



# Report of Development Application

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

### APPLICATION DETAILS

<b>Application No.:</b>	DA16/0162
<b>Modification No.:</b>	DA16/0162.01
<b>Council File No.:</b>	D/2016/0162
<b>Date of Lodgement:</b>	12/09/2019
<b>Applicant:</b>	Matt Jenkins Homes Po Box 8757 WAGGA WAGGA NSW 2650
<b>Proposal:</b>	Alterations, Additions to Dwelling in Conservation Area & Demolition of Garage and Construction of New 2 Bay Garage - Increase size of garage and include first floor secondary dwelling above.
<b>Description of Modification:</b>	Increase size of garage and include first floor secondary dwelling above. Amend Conditions 1, 28. New conditions 7A, 9A and 25A.
<b>Development Cost:</b>	\$364000
<b>Assessment Officer:</b>	Amanda Gray
<b>Determination Body:</b>	Delegation
<b>Other Approvals</b>	Nil
<b>Type of Application:</b>	s4.55 (1A) Modification Application
<b>Concurrence Required:</b>	No
<b>Referrals:</b>	Internal
<b>Adjoining Owners Notification:</b>	Not required
<b>Advertising:</b>	Not required
<b>Owner's Consent Provided:</b>	yes
<b>Location:</b>	The subject site is on the eastern side of Thorne Street approximately 80m to the south of the junction of Thorne and Forsyth Streets.

### SITE DETAILS

<b>Subject Land:</b>	69 Thorne St WAGGA WAGGA NSW 2650 Lot 1 DP 722975
<b>Owner:</b>	JL Jenkins

### PLANNING CONTROLS / STATUTORY CLASSIFICATION

*Pursuant to Part 4*

<b>Environmental Planning Instrument:</b>	Wagga Wagga Local Environmental Plan 2010
<b>Zoning:</b>	R1 General Residential
<b>Land Use Definition:</b>	Dwelling House - Alterations and Additions
<b>Statement of Permissibility:</b>	Permitted with consent

## **Description of Development**

The original Development Application (DA16/0162) for alterations and additions to dwelling in Conservation Area & Demolition of Garage and Construction of New 2 Bay Garage was approved on 16 May 2016.

A modification pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 has been received that seeks an amendment to the plans that includes a re-design of the garage, the introduction of a workshop and storage room attached to the garage and a secondary dwelling above with dormer windows. When the modification was submitted to Council it included an extension that linked the dwelling to the garage resulting in continuous development from the front of the lot to the rear of the lot. This part of the proposal has since been deleted from the plans.

The originally approved garage has dimensions of 5.85m by 6.8m plus an additional toilet of 1.2 m in width towards the rear yard with adjacent bin store area. The roof covered the garage and toilet area spanning a total width of 8 metres.

The amended garage is 6.6m by 6m plus a storage room of 3.9m by 6.2m. The secondary dwelling will cover all of the first floor above the garage and the workshop. The secondary dwelling consists of one bedroom, one bathroom and an open plan living, kitchen and dining area. There is a laundry provided at ground floor under the stairs.

All of the other additions to the dwelling remain as originally approved including an external deck area.

## **The Site and Locality**

The site is identified as Lot 1 in DP 722975, 69 Thorne Street, Wagga Wagga. The regular shaped allotment has an approximate area of 663.9 square metres with frontage to Thorne Street and vehicular access to the rear from Yanda Lane. The site is located on the eastern side of Thorne Street approximately 80m to the south of the junction of Thorne and Forsyth Streets. Construction of the approved alterations and additions is complete. No work has commenced on the construction of the garage.

The site is located within the heritage conservation area. The existing streetscape to Thorne Street presents a mix of architectural styles including the subject site (prior to renovations) and 1960s/70s medium density development adjacent to the site. That development is setback some 7m from the southern boundary of the subject site. Development in the vicinity is generally of modest inter-war residences, although some

uncharacteristic development is noted in the vicinity. The street is predominantly residential surrounding the development site with Collins Park and a corner store at the northern end of this section of Thorne Street.

The laneway is dominated by a mix of garage styles and sizes, solid brick walls and fencing. There is a two storey property at the end of the laneway where it joins Forsyth Street.

### **Easements and Covenants**

The subject land does not contain any known easements or covenants.

### **Previous Development Consents**

DA16/0162 - Alterations and additions & double garage. Approved 16 May 2016.

### **MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.55 and 4.56**

For the purpose of determining this application to modify consent, the following matters pursuant to the provisions of Section 4.55 of the *Environmental Planning and Assessment Act 1979*, have been taken into consideration.

#### **Section 4.55(1A) Modifications involving minimal environmental impact**

- (a) it is satisfied that the proposed modification is of minimal environmental impact.**

The application seeks amendments to the design and form of the rear outbuilding on a residential block. The modifications will introduce new impacts but these are of a minimal impact as addressed within the body of the report. The existing property and the surrounding properties particularly to the laneway where the impacts will be realised present an environment within which the development has minimal impact.

The assessment of this modification has demonstrated that it is generally consistent with the provisions of the WWLEP2010 and WWDCP2010.

- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).**

The modified development is substantially the same as the original development being alterations and additions in the heritage conservation area.

- (c) it has notified the application in accordance with:**
- i. the regulations, if the regulations so require, or**
  - ii. a development control plan, if the consent authority is a council that has made a development control plan that requires the**

**notification or advertising of applications for modification of a development consent.**

Applications under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* will be notified under the provisions of the Wagga Wagga Development Control Plan 2010 and at the discretion of Council Officers. As the modification requires a variation to DCP controls and presents different impacts to the originally approved applications it was notified for a period of 7 days to neighbouring properties.

- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

No submissions were received to the modification 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 (LEP 2010)**

Under the provisions of the WWLEP 2010 the land is zoned R1 General Residential. The objectives of the R1 zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of the residents.
- To ensure co-ordinated and cost effective provision of physical, social and cultural infrastructure in new residential areas.

The proposed modifications to the development do not impact upon the original assessment whereby this development was consistent with the zone objectives.

