to be screened from the street or adjoining public spaces.

All required site facilities are identified on the plans.

9.4.6 Changing the landform - cut and fill

There is no cut or fill proposed with this application.

Section 10 - Business Development

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

Section 11 - Industrial Development

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

Section 12 - Specific Uses and Developments

The proposal is for a multi-dwelling development in the heritage area within the R3 zone. Section 12 is not applicable to this development.

Section 13 - Bomen Urban Release Area

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

Section 14 - Boorooma Urban Release Area

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

Section 15 - Lloyd Urban Release Area

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

Section 16 - Gobbagombalin Urban Release Area

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

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

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

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

There are no applicable matters prescribed by the regulations.

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

The site is located within an established residential area within the central part of the city. The surrounding development is generally low-density single storey residential although there are two storey units directly adjoining the site to the south. Furthermore, this site and the properties to the south and east are zoned as R3 medium-density residential where an increased density of development is permitted and encouraged.

Streetscape

The existing dwelling that presents to the streetscape of Simmons Street will not be changing as a result of this application. The only change to the streetscape will be an upgraded, sealed laneway that adjoins the site to the north. The additional dwellings are set back within the site and will have negligible impact upon the streetscape. Within the conservation area the presentation to the street is of importance and conserving existing properties is a key objective. The development complies with this objective.

Access, transport and traffic

As previously outlined in the report access to the new dwellings at the rear of the site will be via an existing laneway. The laneway will be upgraded as part of the development and this will be secured by condition.

The laneway is six metres in width and is also used to access the rear garages of four dwellings that front onto Kincaid Street. There is sufficient room within the laneway for vehicles to manoeuvre out of both the existing and the proposed garages. The provision of garages to each of the dwellings will remove the need for parking in the laneway. It is likely that visitor parking would be on Simmons Street.

Noise and vibration

Demolition and construction will increase noise and vibration levels in the vicinity in the short term. Any consent would contain a standard condition limiting the days and hours of construction. An increase in the number of residential properties may result in an increase in noise from extra residents and extra comings and goings to the dwellings. The increase is not anticipated to significantly impact upon existing levels of amenity in this locality.

Services

The site is fully serviced, upgrades will be required to stormwater infrastructure and the design of this work will be secured by condition. Each property will be required to satisfy the provisions

of the utility providers.

Heritage

The development has been assessed against the specific controls in the WWLEP and WWDCP as detailed earlier in the report. The impacts upon the significance of the heritage area are concluded as acceptable and any variations have been justified and supported.

Natural Hazards

The development has been considered against the relevant flood provisions of the WWLEP2010 and DCP. The site is identified by flood prone and impacted by overland flow. The site is within the area to be protected by the upgraded levee and the management of stormwater from the site will be improved as a result of the development. There are no adverse impacts anticipated.

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

Man-Made Hazards

The site has been in continual use as a dwelling therefore it is not expected that the site would be contaminated. It is not listed on Councils' Contaminated Land Register.

Economic and Social Impact in the Locality

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.

Energy Impacts

A BASIX Certificate has been supplied for each dwelling in support of the development and compliance with the listed requirements will form a condition of consent.

Site Design and internal design

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

Cumulative Impacts

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

The Principles of Ecologically Sustainable Development

The following are principles of ecological sustainability:

1 The precautionary principle

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

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

(a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and

(b) an assessment of the risk-weighted consequences of various options.

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

2 Intergenerational equity

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

3 Conservation of biological diversity and ecological integrity

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

4 Improved valuation, pricing and incentive mechanisms

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

(a) polluter pays (that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement), and

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

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

The proposed development will not result in any anticipated irreversible environmental damage, as the proposal utilises an existing urban site for redevelopment. The removal of self-seeded trees on site that are currently very close to existing fences is not considered to impact on biological diversity or ecological integrity.

The proposal is consistent with the precautionary principle to the extent that all potential threats to the environment have been identified and assessed. Accordingly the principles of ESD are considered to have been followed.

