

# Report of Development Application

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

### APPLICATION DETAILS

Application No.:	DA20/0368
Modification No.:	N/A
Council File No.:	D/2020/0368
Date of Lodgement:	03/08/2020
Applicant:	Ladex Construction Group P/L 35 Bomen Rd BOMEN NSW 2650 Richard Pottie
Proposal:	Alterations and additions including new shed and extension to existing shed
Description of Modification:	N/A
Development Cost:	\$950000
Assessment Officer:	Amanda Gray
Determination Body:	Officer Delegation 7.39
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	19-26 August 2020
Advertising:	Not required
Owner's Consent Provided:	yes
Location:	Land to the east and south of the head of the cul-de-sac.

### SITE DETAILS

Subject Land:	18 Cheshire St WAGGA WAGGA NSW 2650 Lot 42 DP 1236178
Owner:	KA Stoll & JS Stoll

### REPORT

### Description of Development

This application is for alterations and additions to existing industrial premises including one additional shed.

The existing building on site is to be extended to the east by 18metres to accommodate three additional bays to the shed. The existing awning on the end of the building will be removed and re-used on the end of the extended area.

The proposed new shed is to be located in the south-western corner of the site and will have dimensions of 18m by 48.5m with a maximum height of approximately 8.2 metres. The building will include a mezzanine floor for storage purposes.

### The Site and Locality

The subject site is legally identified as Lot 42 DP1236178 and is known as 18 Cheshire Street. The lot is irregular in shape extending to an area of 1.68ha and is located at the head of the cul-de-sac.

There is currently one large industrial building within the centre of the site. There are various industrial land uses to the north, east and west and directly to the southern boundary is the Great Southern Rail Line beyond which is the Wagga Showgrounds.

### Easements and Covenants

There are a number of easements noted on the title plan including a number for water supply and drainage of water.

There are two gas pipelines identified, one of 2m in width and one of 5m in width. Correspondence between the applicant and APA has confirmed that there is no infrastructure within these easements and that there is no objection to the release of the easements. Conditions of consent will secure the necessary works are completed prior to release of Construction certificate as the proposed new shed will be built partly across the gas pipelines that are currently noted on the title plan.

### Previous Development Consents

DA119/97 - Factory building for manufacture and display of agricultural machinery. Approved 24.6.1997.

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

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

#### Wagga Wagga Local Environmental Plan 2010

Under the provisions of the WWLEP 2010 the land is zoned IN2 Light Industrial. The objectives of the IN2 zone are:

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres*
- *To minimise any adverse effect of industry on other land uses.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses*

The development is ancillary to an existing industrial premises that manufactures agricultural machinery. The additions allow for secure storage of machinery and materials as well as greater capacity for the expanding business. The additions are not anticipated to have any detrimental impact upon neighbouring industrial users and will provide continuing employment opportunities.

The development is consistent with the zone objectives.

## **Part 2 Permitted or prohibited development Land Use**

There is no change to the existing industrial land use across the subject site. The additions are ancillary to the existing land use that is permitted with consent.

## **Part 3 Exempt & Complying Development**

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

## **Part 4 Principal development standards**

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

## **Part 5 Miscellaneous provisions**

There are no miscellaneous provisions that apply to this application.

## **Part 6 Urban Release Areas**

The proposal is not within an Urban Release Area.

## **Part 7 Additional Local Provisions**

### **7.3 Biodiversity**

A small part of the site is covered by the biodiversity layer and therefore this clause applies. The objectives of this clause are to protect, maintain or improve the diversity of the native vegetation. There is no vegetation on the site and the mapped layer is not impacted by the proposed works on site. There is no vegetation being removed as part of the development and no impact upon any habitats. The development is consistent with the clause.

### **7.6 - Groundwater Vulnerability**

The subject site is identified as sensitive on the Water Resources Map and as such this clause applies. The objective of this clause is to protect and preserve groundwater sources. It is not anticipated that there will be any adverse impacts on groundwater as the use is not identified under this clause as impacting on groundwater sources and the works are all associated with an existing land use on site.