Residential alterations and additions are permitted with consent within the R1 zone.

The modification includes a secondary dwelling above the modified garage space, a **secondary dwelling** means a self-contained dwelling that-

- (a) is established in conjunction with another dwelling (the *principal dwelling*), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

**Note.**

See clause 5.4 for controls relating to the total floor area of secondary dwellings.

### Part 3 Exempt & Complying Development

The proposed modified 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 the modification.

### Part 5 Miscellaneous provisions

#### 5.4 Controls relating to miscellaneous permissible uses

*If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater-*

- (a) 60 square metres,*
- (b) 33% of the total floor area of the principal dwelling.*

The secondary dwelling has a total floor area of approximately 68sq.metres. The principal dwelling, as extended has a total floor area of 236sq.m, the permissible floor area (being 33% of the principal dwelling) would therefore be 78sq.m. The modified development complies with this clause.

#### 5.10 Heritage Conservation

This section requires the consent authority to consider the impacts of development on the heritage significance of the conservation area. The original assessment report concluded that:

*The proposed works to the dwelling are intended to improve the appearance and functionality of the dwelling. The new work is scaled appropriately in relation to the existing dwelling. The effect of the proposal on the heritage significance of the conservation area is assessed as being positive.*

The above comments in relation to the completed residential additions remain valid.

With respect to the amended garage design and secondary dwelling the impacts are different to the approved detached garage but are not considered to have any detrimental impact to the significance of the heritage area. The outbuilding will not be visible to the Thorne Street frontage and will therefore have no impact to the streetscape. The existing developments within the laneway are varied and offer no consistent context within which the new development would look out of place. The development proposes an active frontage to the laneway with a modern building constructed of red brick. The proposed building does not cover the full width of the block and retains an adequate area of private open space within the rear yard.

The modified development is consistent with this clause.

## Part 6 Urban Release Areas

The proposal is not within an Urban Release Area.

## Part 7 Additional Local Provisions

The modification has no impact on the original assessment detailed below:-

### *7.2 Flood planning*

*The subject site is located in Central Wagga and is protected by the levee. At the 1:100 year flood level, Council's flood modelling software shows that the site is inundated. It is considered that the proposed development is compatible with the flood hazard of the land and will have minimal impact on flood behaviour. See further discussion under the DCP section of the report, below.*

### *7.6 Groundwater vulnerability*

*The objective of this clause is to protect and preserve groundwater sources. This clause applies to land identified as "Groundwater" on the Water Resource Map. The subject development is not development specified for the purposes of this clause therefore this clause does not apply.*

Clause 7.9 states that development consent must not be granted to development on any land unless the consent authority is satisfied that the development maintains the primacy of Zone B3 Commercial Core as the principal business, office and retail hub of Wagga Wagga. The development is for a residential alterations and additions within the conservation area. The modification will result in increased accommodation options within close proximity to the commercial core. An increase in residents within close proximity to the B3 zone contributes to the primacy of the centre and is therefore considered to be a positive outcome.

There are no other relevant additional local provisions.

## **State Environmental Planning Policies**

There are no SEPPs applicable to this modification. The original assessment of the application against SEPP55 Remediation of Land and SEPP (BASIX) 2004 remains valid.

An updated BASIX Certificate has been included with the modification due to the new secondary dwelling.

**Section 4.15(1)(a)(ii) The provisions of 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 (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)**

No relevant planning instrument under this clause is currently the subject of public

exhibition or comment.

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

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

The modified development has been assessed against the applicable DCP controls as detailed below.

#### **1.10 Notification of a Development Application**

In accordance with the requirements of the DCP the modification was notified for period of 7 days between 11 and 18 December 2019. No submissions were received.

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

Where an application involves the variation of one or more controls within the DCP Council staff have delegation to approve variations but only limited to certain developments. The limitations are that adequate justification must be provided by the applicant for the number of controls being varied, the variation must not relate to multi dwelling housing and no objections shall have been received in relation to any numerical control that is being varied by greater than 10%. The variations relate to the size of the garage (3.3.2) and the outbuilding size (9.4.4). The variations have been justified and are 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**

There is no change to the vehicle access arrangements that remain from the rear of the block off Yanda Lane.

#### **2.2 Off-street parking**

Parking provision remains as originally approved with the new double garage providing two off street parking spaces.

#### **2.3 Landscaping**

The private open space areas to the rear of the dwelling remain as originally approved with ample opportunity or landscaping throughout.

#### **2.4 Signage**

No signage is proposed as part of this application.

#### **2.5 Safety and Security**



The modification introduces a workshop with glazed frontage to the laneway and a secondary dwelling above. The new outbuilding will present an active frontage to the laneway generating increased levels of passive surveillance and activity in this area. The garage structure and new fence will offer a secure rear yard to the dwelling.

## **2.6 Erosion and Sediment Control Principles**

Temporary sediment and erosion control measures will be implemented during construction. Conditions of consent are imposed in this regard.

## **2.7 - Development adjoining open space.**

Not applicable.

## **Section 3 - Heritage Conservation**

The original assessment with regard to the dwelling alterations and additions remains valid as there are no modifications to the approved development. The modifications to the outbuilding are addressed below.

### **Secondary dwellings on rear lanes**

The rear lanes of the conservation area are becoming increasingly active, with a range of developments and building forms. Secondary dwellings and loft type accommodation, often constructed over a garage, can be considered on rear lanes where there is sufficient site width and area. Secondary dwellings and buildings containing habitable space are also required to comply with the controls for residential development at Section 9 of the DCP.

#### *Objectives*

*O1 Ensure secondary dwellings and similar structures are located on sites with adequate area and width.*

*O2 Avoid inappropriately bulky and visually intrusive structures on rear lanes.*

*O3 Maintain adequate sight lines and ensure the ongoing safety and functionality of rear lanes.*

#### **Controls**

*C1 Minimum frontage/site width - 9m.*

The site has a width of 12.9m and complies with this control.