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

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

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

Referrals

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

Heritage Advisor

The advice received from the heritage advisor with respect to the previous DA for multi-dwelling development on this site remains applicable as follows:-

The property is within a planning zone that allows medium density development and there is no objection in principle to the proposal; Development to be no more than two storeys with pitched roof; Retain an adequate rear garden to the rear of the house; Suggest that dwellings be separated by single storey garaging with the single storey element at the rear garden of the original house; Buildings could be set to the rear lane frontage

The comments and advice are noted no further comments have been provided from the heritage advisor in response to the subject application.

Advertising

In accordance with the requirements of the WWDCP 2010 the application was advertised between 12 and 26 June 2020.

Notification

In accordance with the requirements of the WWDCP 2010 the application was notified to adjoining neighbours between 12 and 26 June 2020. Six submissions were received.

The following matters were raised in submission:-

1. *Condition of the laneway, it is un-sealed and regularly full of potholes and puddles, concerned that increased use of this laneway by more cars will make it worse.*

Comment: The development will be subject to conditions requiring the upgrade of the laneway. Upgrade works will require the laneway to be sealed and include stormwater management works.

2. *Over development of the site that does not comply with lot size, site cover and minimum frontage DCP controls.*

Comment: The development complies with the maximum lot size and with site cover. The variation to the minimum frontage has been justified and discussed earlier in the report.

3. *The setbacks, in respect to a 2-level building are not compliant that require dwellings to be set back by 6 metres, the development fronts onto a laneway only with no actual street frontage; It is un-safe for houses to face onto a dead-end laneway that has no footpath and is single width only with no turning space or passing area.*

Comment: There are no prescribed front setbacks for a laneway. As noted earlier in the report the fact that this is a no through lane, a low speed environment with minimal users that will also be subject to upgrade works will result in an environment that is considered safe for all users.

4. *The height of the proposed 2-level building exceeds current Development Control Plans; the ridge height is greater than the existing house that is not allowed.*

Comment: Controls regarding the ridge height not being higher than the original dwelling are specific to rear additions to dwellings. As these are detached dwellings controls are about rear additions do not apply. As noted in the report the separation between the single storey dwelling and the two storey development affords the dwellings only limited views from the street which assists in reduced visual impact to the heritage streetscape.

5. *Two storey developments are not allowed in the Conservation Area; those adjoining the site to the south were approved before this was a conservation area and cannot be used to justify the character of the area.*

Comment: Two storey dwellings are not prohibited in the conservation area, rather they are assessed on their merits like all development applications.

6. *The visual impact is not sympathetic to existing developments, the use of weatherboard is not sympathetic to the conservation area and brick should be the material used to match surrounding dwellings, brick is longer lasting and better to look at too.*

Comment: The new dwellings have a negligible presence to the heritage significance and will be seen within the context of existing two storey units that abut the full length of the southern boundary. It is not paramount for matching brick materials to be used in this context.

7. *Solar access and provision of open space to the new dwellings is poor and does not satisfy the controls. Such non-compliance should not be allowed.*

Comment: Internal living areas benefit from direct northern access. The alfresco area is not ideal but the controls do allow for variations where existing site conditions and orientation limit the ability for north facing private open space.

8. *The Application fails to indicate the proposed location for connection to mains water, storm water, electrical services and telecommunication/internet services.*

Comment: Stormwater connections are to be upgraded and these details will be subject to Council approval prior to any construction work. Riverina Water will authorise connection to mains water and other public utility providers will be responsible for their own connections. A condition is proposed that requires evidence that the utility providers requirements are satisfied prior to the issue of occupation certificate.

9. *Not clear how pedestrians will access the proposed units or if the proposal includes or requires the construction of a footpath within the existing laneway from Simmons Street.*

Comment: No footpaths are indicated on the plans and will not be required as part of the lane sealing works. Pedestrians will be able to walk to the dwellings if required.