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

Clause 7.9 states that development consent must not be granted to development on any land unless the consent authority is satisfied that the development maintains the primacy of Zone B3 Commercial Core as the principal business, office and retail hub of Wagga Wagga. The use is not of a type that would be appropriate or could be reasonably housed in the CBD and therefore the control is satisfied.

### State Environmental Planning Policies (SEPPs)

#### SEPP 55 Remediation of Land

Clause 7 of SEPP 55 states the following:

*(1) A consent authority must not consent to the carrying out of any development on land unless-*

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

*(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

*(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

*(4) The land concerned is-*

- (a) land that is within an investigation area,*
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital-land-*
  - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
  - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

The subject site is listed on Council's potentially contaminated land register due to welding activities taking place on site. Adjoining land parcels to the north and west are also listed as potentially contaminated and associated with gas works and welding respectively.

There is no proposed change of use as a result of the application. The works relate to additions and a new shed to continue the same industrial manufacturing of agricultural machinery. The former gas works site to the north has been remediated and confirmed suitable for industrial

use and the proposed development on site is not anticipated to result in any risk to human health or the environment.

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

#### SEPP (Infrastructure) 2007

##### 85 Development adjacent to rail corridors

*(1) This clause applies to development on land that is in or adjacent to a rail corridor, if the development:*

- (a) is likely to have an adverse effect on rail safety, or*
- (b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or*
- (c) involves the use of a crane in air space above any rail corridor, or*
- (d) is located within 5 metres of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities.*

*(2) Before determining a development application for development to which this clause applies, the consent authority must:*

- (a) within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and*
- (b) take into consideration:*
  - (i) any response to the notice that is received within 21 days after the notice is given, and*
  - (ii) any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.*

The subject site is in proximity to the Great Southern Railway Line at the rear of the site. The proposed development is for additions and a new building and was subsequently referred to ARTC. At the time of writing the report no referral response has been received.

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

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

#### Draft State Environmental Planning Policy - Remediation of Land

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

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

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

#### **Section 1 - General**

## 1.10 Notification of a Development Application

The application was notified to adjoining properties from 19-26 August 2020 in accordance with the provisions of the DCP. No submissions were received during the notification period.

## Section 2 - Controls that Apply to All Development

### 2.1 Vehicle access and movements

Access arrangements to and from the site will remain unchanged. Access is via an existing driveway from Cheshire Street into the centre of the site. There is significant room on site to allow for loading and deliveries and for all vehicles to enter and exit in a forward direction.

### 2.2 Off-street parking

*C1 Parking is to be provided in accordance with the table below. For uses not listed, similar land uses should be used as a guide in assessing car parking requirements.*

The following parking standard applies to this development: Industrial floorspace - 1 space/ 100m<sup>2</sup> GFA.

The application will result in an additional 1188m<sup>2</sup> of industrial floorspace resulting in a total floor area of 2932m<sup>2</sup> and a subsequent requirement for 30 car-parking spaces.

There are currently 24 car-parking spaces laid out on site, 16 spaces toward the northern boundary and 8 to the front of the existing building. A further six spaces are proposed adjacent to the shed addition resulting in a total of six spaces that is consistent with this control.

*C2 The design and layout of parking is to be in accordance with the relevant Australian Standard at the time of lodgement of the application.*

Conditions of consent will ensure that this control is met. The plans indicate that this will be achievable.

*C9 Provide trees within the parking area at a rate of 1 tree per 5 spaces in a row. Each tree to have a minimum mature spread of 5m and to be located in a planting bed with minimum width of 1.5m (between back of kerbs) and minimum area of 3.5m.*

The majority of the car parking spaces are existing and whilst the above control is not strictly complied with there are a number of trees to the northern boundary that do provide shade to car-parking spaces in that area. As noted below landscaping within the front setback area is required and this may result in additional tree planting on site. Given the above discussion the control is deemed to have been suitably addressed.

*C10 Planting beds located within a car park are to have a subsoil drainage system connected into the stormwater system of the site.*

As above.