*C2 Any residential or habitable accommodation is to be above the footprint of the ground floor garage.*

The accommodation extends across both the garage and the storage area. A secondary dwelling above the garage only would result in a very irregular roof form and accessing the upper floor would be problematic. There is no objection to the secondary dwelling covering the modified ground floor area as it results in a better visual outcome and is consistent with other controls.

*C3 The residential or habitable accommodation is to be in the form of a loft addition*



*set into the roof space.*

The secondary dwelling utilises two dormer roof windows allowing natural light and compliant room heights as required into the living space. There is a skylight to the bathroom and windows to the southern elevation above the stairwell. Sections and roof height diagrams show compliance with building requirements for ceiling heights.

*C4 Maximum wall height to eave - 4.2m.*

The maximum wall height is 4.1m and complies with this control.

*C5 The upper section is to be constructed using contrasting materials in order to lower the apparent height and reduce apparent bulk and scale.*

The upper section includes cladding similar to that used on the recent additions to the dwelling. The northern elevation incorporates hebel panelling due to the proximity of the structure to the boundary.

*C6 Roof forms and elements such as dormers that articulate and break up the roof are encouraged.*

Two dormer windows are proposed to the laneway elevation consistent with this control.

## **Garages and carports**

***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.***

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

Car access is from Yanda Lane only, to the rear of the lot.

*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.*

Not applicable

*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 structure is proposed to be constructed in red brick with metal roofing. The red brick structure is the same as a recently constructed garage directly adjacent on the lot to the north and also to the existing multi-dwelling units on the lot to the south.

*C4 Max size of garages:*

*Double garage - 6000mm wide x 7500mm long, 2400mm walls, 27 degree roof pitch rising to apex 3900mm high. Two roller doors 2600mm wide in 3 equal wall bays.*

*Roof pitch 27 degrees (quarter pitch) or steeper to match the roof pitch of the house. Roof pitches can be broken with a 10 to 12.5 degree pitch verandah skillion.*

The modified proposal is for a double garage with attached storage area. The parking area of the garage is proposed to be 6m x 6.6m, with the storage area being 3.9m x

6.2m. The proposed garage area is comparable to that originally approved and remains as a smaller floor area than that permitted listed under this control. It is common practice for additional storage areas to be approved within the heritage area as a storage shed with an area of less than 20sq.m can be added as exempt development. Whilst the storage area in this case is larger than 20sq.m the proposed garage size is less than the maximum allowed and the two areas together can be considered on a merits base case. The difference with this application to many others with attached storage areas is the need to also provide a compliant staircase to the upper storey under which a laundry area is proposed. The total structure will not cover the whole width of the block allowing for separation between this property and the adjacent units.

The modified development has been reduced in scale as it previously included a link to the extended dwelling that would have resulted in continuous development from the front of the block to the rear. This design was not supported and the applicants agreed to delete this section which resulted in a triple garage sized structure presenting to the laneway that requires justification. The reduction in scale that has occurred assists in the justification of this development as the overall site layout is protected with open deck and private open space provided to the property.

Furthermore, the adjacent property at 69A Thorne Street has a detached red brick double garage with storage area to the rear of the site that is all under the one roof. This was approved under DA15/0271 and has a total footprint of 62sq.m. The two structures will be viewed together from the laneway and will be seen as comparable and complementary developments.

#### *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.*

Walls are proposed in red brick with metal roof. Profiles would be specified in a condition of any consent.

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

A roller door is proposed to the garage, no specific colour is detailed on the plan. Double doors are consistently approved within the heritage area and this particular laneway has many examples of such including directly adjacent and opposite.

In conclusion, the size of the garage is consistent with the objectives of this section. The additional storage area is proposed to provide both a workshop area and access to the upper floor. This area presents an active frontage to the laneway and remains consistent with the objective of this section.

## **Gardens**

The proposal retains the existing garden layout as originally approved.

## **Fences**

A standard 1.8m high metal fence will be provided across the rear boundary between the side boundary and the new garage structure to ensure that the rear garden area is secure.

## **Section 4 - Environmental Hazards and Management**

The subject site is not protected to a 1:100 year flood event due to the height of the existing levee and is therefore identified as being prone to flood. The development is not considered to affect or be affected by flood.

The land is not identified as prone to bushfire.

## **Section 5 - Natural Resource and Landscape Management**

### 5.4 Environmentally Sensitive Land

As noted under the LEP section of the report the subject site is affected by environmentally sensitive layers on the LEP maps.

The site is covered by the environmentally sensitive land groundwater and biodiversity mapping layers. The original assessment concluded no adverse impacts as a result of the development.

## **Section 6 - Villages**

The proposal is for modified residential alterations and additions in a heritage area. Section 6 is not applicable to this development.

## **Section 7 - Subdivision**

The proposal is for modified residential alterations and additions in a heritage area. No subdivision is proposed as part of this application, Section 7 is not applicable.

## **Section 8 - Rural Development**

The proposal is for modified residential alterations and additions in a heritage area. Section 8 is not applicable to this development.

## **Section 9 - Residential Development**

### 9.2.1 Site layout

*C2 Integrate access, landscaping and services in the site layout, avoiding underutilised spaces.*

The modifications to the plans have minimal impact upon the overall site layout that consists of approved and constructed additions at the rear of the dwelling and a detached outbuilding to the rear.

### 9.2.2 Streetscape

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

The rear streetscape consists of garages, car-ports and driveways at the rear of dwellings that are accessed directly from Yanda Lane. There is a mix of garage sizes and styles along the laneway as well as solid blank walls to some developments. There is a two storey dwelling at the end of the laneway where the laneway meets Forsyth Street. Within this context the proposed secondary dwelling above garage and store is considered suitable and acceptable. There is no detrimental impact to the streetscape as a result of the modifications.

### 9.3.2 Site cover

*C1 Maximum site cover is to be in accordance with Table 9.3.2a.*

The table requires that for single dwellings with an area of between 600 and 900sq.m the maximum site coverage in the R1 zone is 50%. The proposed (modified) site coverage including the additions is approximately 47%. The control is therefore satisfied.