10. *Not clear what the increase in the number of vehicle movements in the laneway will be and how this will impact on the ingress and egress to the surrounding residences which share the laneway.*

Comment: The two additional properties that will be served by the laneway will not inhibit vehicle movements to and from existing garages, manoeuvring diagrams have been provided that demonstrate this. Given the low numbers minimal conflicts are anticipated and the upgrade works to the laneway will result in an improved capacity for all users.

11. *North facing windows and balconies will result in overlooking; frosted glass will not help as the windows can be opened.*

Comment: There are no balconies included in the design of the new dwellings. The use of obscure glazing will minimise any overlooking and the extent to which upper floor windows can be opened is limited. The final design of the windows that have the potential to result in overlooking will be secured by condition.

12. *Overshadowing of adjacent units, the units already get shadowing from the Quest apartments. A single storey development would be a better outcome. Overshadowing to the north is not addressed in the plans.*

Comment: As noted in the report the overshadowing to these units is not throughout the day and is considered to be acceptable.

13. No parking for visitors is provided which means vehicles will park on the laneway causing obstruction for neighbours.

Comment: The development does not generate a need for visitor parking based on the current DCP controls. There is room for visitors to park on Simmons Street.

14. This is a service laneway, cars parked on the laneway will prevent access for service vehicles, not clear if the dwellings can be safely provided with postal and delivery services. Also, what about emergency vehicle access and the distance to fire hydrants.

Comment: It is not anticipated that cars will be parked on the laneway. Mailboxes are proposed at the front of the block and are accessible from Simmons Street. If required delivery drivers can walk up to dwellings and emergency service vehicles will have the ability to drive up the laneway if required.

15. Where will mail boxes go and bin storage areas are not provided.

Comment: Mail boxes are shown on the plan and are to be sited to the front of the site adjacent to the Simmons Street frontage. Bin storage areas are also shown on the plan alongside the garages.

16. Stormwater drainage has not been suitably addressed within the DA, residents know how bad it is and this development will make it worse.

Comment: Upgrades to stormwater infrastructure are required and will be secured by condition. The engineered designs will need to be approved prior to construction approval being issued.

17. Street trees must be preserved for community benefit and residential amenity it is not Council's role to allow their removal for private gain; No objection to the pruning of the tree that overhangs the site and would welcome pruning on the other side too.

Comment: There are no street trees being removed. The pruning of an overgrown tree within the laneway is required and there is no objection from Council's tree management officer for this work to proceed.

18. Loss of shade trees results in increased energy demands and is unsustainable.

Comment: The trees to be removed are self-seeded and in poor locations. They are private trees on private land and there is no objection to their removal.

19. Increased noise disturbance from increased use of the laneway especially at night.

Comment: The property is close to the commercial core and within proximity of two busy thoroughfares being Kincaid and Gurwood Streets. An increase of two dwellings is not anticipated to result in detrimental noise impacts from vehicle movements.

20. Property owners on both sides of the laneway should be afforded equal redevelopment rights and if this goes ahead with reduced setbacks and loss of privacy other properties may be disadvantaged from redevelopment.

Comment: Each development application is assessed on its merit at the time that it is presented to Council for determination. Land zoning and planning controls can change over time it is therefore not possible to predict what may be allowed in the future if other landowners choose to redevelop in a similar form.

Section 4.15(e) - the public interest

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

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

Other Legislative Requirements

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

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

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

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

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

Therefore, no further consideration of these matters is required.

Council Policies

Nil .

Development Contributions - Section 7.11/7.12 Environmental Planning and Assessment Act 1979 & Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000

Section 7.11 of the Environmental Planning and Assessment Act 1979 and the City of Wagga Wagga's Local Infrastructure Contributions Plan 2019-2034 enables Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. A Section 7.11 contribution is calculated on a per dwelling basis - a credit applies to the existing dwelling.