### 2.3 Landscaping

The plans do not identify any proposed landscaping to the site. The proposed new shed is to be built to the south-western corner of the site that has frontage to Cheshire Street. This area is currently used as an outside storage area but was previously a grassed area providing a buffer to the front of the industrial building.

*C5 Provide landscaping in the front and side setback areas, and on other parts of the site to improve the streetscape, soften the appearance of buildings and paved areas, and to provide*



*visual screening.*

In accordance with this control it is proposed to seek a detailed landscape plan for the front setback area that will result in the removal of any external storage of machinery and materials and provide landscaping that will both soften the building and enhance the streetscape.

## 2.4 Signage

No signage is proposed as part of this application.

## 2.5 Safety and security

The main entrance to the building is clearly defined and is accessed via an existing driveway. Car parking is provided in proximity to both the existing and proposed building. The site has fencing and gates of an open style that allow for natural surveillance both in and out of the site.

There are no safety or security concerns as a result of the development.

## 2.6 Erosion and Sediment Control Principles

Standard conditions will apply.

## 2.7 Development adjoining open space

The development does not adjoin open space.

## Section 3 - Heritage Conservation

The subject site is not within the heritage conservation area and there are no listed heritage items within proximity of the site.

## Section 4 - Environmental Hazards and Management

The land is not identified as prone to flood or bushfire.

## Section 5 - Natural Resource and Landscape Management

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

There are no applicable controls within Chapters 6, 7, 8, 9 or 10 of the WWDCP2010.

## Section 11 - Industrial Development

The proposal is for alterations to an existing industrial premises in the IN2 zone. The following controls are applicable to the development:-

### 11.2 Siting and setbacks

**C1** *Front setbacks for industrial development: All areas - 10m or the average of setbacks of buildings on immediately adjoining sites to a minimum of 7.6m (whichever is the greater).*  
The new building is set back over 20 metres and easily complies.

**C2** *The front setback area is to be landscaped. The setback area may be used for site access and parking provided that at least 15% of the setback area is landscaped.*  
As noted above a condition of consent is proposed to secure landscaping within the front setback and prevent external storage of goods.

*C4 Side and rear setbacks determined in accordance with the Building Code of Australia.*  
Conditions of consent will ensure the building complies with the BCA.

### *11.3 Building design*

The separate building and extension to the main building are simple designs that suits the needs of the business without being detrimental to the character of the area. The materials proposed raise no concerns.

There are no applicable controls within chapters 12, 13, 14, 15 or 16 of the Wagga Wagga DCP 2010.

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

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

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

An assessment of the proposed development against the EPA Regulations (clause 94) has identified a need to ensure that there is suitable access to hydrants for fire-fighting requirements. A condition has been included to address this matter.

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

#### Context and setting

The site is within an industrial area and is surrounded by similar land uses. The proposal is not considered to be unreasonably detrimental to the context and setting of the area.

#### Access, transport and traffic

The access, transport and traffic issues have been discussed above. The driveway is existing and conditions will ensure that parking areas are laid out in accordance with the Australian Standards. Vehicles will be able to safely move to and from and within the site and adequate loading and unloading areas have been provided. No unreasonable access, traffic and transport issues are expected.

#### Public Domain

The subject site is located within an industrial area and well separated from any public space. No issues are raised.

#### Heritage

The site is not located with the Conservation area and not located within close proximity to any Heritage Items. No issues are raised.

#### Other land resources

The site is not productive agricultural land, has no history of mineral deposits and the development will not result in unreasonable impacts on water supply catchments.

#### Services



The site is fully serviced. The increased areas of hardstand will increase surface runoff into Council infrastructure and may require the need for additional stormwater systems. Conditions of consent will ensure the correct approvals are obtained.

Historical gas easements are to be released in association with the approved development. APA have provided correspondence confirming their requirements and these are included as a condition of consent.

#### Waste

Conditions of consent will control waste disposal during construction.

Given the use is not changing there is no requirement for a waste management plan for the ongoing use of the site.

#### Soils

The issue of potential contamination of the soil already on site has been discussed above under SEPP 55 and considered acceptable.

#### Air and Microclimate

No issues are expected given the nature of the development and the zone in which it is proposed.

