



City of
Wagga Wagga

Notice of Determination of Development Application

Environmental Planning and Assessment Act 1979

Notice is hereby given of the determination by Council to the above Development Application pursuant to Section 4.18(1) of the Environmental Planning & Assessment Act, 1979.

Application Number:	DA20/0147
Applicant:	Profinance Properties Pty Limited Po Box 156 MAIN BEACH QLD 4217
Land to be Developed:	115 Hammond Ave EAST WAGGA WAGGA NSW 2650 Lot 15 DP 842485
Description	Stormwater Main
Determination:	Approved subject to Conditions
Date of Determination:	27/07/2021
Consent to Operate from:	27/07/2021
Consent to Lapse on:	27/07/2026
Other Approvals:	Controlled Activity Approval pursuant to s91 of the Water Management Act 2000.

On behalf of the Council

Steven Cook
Senior Town Planner

Right of Appeal - Where an applicant is dissatisfied with this determination, the applicant has the right to appeal the decision to the Land and Environment Court within a period of 12 months from the date the decision is notified or registered on the NSW planning portal

Review of Determination - The applicant may request the Council to review the determination. A determination cannot be reviewed after the period within which an appeal may be made to the Land and Environment Court has expired or, if an appeal has been made against the determination, after the Court has disposed of that appeal.

CONDITIONS OF CONSENT FOR APPLICATION NO. DA20/0147

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	MJM Consulting Engineers	Final	23/3/20
C1	Drainage Plan	MJM Consulting Engineers	P5	17/3/21
C2	Environmental Plan	MJM Consulting Engineers	P3	17/3/21
C3	General Detail Sheet	MJM Consulting Engineers	P1	17/2/20
C4	Drainage Long Section	MJM Consulting Engineers	P1	17/2/20
C6	Existing Services Plan	MJM Consulting Engineers	P3	17/3/21
	Biodiversity Development Assessment Report	NGH	Final v 1.0	26/3/21

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 the commencement of any works

C.2 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.3 Prior to the commencement of works a revised site plan shall be submitted to Council for approval, to the satisfaction of the General Manager or delegate, that indicates that stormwater drainage is treated through a Gross Pollutant Trap (GPT), prior to it being discharged to the Murrumbidgee River.

C.4 Prior to the commencement of works, consultation with Riverina Water shall occur to identify the location of the existing 450mm AC raw water main running east-west across the property and to ensure that it is suitably protected during the construction work. Evidence of satisfactory consultation with Riverina Water shall be supplied to Council, to the satisfaction of the General Manager or delegate, prior to the commencement of works. Measures to protect the infrastructure shall be implemented in accordance with this consultation.

C.5 Prior to the commencement of works, mitigation measures set out in Section 8 of the Biodiversity Development Assessment Report shall be established, including temporary fencing and signage. Evidence of the establishment of these measures shall be supplied to Council, to the satisfaction of the General Manager or delegate, prior to the commencement of works.

C.6 Prior to the commencement of works the class and number of ecosystem credits in the table below must be retired to offset the residual biodiversity impacts of the development.

The requirement to retire credits in this condition may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the BAM Credit Calculator (BAM-C)

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of this condition must be provided to Council prior to the commencement of works.

Impacted plant community type	Number of ecosystem credits	IBRA subregion	Plant community type(s) that can be used to offset the impacts from development
5 - River Red Gum herbaceous-grassy very tall open forest wetland on inner floodplains in the lower slopes sub-region of the NSW South Western Slopes Bioregion and the eastern Riverina Bioregion	1	Inland Slopes, Bogan-Macquarie, Bondo, Capertee Uplands, Capertee Valley, Crookwell, Hill End, Kerrabee, Lower Slopes, Murray Fans, Murrumbateman, Orange, Pilliga, Talbragar Valley and Wollemi. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site	5 - River Red Gum herbaceous-grassy very tall open forest wetland on inner floodplains in the lower slopes sub-region of the NSW South Western Slopes Bioregion and the eastern Riverina Bioregion

NOTE: The prices of credits in the BAM-C are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment.

- C.7 Prior to the commencement of works the class and number of species credits in the Table below must be retired to offset the residual biodiversity impacts of the development.

The requirement to retire credits outlined in this condition may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the BAM Credit Calculator (BAM-C)

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of the table must be provided to Council prior to the commencement of works.

Impacted species credit species	Number of species credits	IBRA subregion
Grey-headed Flying Fox	1	Anywhere in NSW

NOTE: The prices of credits in the BAM-C are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment.

- C.8 All existing trees 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.

- C.9 Prior to the commencement of works, an application is required to be lodged for an Activity Approval under Section 68, Part B - 4, 5 and 6, of the Local Government Act 1993 for any stormwater works.

NOTE: Prior to the commencement of works a works bond may be required to be lodged with Council for public infrastructure works. Refer to Council's Section 68 Activity Approval Application Guide for detail.

- C.10 No works are to take place to any services without prior written approval from the relevant authority.

NOTE: Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au <<http://www.1100.com.au>> or telephone on 1100 before excavating or erecting structures.

Requirements during construction or site works

- C.11 During works any existing redundant internal stormwater lines and discharge points shall be de-commissioned and the upstream stormwater lines diverted to the newly constructed stormwater main.
- C.12 The mitigation measures set out in Section 8 of the Biodiversity Development Assessment Report shall be complied with at all times, including restrictions on works during the Flying-fox maternity season. 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. Heritage NSW 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 Heritage NSW.

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

- C.13 Prior to the operation of the infrastructure, an easement, in favour of Council, to the satisfaction of the General Manager or delegate, shall be created over the infrastructure.

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)

Controlled Activity Approval from Natural Resource Access Regulator (NRAR) pursuant to Section 90 of Water Management Act 2000

- F.1 Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.

- A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents relating to Development Application DA20/0147 provided by Council to Natural Resources Access Regulator.
 - B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.
- F.2
- A. The application for a controlled activity approval must include the following plan(s): Stormwater Outlet Design Plan.
 - B. The plan(s) must be prepared in accordance with Natural Resources Access Regulator's guidelines located on the website <https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlledactivities>.