The calculation is therefore $2 \times \$10,012 = \$20,024$ plus $\text{CPI } 117.4/115.1 = \$20,424.13$

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

to levy developer charges based on the increased demands that new development will have on sewer and/or stormwater.

Section 64 stormwater contribution

The subject site is located within the Urban West of Willans Hill DSP area. This calculation is based on the increased area of hardstand resulting from the proposed development. The hardstand additions to the site include the two new units (120.3sq.m each), the concrete paths (88.2sq.m) and the driveway (107.1sq.m) = 455.8sq.m

The calculation is therefore as follows:

$$\frac{455.8\text{sq.m}}{800} \times \frac{1.00}{0.74} \times \$3007(\text{development charge}) = \$2315.18 \text{ plus CPI } 117.1/87.9 = \$3084.27$$

Section 64 Sewer Contribution

The subject site is located within a serviced area for sewerage and the developer charge for the City of Wagga Wagga is \$3,538 per ET. The subject site contains a dwelling and outbuildings, a credit of 1 ET exists for the dwelling.

Each 3 bed dwelling is charged at a rate of 1ET as follows:

$$2 \times \$3538 = \$7076 \text{ plus CPI } 117.1/100.5 = \$8244.77$$

Other Approvals

None required

Conclusion

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

RECOMMENDATION

It is recommended that application number DA20/0109 for Multi Dwelling Housing – 2 x two storey units to rear of existing dwelling, new single garage and associated tree removal works be approved, subject to the following conditions:-

A. SCHEDULE A – Reasons for Conditions

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

- A.1 To ensure compliance with the terms of the Environmental Planning and Assessment Act 1979 and Regulation 2000.
- A.2 Having regard to Council's duties of consideration under Section 4.15 and 4.17 of the Act.
- A.3 To ensure an appropriate level of provision of amenities and services occurs within the City and to occupants of sites.

- A.4 To improve the amenity, safety and environmental quality of the locality.
- A.5 Having regard to environmental quality, the circumstances of the case and the public interest.
- A.6 Having regard to the Wagga Wagga Development Control Plan 2010.
- A.7 To help retain and enhance streetscape quality.
- A.8 Ensure compatibility with adjoining and neighbouring land uses and built form.
- A.9 To protect public interest, the environment and existing amenity of the locality.
- A.10 To minimise health risk to neighbouring residents and workers.

B. SCHEDULE B – Deferred Commencement Conditions

N/A

C. SCHEDULE C – Conditions

Approved Plans and Documentation

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

Plan/DocNo.	Plan/Doc Title	Prepared by	Issue	Date
	Statement of Environmental Effects	Jones Design	2	26.5.2020
10222 - 1	Site Analysis Plan	Jones Design	3	26.5.2020
10222 - 2	Site and Landscape Plan	Jones Design	3	26.5.2020
10222 - 3	Ground Floor Plan - Unit 1	Jones Design	3	26.5.2020
10222 - 4	Level 1 Floor Plan - Unit 1	Jones Design	3	26.5.2020
10222 - 5	Elevation Plan - Unit 1	Jones Design	3	26.5.2020
10222 - 6	Section and Basix - Unit 1	Jones Design	3	26.5.2020
10222 - 7	Ground Floor Plan - Unit 2	Jones Design	3	26.5.2020
10222 - 8	Level 1 Floor Plan - Unit 2	Jones Design	3	26.5.2020
10222 - 9	Elevation Plan - Unit 2	Jones Design	3	26.5.2020
10222 - 10	Section and Basix - Unit 2	Jones Design	3	26.5.2020
10222 - 11	Proposed Garage	Jones Design	3	26.5.2020
10222 - 12	Shadow Diagram	Jones Design	3	26.5.2020
1080400S_02	BASIX Certificate	Jones Design		30.4.2020
1080415S_02	BASIX Certificate	Jones Design		30.4.2020
	Arboricultural Assessment	Wade Ryan Contracting		20.4.2020

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

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

Requirements before a Construction Certificate can be issued

- C.2 Prior to the issue of a Construction Certificate details of all structural concrete and structural steelwork shall be submitted to the Principal Certifying Authority for approval, all such details shall be certified by a practising Structural Engineer.
- C.3 Prior to the release of Construction Certificate a geo-technical report must be submitted to the Principal Certifying Authority that demonstrates that the foundation upon which a footing/slab is to be located is classified in accordance with Part 3.2.4 "Site Classification", of the Building Code of Australia and AS 2870 Residential Slabs and Footings.