#### Noise and vibration

The nature of the use and the zone it has been located within will mean the noise and vibration impacts would be considered negligible.

#### Safety, security and crime prevention

The site will be locked when outside of hours of operation.

#### Flora and fauna

No native vegetation will be removed as part of this application.

#### Natural Hazards

The site is not considered bush fire or flood prone.

#### Social and Economic Impacts

The development will have a positive social and economic impact as it will provide employment for local trades and building supply companies and once constructed will provide continuing employment for an expanding local business.

#### Hours of operation

The application does not propose hours of operation. Given the works are for alterations and additions and the site is located in an IN2 zone no issues are raised.

#### Site Design

This site design raises no unreasonable concerns.

#### Construction

The site is flat and located within an industrial area. The construction is unlikely to raise any concerns that cannot be managed by way of conditions of consent.

#### Cumulative impacts

The assessment of the above impacts has shown that the majority of impacts are acceptable and that any issues can be resolved by way of conditions of consent. Therefore the cumulative impact of the development would be considered acceptable.

The Principles of Ecologically Sustainable Development

*The following are principles of ecological sustainability:*

**1 The precautionary principle**

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

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

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

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

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

**2 Intergenerational equity**

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

**3 Conservation of biological diversity and ecological integrity**

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

**4 Improved valuation, pricing and incentive mechanisms**

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

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

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

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

The proposed development will not result in any anticipated irreversible environmental damage, the proposed development utilises an established site within an industrial area 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 Other Approvals**

The subject site is located within an area that is designated for industrial development. This assessment report has demonstrated that the development is compatible with adjoining uses and that there are no site constraints that would render the site unsuitable for the proposed development. The site is easily accessible and the use is permitted with consent.

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

Referrals

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

#### Notification

The application was notified to adjoining neighbours from 19 to 26 August 2020 in accordance with the provisions of the DCP. No submissions were received during the notification period

#### Advertising

The application was not required to be advertised.

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

The public interest is best served by the consistent application of the requirements of the relevant planning controls and by Council ensuring that any adverse effects on the surrounding area and the environment are avoided.

Subject to the imposition of conditions of consent, as suitably amended, the proposed development remains compliant with the requirements of the Environmental Planning and Assessment Act 1979. The proposed development is believed to have a positive economic impact and has been conditioned to help avoid adverse effects on the surrounding area and the environment.

### 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.

### Council Policies

None

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

Section 7.11/7.12 of the Environmental Planning and Assessment Act 1979 and the City of Wagga Wagga's Local Infrastructure Contributions Plan 2019-2034 enables Council to levy

contributions, where anticipated development will or is likely to increase the demand for public facilities. A Section 7.12 contribution is calculated as 1% of the development cost for developments of a value greater than \$100,000. The cost of development is less than \$950,000 and the contribution is calculated as follows:-

$$\$950,000 \times 1\% = \$9500.$$

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

Section 64 of the Local Government Act 1993, Section 306 of the Water Management Act 2000 as well as the City of Wagga Wagga's Development Servicing Plan for Stormwater 2007 and/or City of Wagga Wagga Development Servicing Plan for Sewerage 2013 enable Council to levy developer charges based on the increased demands that new development will have on sewer and/or stormwater. The increased area of hardstand including the new shed, the addition and vehicle manoeuvring areas is 2041.77sq.m resulting in the following contribution.

#### Section 64 stormwater contribution

$$2041.77/800 \times 1/0.74 \times 1721 = \$5935.62$$

$$5935.62 \times 117.1/87.9 = \$7907.41$$

#### Sewer

The new storage sheds will not result in any increased impact upon sewer and therefore no contribution charge applies.

