



Report of Development Application

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

APPLICATION DETAILS

Application No:	DA20/0307
Council File No:	D/2020/0307
Date of Lodgement:	29/06/2020
Applicant:	JW Eggleton 9 Crawford St ASHMONT NSW 2650
Proposal:	Use of existing Patio
Development Cost	\$7000
Description of Modification:	N/A
Other Approvals:	Nil
Determination Body & Reason:	Officer Delegation 7.39
Assessment Officer:	Emma Molloy

SITE DETAILS

Subject Land:	9 Crawford St ASHMONT NSW 2650 Lot 23 DP 244667
Owner:	JW Eggleton

REPORT

DESCRIPTION OF DEVELOPMENT

Use the existing patio.

THE SITE & LOCALITY

Location - On the northern side of Crawford Street, approximately 125 metres from the intersection of Crawford and Tobruk Streets.

Area - 656m²

Occupations - Existing dwelling, pool, carport and shed.

Constraints and restrictions - Nil

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

Section 4.15(1)(a)(i) - The provisions of any environmental planning instrument (EPI)

Wagga Wagga Local Environmental Plan 2010 (LEP 2010)

Zoning of land (cl 2.2): R1

The development is permissible in the zone (cl. 2.3(1))

The development is consistent with the following objectives of the zone (cl. 2.3(2)):

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.

The development is compliant with the relevant provisions of the LEP 2010. The following provisions have been identified for further discussion:

No further provisions have been identified.

State Environmental Planning Policy No. 55

There is no indication that the site has previously been occupied by any use that could have led to contamination of the site. Furthermore, the land is not identified on Council's register of contaminated sites.

State Environmental Planning Policy (BASIX) 2004

A BASIX Certificate is not required for the development.

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

There are a number of state environmental planning policies currently subject to review, including some which have involved consultation and notification. With the exception of the following, none of these are applicable to this application.

Remediation of Land SEPP and repeal of State Environmental Planning Policy 55

The draft SEPP will not impact on the assessment of this application under SEPP 55 with regard to the potential contamination of this site and its suitability for the proposed development.

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

Wagga Wagga Development Control Plan 2010

The development is compliant with the relevant provisions of the DCP 2010. The following provisions have been identified for further discussion:

1.10 Notification of a Development Application

The application has been notified in accordance with the notification provisions outlined in Section 1.10 of the WWDCP. No submissions were received.

Dates: 16 to 23 July

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

No related planning agreement has been entered into under section 7.4.

Section 4.15(1)(a)(iv) - the regulation

Matters prescribed by the Environmental Planning and Assessment Regulation 2000 have been satisfied, including the addition of prescribed conditions.

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

The likely impacts of the development have been considered and are deemed satisfactory.

Section 4.15(1)(c) - The suitability of the site for the development

Matters relating to the suitability of the site for this development have been considered and the site is deemed suitable for the development.

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

No submissions were received.

Section 4.15(1)(e) - the public interest

It is considered that this application will not have a detrimental effect on the public interest.

Other Legislative Requirements

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

The development is in a residential zone and not removing any vegetation; the development will have minimal impact and not impact on any threatened species in the vicinity. No further assessment is required under this section.

Council Policies

Policy 046 - Processing Development Applications lodged by Councillors, staff and individuals of which a conflict of interest may arise, or on Council owned land.

No declaration has been made that would require action under this policy.

Comments from Internal Referrals

No comments have been received from internal referrals undertaken.

Development Contributions

Section 7.12 of the EPA Act, 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 enable Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. A Section 7.12 contribution is not payable as the cost of the development was under \$100,000.

Section 64 of the Local Government Act 1993, Section 306 of the Water Management Act 2000 as well as the City of Wagga Wagga's Development Servicing Plan for Stormwater 2007 / Development Servicing Plan for Sewerage 2013 enable Council to levy developer charges based on increased demands that new development may have on sewer and/or stormwater infrastructure. A Section 64 sewer contribution is not payable as the proposed development will not place an increased demand on the sewer infrastructure. However, stormwater contributions will be charged as the proposed development includes additional hardstand. Calculations are as follows:

Additional hardstand 6m²
Developer Charge for Urban West of Willans Hill \$3007

$$6/800 \times 1/0.74 \times 3007 = \$30.47$$

With CPI

$$30.47 \times 117.1/87.9 = \$40.60$$

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 (Housing Provisions) and Councils Policies. No objections to the proposal were received.

Recommendation

It is recommended that application number DA20/0307 for Use of existing Patio be approved, subject to the following conditions:-

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	Applicant		25.06.2020
	Site Plan	Applicant		25.06.2020
	Pergola Elevations	Applicant		Received 30.06.2020

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 Building Information Certificate can be issued

- C.2 Prior to the release of a Building Information 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: DELETED

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 117.1/100.5) required to be paid is NIL

NOTE 6: The Section 64 Stormwater base figure is \$30.47
The Section 64 Stormwater contribution (updated by the 117.1/87.9) required to be paid is \$40.60

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.3 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.4 A Building Certificate must be obtained from Council, within three (3) months of the date of this Development Approval pursuant to Section 149A of the Environmental Planning and Assessment Act 1979, as amended.

NOTE: An application form has been attached.

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

Report Prepared & approved by:



Emma Molloy
Town Planner

Date: 5.08.2020