This report must be carried out by an experienced geo-technical engineering consultant, with associated testing being conducted by a NATA registered laboratory. The report shall identify the type of "site classification" that exists on the subject site. Any footing/slab design is to be designed having regards to the identified site classification.

- C.4 Pursuant to s7.11 of the Environmental Planning and Assessment Act 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, a monetary contribution as identified in the table below must be paid to Council, prior to the issuing of the Construction Certificate unless, before the time due for payment, the applicant and the Council enter into a legally binding agreement for the applicant to provide works-in-kind or any other material public benefit(s) to the Council in part or full satisfaction of the monetary contribution.

The monetary contribution payable under this condition will be indexed in accordance with Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 from the endorsed date of this Development Consent until the date of payment.

Base monetary contribution (Contribution Rate in Wagga Wagga Local Infrastructure Contributions Plan 2019-2034)	\$20,024.00
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
Indexed monetary contribution to be paid (valid for the financial year in which the date of determination was made)	\$20,424.13

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 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.5 Prior to the issue of Construction Certificate the applicant must lodge a bond with Council of:-
- \$2000.00 for security deposit on the kerb and gutter and footpath
- Plus a non-refundable administration fee as per Councils fees and charges.
- NOTE 1: Applicants will be required to contact Council PRIOR to making the payment to arrange a bond (BKG) number. This must be done prior to making payment at Council's customer service desk.
- NOTE 2: In lieu of payment, the applicant can with written authorisation from their builder, utilise an ongoing bond should their builder hold and ongoing bond.
- NOTE 3: All monetary conditions are reviewed annually, and may change on 1 July each year.
- NOTE 4: Works in the form of driveways, kerb and gutter and footpath may require you to obtain a Section 138 Roads Act 1993 approval. Please contact Councils Road Reserve Officer on 1300 292 442 prior to undertaking such works.
- NOTE 5: Council will accept a once off security deposit for the kerb and gutter and footpath for applicants who lodge multiple DA's with council. If the applicant has security deposits held by Council for kerb and gutter and footpath at the time of Construction Certificate application, then Council may waive the need for an additional bond to be paid.
- NOTE 6: The bond held on the kerb and gutter and footpath is fully refundable upon completion of all works and upon inspection by Council to ensure that any damage to Council infrastructure has been repaired. The bond will not be refunded in the event that damage done to Council's infrastructure is not repaired to the satisfaction of Council. All damage is to be repaired at the full cost of the applicant
- C.6 Prior to the release of Construction Certificate a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.
- NOTE1: 'Water management work' is defined in s283 of the Water Management Act to mean a 'water supply work', 'drainage work', 'sewage work' or 'flood work'. These terms are defined in that Act.

- NOTE 2: Riverina Water is responsible for issuing compliance certificates and imposing requirements relating to water supply works for development in the Council's area. An application for a compliance certificate must be made with Riverina Water. Additional fees and charges may be incurred by the proposed development - please contact Riverina Water to ascertain compliance certificate water supply related requirements. A copy of such a compliance certificate is required prior to release of Construction Certificate.
- NOTE 3: The Council is responsible for issuing compliance certificates and imposing requirements relating to sewerage, drainage and flood works for development in its area.
- NOTE 4: Under s306 of the Water Management Act 2000, Riverina Water or the Council, as the case requires, may, as a precondition to the issuing of a compliance certificate, impose a requirement that a payment is made or works are carried out, or both, towards the provision of water supply, sewerage, drainage or flood works.
- NOTE 5: The Section 64 Sewer base figure is \$7076