#### **Other Approvals**

None required

#### **Conclusion**

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

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## **RECOMMENDATION**

It is recommended that application number DA20/0368 for Alterations and additions including new shed and extension to existing shed be approved, subject to the following conditions:-

## CONDITIONS OF CONSENT FOR APPLICATION NO.

### A. SCHEDULE A – Reasons for Conditions

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

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

### B. SCHEDULE B – Deferred Commencement Conditions

N/A

### C. SCHEDULE C – Conditions

#### Approved Plans and Documentation

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

Plan/DocNo.	Plan/Doc Title	Prepared by	Issue	Date
BD19008	Statement of Environmental Effects	Sewell Design	1.1	31.7.2020
01	Site Plan and Floor Plans	Sewell Design	F	19.10.2020
02	Elevations and Sections	Sewell Design	F	19.10.2020
03	Shed Addition Plans	Sewell Design	F	19.10.2020

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

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

## Requirements before a Construction Certificate can be issued

- C.2 Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority illustrating compliance with the relevant requirements of the Building Code of Australia.
- a) Pursuant to Clause 98 of the Environmental Planning and Assessment Regulation 2000, the proposed building work must comply with the Building Code of Australia (BCA), including but not limiting to:
    - i) Structure - Section B- (Part B1)
    - ii) Fire Resistance - Section C- (Parts C1, C2, C3)
    - iii) Access and Egress - Section D- (Parts D1, D2, D3)
    - iv) Services and Equipment - Section E- (Parts E1, E2, E3, E4)
    - v) Health and Amenity - Section F- (Parts F1, F2, F3, F4, F5)
    - vi) Ancillary Provisions- Section G- (Parts G1, G2, G3, G4, G5)
    - vii) Special Use Buildings- Section H- (Parts H1, H2, H3)
    - viii) Energy Efficiency- Section J- (Parts J0, J1, J2, J3, J5, J6, J7, J8)
  - b) Pursuant to clause 143 Of the EPA Regulation 2000, on completion of works which relate to enlargement of the existing manufacturing shed, fire protection for the building as whole must be adequate. Your attention is drawn to the BCA Clause C2.2 general floor area and volume limitations and clause E1.3 and AS2419.1 fire hydrant.
    - Note 1: Available system flow and pressure in the street hydrant network point in the road reserve shall be obtained from the Riverina Water. RWCC Network Analysis Report shall be provided to the certifying authority.
    - Note 2: Where fire service in the road reserve, or on site, is not able to provide adequate fire protection, further upgrade may be required such as internal hydrant or booster assembly in order to comply with AS2419.1.
    - Note 3: Any works on the fire service in the road reserve or on site require prior approval from the RWCC and are at full cost to the developer.
    - Note 4: Hydrant system coverage shall be shown on the plans.
    - Note 5: if relying on existing hydrant on the site, it is to be demonstrated as operational and suitable for use by the fire brigade given its location, distance to building, access for fire appliance and condition / operation.
  - c) The Disability Discrimination Act 1992 and the Anti-Discrimination Act 1977 provide that it is an offence to discriminate against a person in a number of different situations. It is the owner's responsibility to ensure that the building complies with this legislation.  
Note: accessible parking space shall be provided on site.



- C.3 Pursuant to s7.12 of the Environmental Planning and Assessment Act 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, a monetary contribution of \$9500 must be paid to Council, prior to the issuing of the Construction Certificate unless, before the time due for payment, the applicant and the Council enter into a legally binding agreement for the applicant to provide works-in-kind or any other material public benefit(s) to the Council in part or full satisfaction of the monetary contribution.

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

NOTE 1: Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 provides for Section 7.12 contributions to be indexed in accordance with annual movements in the March quarter Consumer Price Index (CPI) (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

NOTE 2: The monetary contribution identified above remains applicable if paid within the same financial year as the date of determination. If payment is to be made outside this period, you are advised to contact Council prior to payment being made to determine if CPI increases/decreases have occurred since the date of this consent. The applicable rate of CPI at the time of consent is 117.4.

NOTE 3: A copy of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, is available for inspection at Council Chambers, corner Baylis and Morrow Streets, Wagga Wagga, or on Council's website.

- C.4 Prior to the issue of Construction Certificate the applicant must lodge a bond with Council of:-

\$1000 for security deposit on the kerb and gutter and footpath

Plus a non-refundable administration fee as per Council's fees and charges.

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

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

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

NOTE 4: Works in the form of driveways, kerb and gutter and footpath may require you to obtain a Section 138 Roads Act 1993 approval. Please contact Council's Road Reserve Officer on 1300 292 442 prior to undertaking such works.