### 9.3.4 Solar Access

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

Due to the orientation of the block it is not possible to comply with this control as the existing dwelling faces to the west. The detached garage is at the rear (east) of the block. The secondary dwellings has solar light from dormer windows, a skylight and windows above the stairwell.

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

The approved additions result in an open deck and garden area to the rear of the dwelling that will benefit from northern solar access.

*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*

The rear living area to the dwelling as approved faces north and the private open space also benefits from northern solar access.

The dormer windows to the secondary dwelling will allow for natural light into the living area.

A compliant BASIX Certificate has been provided with the application.

*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 adjacent units to the south are set back from the boundary by approximately 7 metres and the proposed secondary dwelling structure is set into the subject site by 2 metres. A shadow diagram prepared with the application demonstrates that the northern elevations of the units will be impacted by the development in the morning but by midday only the driveway is affected by overshadowing.

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

The modifications will not result in any overshadowing of adjacent private open space to a significant or unacceptable degree.

#### 9.3.5 Private open space

*C1 At least 24m<sup>2</sup> 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.*

The private open space area easily complies with this control.

#### 9.4.2 Materials and finishes

The proposal is within the Conservation area, therefore Section 3 of the DCP applies and the provisions for additions within that section take precedence. The addition is in keeping with the existing property.

#### 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 additions do not introduce any windows or balconies that will result in direct overlooking of neighbouring properties. No screening is necessary.

#### 9.4.4 Garages, carports, sheds and driveways

The garage is located to the rear and fronts onto Yanda Lane. The garage has been assessed against the applicable heritage controls earlier in the report including justification for the size.

The structure is setback from the laneway by 1.1 metres. The outbuilding was originally approved as having an area of greater than 8% of the lot size and this remains applicable under the modification. Equally the height of the outbuilding is

greater than specified under this section but compliant with secondary dwelling controls in the heritage chapter.

When considering the objective of this section to minimise the visual dominance of garages and driveways in the streetscape, in this instance any dominance of the structure on the laneway (streetscape) is not caused by the site cover of the garage it is caused by the two storey design and therefore the secondary dwelling above the garage. The proposal as a whole complies with the site cover controls, provides adequate areas of private open space and does not unreasonably impact on the amenity of any adjoining properties.

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

There is no cut or fill proposed with this application.

### **Section 10 - Business Development**

Section 10 is not applicable to this development

### **Section 11 - Industrial Development**

Section 11 is not applicable to this development.

### **Section 12 - Specific Uses and Developments**

Section 12 is not applicable to this development.

### **Section 13 - Bomen Urban Release Area**

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

### **Section 14 - Boorooma Urban Release Area**

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

### **Section 15 - Lloyd Urban Release Area**

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

### **Section 16 - Gobbagombalin Urban Release Area**

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

**Section 4.15(1)(a)(iiia) - any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered**

**to enter into under section 7.4, and**

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**

Conditions have been imposed to ensure this development is consistent with the regulations including compliance with the BCA.

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

**Context and setting**

The site is located within an established residential precinct, surrounding development is generally low density single storey residential. The proposal as modified maintains the residential use of the site, which is entirely compatible with adjoining residential uses.

The proposed new brick built garage and secondary dwelling complement adjoining structures to the laneway and the two storey red brick building at the north of the laneway. The development has no detrimental impact to the existing streetscape.

**Access, transport and traffic**

The modified design of the double garage continues to provide vehicle access from Yanda Lane. The proposal would provide for off street parking for 2 vehicles.

**Services**

The existing development is adequately serviced and no change to availability or capacity of services is expected.

**Heritage**

The site is within the conservation area, heritage impacts have been discussed in detail under earlier sections of the report. The impact on the streetscape and the heritage significance of the area is considered acceptable.

**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 associated works to construct the additions will support local businesses such as builders, decorators and building supply companies. In addition the secondary dwelling provides accommodation within close proximity to the commercial core and linked spending within the local economy may result from occupants of such accommodation.

There are no likely adverse economic or social impacts.

### **Pollution and off-site environmental effects**

Standard conditions should be attached to any consent for construction to secure management of sediment and erosion during construction. Stormwater will drain to Council's stormwater system.

### **Flora and fauna**

The site has not been identified as containing any critical or protected species or habitat, there are no trees to be removed from the site and it is within the bio-certified area.

### **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.

The secondary dwelling may result in increased comings and goings to the rear laneway, any noise associated with this will be comparable to the existing as the thoroughfare is regularly used for vehicle access.

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

The modified design is informed by the existing dwelling on site and neighbouring developments. The lot to the south has a driveway alongside the subject site with multi-dwelling housing units set back from the boundary by approximately 7 metres. The adjoining parcel to the north has a detached garage to the rear adjacent to the proposed location of the new outbuilding.

The siting of the garage and secondary dwelling to the northern boundary allows for a 2m setback to the southern boundary therefore minimising overshadowing impacts to the existing units.

### **Construction**

Construction of the development is likely to be disruptive in the vicinity of the subject site. Any impacts will be temporary and short term and there are no long term impacts from construction that raise concern.

## Cumulative Impacts

It is anticipated that there will be an increase in similar types of development that introduce secondary dwellings to the laneways throughout the conservation area. Each of these applications will be determined on merit and be subject to many factors including lot size, site cover and size. Over time there may be a cumulative impact upon the character of the laneways however this is not necessarily a bad thing as densities increase closer to the commercial centre of the city.

There are no likely adverse cumulative impacts from this development.

## 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. 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.*

The proposed development as modified will not result in any anticipated irreversible environmental damage, the proposal utilises an existing urban site for redevelopment and therefore is not considered to impact on biological diversity or ecological integrity. The proposal is consistent with the precautionary principle to the extent that all potential threats to the environment have been identified and assessed. Accordingly the principles of ESD are considered to have been followed.

## Section 4.15(c) - the suitability of the site for the development

The subject land is considered to be suitable for the proposed development as modified because the land is an existing urban block seeking approval for modified alterations and additions to a dwelling which is a suitable and permissible use within a residential area. The development is within the heritage conservation area and is subject to a number of specific controls that have been addressed earlier in the report. The modifications only impact upon the rear laneway with no changes to the Thorne Street streetscape.