The Section 64 Sewer contribution (updated by the CPI 117.1/100.5) required to be paid is \$8244.77
- NOTE 6: The Section 64 Stormwater base figure is \$2315.18

The Section 64 Stormwater contribution (updated by the CPI 117.1/87.9) required to be paid is \$3084.27
- 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.7 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.8 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 discharging to a suitable point of discharge
 - ii) The sewer connection to the spur provided, any upgrade to Council's sewer infrastructure will be at full cost to the developer.
 - 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.9 Prior to the issue of a Construction Certificate amended plans shall be submitted to the satisfaction of the General Manager or delegate that address privacy as follows:

- (i) Upper northern (front) windows to both units
- (ii) Upper bedroom windows to side elevation.

Appropriate treatment and screening may take the form of window hoods, translucent glazing, external blinds or shade devices or any other manner proposed by the proponent. In addition the design of the windows may be amended to limit the degree and/or angle to which they may open.

C.10 Prior to the release of a Construction Certificate, plans shall be submitted to the satisfaction of the General Manager or delegate, showing the existing gravel laneway to be graded to provide a consistent crossfall to a kerb or dish-drain and adequate stormwater works for discharge into Simmons Street. The laneway shall be sealed with a two-coat bitumen seal or concrete in accordance with Council's Engineering Guidelines including any preparation of the pavement base layers. The plans shall identify existing services in the laneway and any service adjustments required as a result of the works. Levels in the laneway shall match all existing driveways currently serviced by the laneway. All works are at full cost to the developer.

C.11 Prior to the issue of a Construction Certificate, a dilapidation report is to be undertaken. This shall include clear photos and descriptions of all existing Council infrastructure adjacent to the subject site. A copy of the dilapidation report shall be submitted to and approved by Council.

Requirements before the commencement of any works

C.12 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.13 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.14 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.15 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.16 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.17 Required pruning maintenance to Council street trees shall be carried out by Council or an approved contractor of Council at full cost to the applicant. Council is to be notified of any contractor prior to the commencement of works.

Pruning shall be carried out in accordance with Australian Standards AS 4373-2007 Pruning of Amenity Trees.

C.18 The existing tree/s to be retained situated within the property of the proposed development shall be protected from all construction works. Tree 3 as identified in the Arboricultural Assessment Report prepared by Wade Ryan Contracting dated April 2020 is to be retained.

All care must be taken to protect existing trees to be retained from damage, including street trees and trees located adjacent to the proposed development. The developer shall identify all trees to be retained prior to commencement of construction works.

A Tree Protection Zone (TPZ) shall be constructed for all existing trees to be retained within the development 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.19 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.20 Prior to works or activities commencing within the road reserve, approval under Section 138 of the Roads Act 1993 is required from Council.

A written application for Consent to Work on a Road Reserve is required to be submitted to and approved by Council. This shall include the preparation of a certified Temporary Traffic Management Plan (TTP) for the works.

It should be noted that work in the existing road reserve can only commence after the plan has been submitted and approved and then only in accordance with the submitted TTP. Please contact Council's Activities in Road Reserves Officer on 1300 292 442.