- NOTE 5: Council will accept a once off security deposit for the kerb and gutter and footpath for applicants who lodge multiple DA's with council. If the applicant has security deposits held by Council for kerb and gutter and footpath at the time of Construction Certificate application, then Council may waive the need for an additional bond to be paid.
- NOTE 6: The bond held on the kerb and gutter and footpath is fully refundable upon completion of all works and upon inspection by Council to ensure that any damage to Council infrastructure has been repaired. The bond will not be refunded in the event that damage done to Council's infrastructure is not repaired to the satisfaction of Council. All damage is to be repaired at the full cost of the applicant
- C.5 Prior to the release of Construction Certificate a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.
- NOTE1: 'Water management work' is defined in s283 of the Water Management Act to mean a 'water supply work', 'drainage work', 'sewage work' or 'flood work'. These terms are defined in that Act.
- NOTE 2: Riverina Water is responsible for issuing compliance certificates and imposing requirements relating to water supply works for development in the Council's area. An application for a compliance certificate must be made with Riverina Water. Additional fees and charges may be incurred by the proposed development - please contact Riverina Water to ascertain compliance certificate water supply related requirements. A copy of such a compliance certificate is required prior to release of Construction Certificate.
- NOTE 3: The Council is responsible for issuing compliance certificates and imposing requirements relating to sewerage, drainage and flood works for development in its area.
- NOTE 4: Under s306 of the Water Management Act 2000, Riverina Water or the Council, as the case requires, may, as a precondition to the issuing of a compliance certificate, impose a requirement that a payment is made or works are carried out, or both, towards the provision of water supply, sewerage, drainage or flood works.
- NOTE 5: The Section 64 Sewer base figure is nil.
- The Section 64 Sewer contribution (updated by the CPI/100.5) required to be paid is nil.
- NOTE 6: The Section 64 Stormwater base figure is \$5935.62
- The Section 64 Stormwater contribution (updated by the CPI 117.1/87.9) required to be paid is \$7907.41.
- 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.6 Prior to release of Construction Certificate existing gas easements on the subject site must be released and the following requirements of APA satisfied:-

- The landowner will cover all costs associated with the relinquishment and subsequent updates to the property title and plan of L42/DP1236178 including legal and otherwise.
- The landowner will remove the existing decommissioned in-situ gas pipeline located within the easements and agree to being held responsible for all expenses and liability associated with its removal and the land on which it stands.
- The land owner will provide formal notification to APA Group once the said pipeline has been removed and title plan updated.
- The land owner will provide APA Group with written confirmation stipulating agreement to the above terms.

C.7 A detailed landscape plan and legend shall be submitted and approved prior to the release of the Construction Certificate to provide suitable landscaping within the front setback area to the proposed new shed.

The landscape plan must be to the satisfaction of the General Manager or delegate and prepared in accordance with Council's Landscape Guidelines. The plan must include a plant schedule indicating all plant species, pot sizes, spacings and numbers to be planted.

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

C.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.

C.9 A CONSTRUCTION CERTIFICATE must be obtained pursuant to Section 6.7 of the Environmental Planning and Assessment Act 1979, as amended from either Council or an accredited certifying authority certifying that the proposed works are in accordance with the Building Code of Australia PRIOR to any works commencing.

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

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

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

C.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.

C.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 2.6 and Appendix 2)
- b) Erosion and Sediment Control Guidelines for Building Sites; and
- c) Soils and Construction Volume 1, Managing Urban Stormwater

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

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

C.12 Prior to works commencing on site:

- i) Council must be notified of any damage to kerb and gutter and footpath fronting the site. The absence of such notification shall indicate that no damage exists and the applicant shall be responsible for the repair of any damage to kerb and gutter or footpath fronting the site.
- ii) Satisfactory protection for existing public infrastructure must be provided and maintained throughout the construction period.

C.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.

### Requirements during construction or site works

C.14 The demolition must be carried out in accordance with the provisions of Australian Standard AS2601-2001: The Demolition of Structures.