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

## regulation

### Referrals

Internal only.

### Notification

In accordance with the requirements of the WWDCP 2010, the modified application was notified for a period of 7 days from 11-18 December 2019. No submissions were received.

### Advertising

In accordance with the requirements of the WWDCP 2010, the modified application was not required to be advertised.

### Public Submissions and those from public authorities

The Heritage Advisor was notified of the modification application when it was first received and recommended refusal or submission of revised plans due to the proposed linking of the rear additions to the increased garage and secondary dwelling. Revised plans were prepared that deleted the linking addition and reduced the scale of the storage room adjoining the double garage.

The comments received from the heritage advisor are as follows:-

*The house is an uncharacteristic building item in the conservation area being outside of the significant building period and being a poor example of its type.*

*The proposed garage studio is not in accordance with the following controls in Section 3.3.2 of the DCP*

#### **Garages and carports**

##### **C4 Maximum Size**

*Double garage - 6000mm wide x 7500mm long, 2400mm walls, 27 degree roof pitch rising to apex 3900mm high. Two roller doors 2600mm wide in 3 equal wall bays.*

*Council regularly supports storage areas off garages usually in a skillion form to about 15.0 square metres. The proposed store is larger than this though the garage is less than the controls allow. The current store can easily accommodate a third car and the folding doors to the rear lane will allow for this.*

*Recommendations: The store be reduced in width to provide for a 1.0 metre setback to the side boundary. The sliding doors to the rear lane could be retained but windows would be preferred to avoid any signal that the structure has a third car parking space.*

#### **Secondary dwellings on rear lanes**

*C2 Any residential or habitable accommodation is to be above the footprint of*

*the ground floor garage.*

*The studio carries over the whole of the floor plate of the garage and side store but the rear store has been deleted. Provided that the store is reduced in width (see above) the wider loft (over the reduced ground floor footprint) is acceptable as it will provide for a horizontal form to the structure and reduce its apparent height.*

In response to the revised plans and the comments above the sliding doors to the laneway are glazed and there is a 2m setback to the side boundary. The storage area is stepped back from the garage frontage and as well as providing a workshop area also accommodates the stairs to the upper floor and laundry for use by the secondary dwelling. The garage area is less than that permitted under DCP controls and the store area is only just larger than the 20sq.m that would be classed as exempt development (in the form of a shed). The secondary dwelling is proposed to cover the whole of the garage and store area which results in a more amenable roof form than one that just covered the garage.

It is considered that the revisions that have been made to the plans by the applicant are beneficial to the overall site design and are appropriate within the site context and this part of the heritage conservation area.

#### **Section 4.15 (e) - The public interest**

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

The public interest is best served by the consistent application of the requirements of the relevant planning controls and by Council ensuring that any adverse effects on the surrounding area and the environment are avoided. The proposed development will have a positive public interest with the addition of residential accommodation within close proximity to the commercial core.

The construction of secondary dwellings to the laneways within the heritage area can occur with minimal impact to the main front streetscapes and therefore the significance of the conservation area is protected.

Taking into account the full range of matters for consideration under Section 4.15 and 4.55 of the *Environmental Planning and Assessment 1979* (as discussed within this report) it is considered that approval of the application is the public interest.

##### **Other Legislative Requirements**

##### **Section 1.7 of the 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 21<sup>st</sup> November 2017, certain zones of the WWLEP 2010 achieved Biodiversity Certification under the *Biodiversity Conservation Act 2016*, including all Business,

Industrial, Residential and Special Infrastructure Zones that were in place at the time of the making of the *Biodiversity Conservation Act 2016*. The subject site falls within an area subject to the Biodiversity Certification Order.

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

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

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

Therefore, no further consideration of these matters is required.

### **Section 733 of the Local Government Act 1993**

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

### **Flooding Risk Assessment**

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. As noted earlier in the report the subject site is identified as flood prone but within the central area that will be protected by the levee works once complete. There is no anticipated risk of flooding associated with the modified development.

### **Bush Fire Risk Assessment**

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

### **Council Policies**

Not applicable.

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

Contributions under s94A and s64 that were calculated in association with the original application have been paid in full.

The base s94A contribution (calculated at the time of the original DA) was \$3074, which was based on the stated cost of development of \$307,400. The CPI at this time was 108.7.

The contribution was paid on 16/09/16. It was adjusted for CPI at this time (110.4) with \$3514.52 being paid. The figure paid appears to be in excess of the required amount that should have been calculated as \$3122.08. ( $\$3074 \times 110.4/108.7 = \$3122.08$ .)

The value of the development as modified under the subject application has increased to \$364,000. A s7.12 (former 94A) contribution is payable on the increased amount, however, CPI has also increased, and as such the amount previously paid (in September 2016 dollars) needs to be indexed to give a value in December 2019 dollars.

The current CPI is 115.9. As such the amount paid is valued as follows:

$$\begin{aligned} &115.9/108.7 \times 3074 \\ &= \$3277.61 \end{aligned}$$

\$3277.61 becomes the credit to apply.

Therefore the s7.12 contribution payable is:

$$(0.01 \times \$364,000) - \$3277.61$$

$$\begin{aligned} &3640 - 3277.61 \\ &= \$362.39 \end{aligned}$$

However as noted above the original contribution paid was greater than required and the development is effectively in credit. The amount over-paid was \$392.44 and therefore no further payment is required as a result of the modification.

The modification will attract additional contribution payments due to an increased cost of development and increased area of hardstand.

The hardstand footprint of the garage and storage area has increased by an area of 26.13sq.m an additional contribution is therefore required as follows:-

$$\frac{26.13}{800} \times \frac{1.0}{0.74} \times \$3007 = \$132.72 \text{ plus CPI } 115.2/87.9 = \$173.94$$

The additional contributions will be secured by condition.