- C.21 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.22 Vehicular access within the road reserve must be constructed to Council standards, at full cost to the developer, by a licensed Council approved contractor. A list of Contractors can be found on Council's website at- <<https://wagga.nsw.gov.au/city-of-wagga-wagga/engineering-services/traffic-and-transport/working-in-a-road-reserve-or-footpath>> Driveway design and grades shall comply with AS2890.1: 2004 (or as amended) and Council's Engineering Guidelines for Subdivisions and Developments.
- C.23 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.
- C.24 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.25 The concrete slab floor shall be treated against termites in accordance with AS 3660-1 2000 Termite Management:
- 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.26 A survey report by a registered land surveyor shall be provided to the Principal Certifying Authority (PCA) prior to work proceeding beyond slab formwork.
- C.27 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.28 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.29 Sewer mains must be extended to the site, at full cost to the developer, in accordance with Council's Engineering Guidelines for Subdivision and Developments. The works must be carried out by Council or a licensed approved contractor under Council supervision via a Section 68 (Public) approval.
- C.30 During works, no building materials or refuse shall be stored in the laneway or Simmons Street nature strip. The laneway shall remain trafficable and open to traffic throughout the construction period. Any damage caused to the laneway during the construction period shall be repaired immediately to ensure the laneway remains trafficable and safe.
- C.31 Any upgrades or alterations to existing Council infrastructure required as a result of the development shall be at the full cost of the applicant. Contact Council's Development Engineer to confirm what approval is required prior to commencing work on any Council infrastructure. Such work includes (but is not limited to) upgrade

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

- C.32 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

- C.33 Floor levels must be 225mm above existing ground level

NOTE 1: The applicant may undertake actions to ensure that approved residential development is built at 500mm above the 1:100 year flood event, subject to a separate development application approval.

- C.34 Trees indicated on the submitted plans for removal, shall be removed from the site in accordance with the proposed development. Consent under Council's Tree Preservation Order is not required for removal of the subject trees. Trees 1, 2 and 4 as identified in the Arboricultural Assessment Report prepared by Wade Ryan Contracting dated April 2020 are approved for removal.

The approved works shall be executed so as to comply with the NSW Work Cover Code of Practice - amenity tree industry 1998 No. 034.

Any works associated with tree removal shall be carried out in Accordance with Australian Standards - AS 4373-2007, Pruning of Amenity Trees.

All tree stumps shall be removed below ground level and the surface area reinstated to prevent potential injury.

All waste material from the subject tree/s shall be removed from site in conjunction with clearing.

- C.35 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 prior to issue of an Occupation Certificate or prior to operation

- C.36 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.37 Prior to issue of an occupation certificate building numbers must be displayed in a position clearly visible from the laneway in letters having a height of not less than 75 mm. The number must be visible against the background on which it is placed.

Mailboxes must also be provided in accordance with the approved plans with building numbers also clearly visible.

- C.38 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.39 Prior to the issue of an Occupation Certificate, interim or otherwise, all sealing and associated works within the laneway shall be completed to the satisfaction of Council.
- C.40 Prior to release of an Occupation Certificate, evidence of registration of an easement drain sewer 2m wide, over the existing sewer main located within Lot 1 DP 743421 and benefitting Wagga Wagga City Council shall be provided to Council.
- C.41 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.42 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.43 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.

C.44 Prior to the Issue of Occupation 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: Notification of Arrangement (Contact Essential Energy's Contestable Works section)
- ii) APA Gas: Certificate of Acceptance
- iii) Riverina Water: Certificate of Compliance
- iv) Certification from an approved telecommunications provider

General requirements

C.45 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.46 No part of the development, including cut, fill, or footings is to encroach the easement. Footings will need to address the angle of influence taking into account the depth of existing sewer and stormwater mains in the easement.

C.47 Wagga Wagga City Councils Engineering Guidelines for Subdivisions and Development shall be referred to for the design of engineering requirements. Any aspect of the design which is not covered in Council's document should reference relevant specifications selected from other sources. Any aspect of the design that is not in accordance or not covered in council's document shall be listed and submitted with the plans for separate approval.

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

N/A

E. SCHEDULE E – Prescribed Conditions

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

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

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

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

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

NOTE 1: This condition does not apply:

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

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

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

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

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

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

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

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

- NOTE 1: This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- NOTE 2: This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.
- NOTE 3: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained.

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

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

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

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

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

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

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

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

For the following uses of a building: a sign must be displayed in a prominent position in the building stating the maximum number of persons permitted in the building if the

development consent for the use contains a condition specifying the maximum number of persons permitted in the building:

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

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

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

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

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

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

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

N/A