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

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

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

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

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

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

- C.15 The permitted construction hours are Monday to Friday 7.00am to 6.00pm and Saturday 7.00am to 5.00pm, excepting public holidays. All reasonable steps must be taken to minimise dust generation during the demolition and/or construction process. Demolition and construction noise is to be managed in accordance with the Office of Environment and Heritage Guidelines.
- C.16 All earthworks, filling, building, driveways or other works, must be designed and constructed (including stormwater drainage if necessary) so that at no time, will any ponding of stormwater occur on adjoining land as a result of this development.
- C.17 All storm water runoff from the proposed development must be collected on site and conveyed to the existing inter allotment drains located on the land or to the existing roofwater drainage system, in a manner consistent with AS 3500 and Council's Engineering Guidelines for Subdivision and Development.
- C.18 Any upgrades or alterations to existing Council infrastructure required as a result of the development shall be at the full cost of the applicant. Contact Council's Development Engineer to confirm what approval is required prior to commencing work on any Council infrastructure. Such work includes (but is not limited to) upgrade or connection to sewer or stormwater mains, and alteration of stormwater pits and sewer manhole levels.
- C.19 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.
- C.20 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.
Final	Prior to occupation of the building or structure.

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

- C.21 Prior to the issue of Occupation Certificate, the paving of all vehicular movement areas must be either a minimum of 150mm thick flexible pavement and sealed or 150mm thick reinforced concrete.
- C.22 Prior to the use commencing the proposed landscaping shall be in place and all car parking spaces must be line-marked and laid out in accordance with Australian Standards AS2890.1.2004 AS2890.2 2002 and AS/NZS2890.6.2009.
- C.23 An Occupation Certificate, must be obtained pursuant to Section 6.9 of the Environmental Planning and Assessment Act 1979, from either Council or an accredited certifying authority, prior to occupation of the building.



In order to obtain this, the “Final Occupation Certificate” form must be completed and submitted to Council with all required attachments - failure to submit the completed Occupation Certificate Application form will result in an inability for Council to book and subsequently undertake Occupation Certificate inspection.

NOTE: The issuing of an Occupation Certificate does not necessarily indicate that all conditions of development consent have been complied with. The applicant is responsible for ensuring that all conditions of development consent are complied with.

- C.24 A final inspection must be carried out upon completion of plumbing and drainage work and prior to occupation of the development, prior to the issuing of a final plumbing certificate Council must be in possession of Notice of Works, Certificate of Compliance and Works as Executed Diagrams for the works. The works as Executed Diagram must be submitted in electronic format in either AutoCAD or PDF file in accordance with Council requirements.

All plumbing and drainage work must be carried out by a licensed plumber and drainer and to the requirements of the Plumbing and Drainage Act 2011.

NOTE: Additional fees for inspections at the Plumbing Interim Occupancy / Plumbing Occupation stage may apply. This will depend on the number of inspections completed at this stage of the work/s.

- C.25 Prior to the issue of an Occupation Certificate a Water Plumbing Certificate from Riverina Water County Council shall be submitted to Council.

NOTE 1: The applicant is to obtain a Plumbing Permit from Riverina Water County Council before any water supply/plumbing works commence and a Compliance Certificate upon completion of the works. Contact Riverina Water County Council's Plumbing Inspector on 6922 0618. Please be prepared to quote your Construction Certificate number.

### **General requirements**

- C.26 The front setback area must not be used for the external storage of machinery, vehicles or other materials associated with the ongoing operation of the site.
- C.27 The owner must submit to Council and the NSW Fire Brigade an Annual Fire Safety Statement, each 12 months, commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.
- C.28 A minimum of 30 car parking spaces must be made available on site at all times. The car park and all associated facilities must be laid out in accordance with Australian Standards AS2890.1.2004, AS2890.2 2002 and AS/NZS2890.6.2009.

## **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

<p><b>Report Prepared &amp; approved by:</b></p>  <p>Amanda Gray Senior Town Planner</p> <p>Date: 21.1.2021</p>	<p><b>Report Reviewed by:</b></p>  <p>Sam Robins Senior Town Planner</p> <p>Date: 21/1/21</p>
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