### Other Approvals

No other approvals were sought

### 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, the Building Code of Australia and Councils Policies.

## RECOMMENDATION

It is recommended that the Wagga Wagga City Council approved DA16/0162.01 made under Section 4.55 (1A) of the Environmental Planning and Assessment Act 1979, to amend DA16/0162 for Alterations, Additions to Dwelling in Conservation Area & Demolition of Garage and Construction of New 2 Bay Garage - Increase size of garage and include first floor secondary dwelling above, 69 Thorne St, Wagga Wagga NSW 2650, Lot 1 DP 722975, be approved, subject to the following conditions:-

## CONDITIONS OF CONSENT FOR APPLICATION NO.

### Approved Plans and Documentation

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

Plan /Doc . No.	Plan/Doc. Title	Prepared by	Issue	Date
001	Proposed Addition to Existing Dwelling - Existing floor plan/site plan	Pedersen Design		03.03. 2016
002	Proposed Addition to Existing Dwelling - Site Analysis Plan	Pedersen Design		03.03. 2016
004	Proposed Addition to Existing Dwelling - Proposed Streetscape	Pedersen Design		03.03. 2016
100	Proposed Addition to Existing Dwelling - Site Plan	Pedersen Design		03.03. 2016
101	Proposed Addition to Existing Dwelling - Ground Floor Plan	Pedersen Design		03.03. 2016
102	Proposed Addition to Existing Dwelling - Roof-Attic Plan	Pedersen Design		03.03. 2016
003	Proposed Addition to Existing Dwelling - West Elevation (Existing and proposed)	Pedersen Design		03.03. 2016
300	Proposed Addition to Existing Dwelling - Elevation (North and South)	Pedersen Design		11.11. 2015



301	Proposed Addition to Existing Dwelling - East and West Elevation	Pedersen Design		10.11.2015
200-204	Proposed Addition to Existing Dwelling - Sections A-A, B-B, C, D-D, E-E	Pedersen Design		10.11.2015
700-703	Proposed Addition to Existing Dwelling - Window Schedule	Pedersen Design		03.03.2016
	Statement of Environmental Effects	Pedersen Design		Undated, Scanned WWCC 24.03.2016
	Schedule of Materials and Colours	Pedersen Design		03.03.2016
A24 3339	BASIX Certificate	Pedersen Design		21.03.2016
A01.1	Site Plan	Matt Jenkins Homes	E	13.12.19
A01.2	Proposed Ground Floor	Matt Jenkins Homes	E	13.12.19
A01.3	Proposed First Floor - Loft Area	Matt Jenkins Homes	E	13.12.19
A02	Elevations Proposed	Matt Jenkins Homes	E	13.12.19
A03	Section	Matt Jenkins Homes	E	13.12.19
A03.1	Roof Height	Matt Jenkins Homes	E	13.12.19
	Cover Letter	Matt Jenkins Homes	E	4.12.19
	Statement of Environmental Effects - amended development proposal	Matt Jenkins Homes		no date
1063 747S - 02	BASIX Certificate	Matt Jenkins Homes		17.12.19

**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 96 of the Environmental Planning and Assessment Act, 1979.

**REASON:** It is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

#### Prior to release of Construction Certificate

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

**REASON:** To ensure the design of the proposed work may be assessed in detail before construction commences and because it is in the public interest that the development complies with the appropriate construction standards. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

3. **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.**

**REASON:** It is in the public interest that all building elements are able to withstand the combination of loads and other actions to which it may be subjected. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

4. **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.**

**REASON:** It is in the public interest that all building elements are designed to be able to withstand the combination of loads and other actions to which

they may be subjected. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

**5. Prior to the issue of Construction Certificate the developer must lodge a bond with Council of:-**

**\$2000.00 security deposit on the kerb and gutter and footpath**

**Plus a non-refundable administration fee of \$55.**

**NOTE 1:** Applicants will be required to reference the **INDIVIDUAL** kerb and gutter bond number (**BKG 0490**) when lodging bond monies. Please reference the **BKG** number on the application form which is available from customer service and on council's website under the planning tab > document quick links > applications / or alternatively reference **BKG 0490** when making electronic payment.

**NOTE 2:** All monetary conditions are reviewed annually, and may change on 1 July each year.

**NOTE 3:** 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 4:** 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.

**OPTIONAL NOTE:** 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

**REASON:** It is in the public interest that such fees are paid in accordance with Council's Management Plan. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

**6. Pursuant to s94A of the Environmental Planning and Assessment Act 1979 and the City of Wagga Wagga Section 94A Levy Contributions**

**Plan 2006, a levy in the amount of \$3074 must be paid to Council prior to the issuing of the Construction Certificate. This amount is to be adjusted in accordance with clause 25J(4) of the Environmental Planning and Assessment Regulation 2000 and clause 11 of the City of Wagga Wagga Section 94A Levy Contributions Plan 2006. A copy of the City of Wagga Wagga Section 94A Levy Contributions Plan 2006, is available for inspection at Council Chambers, corner Baylis and Morrow Streets, Wagga Wagga.**

**NOTE 1: Clause 11 of the City of Wagga Wagga Section 94A Levy Contributions Plan 2006 provides for Section 94 contributions to be indexed in accordance with the Consumer Price Index - All Groups (Sydney) published by the Australian Bureau of Statistics.**

**NOTE 2: The figures outlined in this consent are based on the applicable rate of CPI at the time of consent which is 108.7/95.6. 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.**

**REASON:** Section 94A of the *Environmental Planning and Assessment Act 1979* and the *City of Wagga Wagga Section 94A Levy Contributions Plan 2006*, authorises the imposition of this condition in relation to the development the subject of this consent.

- 7. 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 - 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 NIL.

The Section 64 Sewer contribution (updated by the CPI) required to be paid is NIL.

**NOTE 6:** The Section 64 Stormwater base figure is \$304.76

The Section 64 Stormwater contribution (updated by the CPI) required to be paid is \$370.29

**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.

**REASON:** It is in the public interest that Council maintain the ability to provide adequate water and sewer reticulation services. Section 79C(1)(c) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended).

**7A.** Prior to the release of the NEW Construction Certificate for the works approved under DA16/0162.01 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 - 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 NIL.

The Section 64 Sewer contribution (updated by the CPI) required to be paid is NIL.

**NOTE 6:** The Section 64 Stormwater base figure is \$132.72

The Section 64 Stormwater contribution (updated by the CPI) required to be paid is \$173.94

**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.

**REASON:** It is in the public interest that Council maintain the ability to provide adequate water and sewer reticulation services. Section 79C(1)(c) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended).

#### **Prior to Commencement of Works**

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

- a) a standard flushing toilet connected to a public sewer, or

- b) if that is not practicable, an accredited sewage management facility approved by Council, or
- c) if that is not practicable, any other sewage management facility approved by Council.

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

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

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

REASON: To provide adequate sanitary facilities during the construction phase. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

**9. A CONSTRUCTION CERTIFICATE pursuant to Section 109C 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.

REASON: To ensure the design of the proposed work may be assessed in detail before construction commences and because it is in the public interest that the development complies with the appropriate construction standards. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.



**9A. An AMENDED or NEW CONSTRUCTION CERTIFICATE pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended from either Council or an accredited certifying authority certifying that the proposed modified works as approved under DA16/0162.01, are in accordance with the Building Code of Australia PRIOR to any modified 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.

**REASON:** To ensure the design of the proposed and modified work may be assessed in detail before construction commences and because it is in the public interest that the development complies with the appropriate construction standards. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

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

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

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

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

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

REASON: To ensure that the building site and adjoining public places are maintained in a clean and tidy condition so as not to interfere with the amenity of the area. Section 79C (1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

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

- a) **Development Control Plan 2010 (Section 2.8 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.**

REASON: To ensure the impact of the work on the environment in terms of soil erosion and sedimentation is minimised. Section 79C (1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

**12. The existing trees to be retained situated within the property of the proposed development shall be protected from all construction works.**

**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.

REASON: Because it is in the public interest that the subject trees are protected. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

**13.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.

REASON: It is in the public interest that plumbing and drainage work is carried out with the relevant approvals required under the Local Government Act 1993 and the Plumbing Code of Australia. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

**14. Building work (within the meaning of the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development:**

- a) in the case of work done by a licensee under the Act:
  - i) has been informed in writing of the licensee's name and contractor license number, and
  - ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act, OR
- b) in the case of work to be done by any other person:
  - i) has been informed in writing of the person's name and owner-builder permit number, or

- ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of the Act,

and, is given appropriate information and declarations under paragraphs a) and b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either a) or b).

**NOTE:** A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that the person is the holder of an insurance policy is sufficient evidence to satisfy this condition.

**REASON:** To ensure the development complies with the requirements of Clause 98 of the Environmental Planning and Assessment Regulations 2000, and Section 80A(11) of the *Environmental Planning and Assessment Act 1979*, as amended.

**15. Prior to works commencing, a sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:**

- a) stating that unauthorised entry to the site is prohibited, and
- b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside work hours
- c) the development consent or complying development consent number, the name and contact details of the Principal Certifying Authority.

**Any sign must be removed when the work has been completed.**

**NOTE:** This condition does not apply to:

- a) building work carried out inside an existing building, or
- b) building work carried out on premises that must be occupied continuously (both during and outside work hours) while the work is being carried out.

**REASON:** To ensure the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulations 2000, as amended, and Section 80A(11) of the *Environmental*

*Planning and Assessment Act 1979, as amended.*

- 16. At least two (2) days prior to the commencement of any works, the attached 'Notice of Commencement of Building or Subdivision Works and Appointment of Principal Certifying Authority', must be submitted to Council.**

REASON: Because it is in the public interest that Council receive notification in accordance with the provision of the *Environmental Planning and Assessment Act 1979*, as amended. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

### During works

- 17. If the Council is appointed as the Principal Certifying Authority the following inspections must be undertaken by Council and a satisfactory Inspection Report must be issued by Council for such works prior to any further works being undertaken in respect of the subject development. Inspection Stages for construction are listed in Column 1 and must be inspected by Council at the times specified in Column 2.**

COLUMN 1	COLUMN 2
Footings	When the footings have been excavated and all steel reinforcement has been placed in position.
Slab	When reinforcement steel has been placed in position in any concrete slab, whether or not the slab is suspended, on the ground, or on fill.
Bearers and joists	Prior to the laying of the floor.
Wall frame	When the frame has been erected and prior to sheeting and or brick veneer outer wall has been constructed and tied to the frame.
Roof frame	When external roof covering has been installed and prior to the installation of the ceiling lining and eaves soffit lining.
Wet areas	When waterproofing has been applied to all wet areas, prior to tiling or finishing of surface.
Final	Required prior to occupation of the building

**NOTE 1: A Final Occupation Certificate in relation to the building cannot be issued by Council until all Inspection Reports**

required by this condition have been issued by Council. Prior to or at the time of the application for Occupation Certificate the application for "Occupation Certificate" form attached to the Council issued Construction Certificate 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 2:** The above Inspection Reports are required whether or not the work has been inspected by a Structural Engineer, a lending authority or any other person. If the Inspection Reports are not issued Council may refuse to issue a Building Certificate under Section 149A of the Environmental Planning and Assessment Act 1979, as amended.

**NOTE 3:** Submission of the bracing plan and the Truss and Frame Certificate is required seven (7) working days before the frame inspection.

**REASON:** It is in the public interest that critical stage inspections be issued for these components of the development in accordance with Section 162A of the *Environmental Planning and Assessment Regulations 2000* as amended.

- 18. 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.**

**Excavations must be undertaken in accordance with the terms and conditions of Section 9.4.6 of the Wagga Wagga Development Control Plan 2010.**

**REASON:** It is in the public interest that all building elements are able to withstand the combination of loads and other actions to which it may be subjected. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

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

- a) **NON CHEMICAL** - where a non chemical treatment (physical barriers) is to be used the applicant shall submit details to Council prior to any work commencing.
- b) **CHEMICAL RETICULATION** - where a chemical method of

treatment is to be used by way of reticulation, details shall be provided to Council for approval prior to installation accompanied by a signed maintenance contract with a Pest Control Operator.

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

- c) **CHEMICAL TREATMENT** - where a chemical method of treatment is to be used by way of hand spray treatment before laying the slab, details shall be provided to the Council for approval prior to installation.

**Warning** - Applicants and owners are warned that the expected life of the under floor barrier (Chemical Treatment) is only ten (10) years and the external barrier (Chemical Treatment) is only five (5) years. The actual protection will depend on factors such as termite hazards, climate and soil conditions.

Council recommends in all cases of chemical treatment including reticulation that regular annual inspection be carried out by a licensed Pest Control Operator to determine the need for re-treatment.

- d) 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.
- e) 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.

**REASON:** It is in the public interest that where appropriate termite management treatments are used in compliance with AS 3660.1.2000 Termite Management New Building Work. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

## **20. The demolition must be carried out in accordance with the provisions**



**of Australian Standard AS2601-2001: The Demolition of Structures.**

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

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

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

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

REASON: It is in the public interest that the demolition be carried out in a safe manner and that the utilities be protected from damage. Section 79C(1)(a) & (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 21.** 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.

REASON: To ensure building works do not have adverse effects on the amenity of the area. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 22.** 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.

REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 23.** 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.

REASON: To reduce the likelihood of damage from floodwaters. Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 24. If any Aboriginal object is discovered and/or harmed in, on or under the land, all work must cease immediately and the area secured so as to avoid further harm to the Aboriginal object. The Office of Environment and Heritage shall be notified as soon as practicable on 131 555, providing any details of the Aboriginal object and its location, and no work shall recommence at the particular location unless authorised in writing by Office of Environment and Heritage.**

REASON: To ensure that Aboriginal sites are protected. Section 79C (1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 25.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.

REASON: It is in the public interest that plumbing work is certifying as complying with AS/NZS 3500.2003 and Plumbing Code of Australia.

- 25A. Stormwater drainage from the proposed garage/secondary dwelling shall connect into the existing stormwater system onsite. Stormwater discharge will not be permitted to discharge directly to Yanda Lane.**

REASON: It is in the public interest that plumbing and drainage work is

carried out with the relevant approvals required under the Local Government Act 1993 and the Plumbing Code of Australia. Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

- 26. All building work must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant Construction Certificate or Complying Development Certificate was made).**

REASON: To ensure the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulations 2000, as amended, and Section 80A(11) of the *Environmental Planning and Assessment Act 1979*, as amended.

#### **Prior to release of Occupation Certificate / Prior to Operation**

- 27. Prior to issue of occupation certificate the redundant kerb layback in Thorne Street shall be replaced with conventional barrier kerbing, and Council's footway rehabilitated, in accordance with Council's Engineering Guidelines for Subdivisions and Developments.**

REASON: To minimise vehicular access to the public roadway and to increase the capacity of the roadway for conveying storm water drainage runoff. Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 28. An Occupation Certificate, must be obtained pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, from either Council or an accredited certifying authority, prior to occupation of the building. The works approved under DA16/0162.01 (garage and secondary dwelling) will require a separate Occupation Certificate.**

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.

REASON: It is in the public interest that an Occupation Certificate be issued prior to occupation of the building. Section 79C (1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

**29.** 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.

**REASON:** To ensure compliance with the relevant provisions of the *Plumbing and Drainage Act 2011* and Regulations.

**30.** 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.

**REASON:** To ensure that the water servicing requirements of the development have been approved by the relevant authority. Section 79C (1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

**31.** 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.

**REASON:** To ensure the development complies with the requirements imposed under Clause 97A of the Environmental Planning and Assessment Regulations 2000, as amended, and Section 80A (11) of the *Environmental Planning and Assessment Act 1979*, as amended.

## General

- 32. All exterior lighting associated with the development must be designed and installed so that no obtrusive light will be cast onto any adjoining property.**

**NOTE:** Compliance with Australian Standard AS4282.1997 “Control of the Obtrusive Effects of Outdoor Lighting” will satisfy this condition.

**REASON:** To prevent the proposed development having a detrimental effect on the developments existing on adjoining land. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 33. Should asbestos material be found, it is to be handled, transported and disposed of in accordance with the legislative requirements and standards determined by NSW WorkCover. All weighbridge receipts must be provided to Wagga Wagga City Council, within 14 days of the completion of the demolition/removal.**

**NOTE 1:** All asbestos material needs to be double wrapped in 200µm thick plastic and disposed of at an EPA licensed facility. In this regard it should be noted that Wagga Wagga City Council's Gregadoo Waste Facility is the only EPA licensed facility within the Local Government Area to accept asbestos material. Council's Waste Management Supervisor requires 24 hours notice prior to disposal of this material

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

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

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

**REASON:** To minimize the risk to human and environmental health, Contaminated Land Management Act 1997 No 140 and Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.



- 34. The existing front fence may be rendered and a new pier/s, matching the existing piers in height and breadth, with a maximum height of 1200mm, constructed as necessary to continue the front fence across the former driveway entrance. The front fence shall be painted in accordance with the Colour Schedule approved pursuant to Condition 1 of this consent.**

REASON: To ensure a positive impact on the streetscape and the character of the conservation area. Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 35.(1) For the purposes of Section 80A (11) of the Environmental Planning and Assessment Act 1979, it is a prescribed condition of the development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:**

- (a) protect and support the adjoining premises from possible damage from the excavation, and
  - (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) 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.**

REASON: To ensure the development complies with the requirements imposed under Clause 98E of the Environmental Planning and Assessment Regulations 2000, as amended, and Section 80A (11) of the *Environmental Planning and Assessment Act 1979*, as amended.

<p><b>Report Prepared &amp; approved by:</b></p>  <p>Amanda Gray Senior Town Planner</p> <p>Date: 20.12.2019</p>	<p><b>Report Reviewed by:</b></p>  <p>Sam Robins Senior Town Planner</p> <p>Date: 20/12/19</p>
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