

Report of Development Application

Environmental Planning and Assessment Act 1979

Application Details	Application Number	DA21/0614	Applicant	K Holbrook 3 Orford Pl LAKE ALBERT NSW 2650
	Date of Lodgement	23/09/2021		
	Proposal	Use of Existing Patio	Description of Mod.	N/A
	Development Cost	\$10000	Other Approvals	Nil
Site Details	Subject Land	3 Orford Pl LAKE ALBERT NSW 2650 Lot 241 DP 250617	Owner	K Holbrook & A Holland

Recommendation: The application be approved subject to conditions of consent as detailed in the draft Notice of Determination.

Delegation to Determine Application:- Officer Delegation 7.39

Report Prepared by:



Jenna Clarke
Cadet Town Planner

Date: 1/12/2021

Report Approved by:



Steven Cook
Senior Town Planner

Date: 1/12/21

☒ section not relevant

☒ Section 4.55 Modification of Consent

☐ Section 4.15(1) Matters for consideration - general

Description	Use of Patio
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Matters for consideration						
GIS & System Check	Section 4.15(1) <i>EP&A Act 1979</i>	Issue	Legislative Provisions	Not Relevant	Satisfactory	Comment
◀	ⓐ ⓑ ⓔ	DA History		○ <i>NR</i>	● <i>Sat</i>	

LEP 2010 Zones	(a)(i) (b) (c) (e)	Zoning	LEP 2.2 Zoning of land to which Plan applies 2.3 Zone objectives and Land Use Table	○ NR	● Sat	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)): <ul style="list-style-type: none"> To provide for the housing needs of the community. To provide for a variety of housing types and densities.
Land Parcels & DP	(b) (c) (e)	Land Title Correct legal description and ownership Easements & Building Envelopes Open Deposited Plan (including 88b) Registered title (deferred commencement)		○ NR	● Sat	
LEP 2010 Listed item and Conservation	(a)(i) (a)(iii) (b) (c) (e)	Heritage Conservation Area Listed item <i>DCP 3 Heritage Conservation</i>		● NR	○ Sat	
			LEP 5.10 Heritage conservation	● NR	○ Sat	

LEP 2010 Urban release Area	(a)(i) (b) (c) (e)	Urban Release Area	LEP 6.2 Public utility infrastructure	● NR	○ Sat	
			LEP 6.3 Development control plan	● NR	○ Sat	
Natural resource Sensitivity	(a)(i) (a)(iii) (b) (c) (e)	Natural Resource Sensitivity <i>DCP 5.4 Environmentally sensitive land</i>	LEP 7.3 Biodiversity	● NR	○ Sat	
			LEP 7.4 Vulnerable land	● NR	○ Sat	
			LEP 7.5 Riparian lands and waterways	● NR	○ Sat	
			LEP 7.6 Groundwater vulnerability	● NR	○ Sat	
Flooding (including MOFFS)	(a)(i) (a)(iii) (b) (c) (e)	Flooding Overland flow <i>DCP 4.2 Flooding</i>		○ NR	● Sat	
			LEP 5.21 Flood Planning	● NR	○ Sat	
Bushfire Prone Land	(a)(iii) (b) (c) (e)	Bushfire <i>DCP 4.1 Bushfire</i>		○ NR	● Sat	The site is not mapped as bush fire prone land and a site inspection has confirmed that the site or surrounding area is not a bush fire risk. No further assessment is required.

Environmental - Contaminated Land & PFAS	(a)(i) (b) (c) (e)	Contaminated Land PFAS Study Area Site observations	SEPP55	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	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 Councils register of contaminated sites.
Airport Constraints	(a)(i) (b) (c) (e)	Airport Constraints	LEP 7.11 Airspace operations	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
			LEP 7.12 Development in areas subject to aircraft noise	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
Assets – Sewer and Stormwater	(b) (c) (e)	Services/Utilities (Septic area? Health referral) Sewer/stormwater infrastructure (Build over, encroachment, earthwork impacts) Stormwater issues – overland flow Electricity infrastructure (including setbacks to substations) (Infrastructure SEPP referral)		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	

Aerial Imagery (*Topographic – Hydrology)	(b) (c) (e)	Existing site conditions Buildings on site Retaining walls Cut and fill Deposited fill Boundary fencing and walls Private open space Vegetation *Proximity to natural waterways Other observations		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	Site visit undertaken on: 6/10/2021
Aerial Imagery (*Topographic – Hydrology)	(b) (c) (e)	Off site observations Buildings Window locations Private open space Retaining walls Cut and fill Boundary fencing and walls Vegetation *Proximity to natural waterways Other observations		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(a)(iii) (b) (c) (e)	Traffic, access and parking Manoeuvring Site Distance Issues Driveway grade		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	

		Check Driveway location and grade <ul style="list-style-type: none"> • Side entry pit • Service lids/pits • Poles/turrets/substations • Street Trees <p>DCP <i>2.1 Vehicle access and movements</i> <i>9.3.6 Front setbacks</i></p>			
	(a)(iii) (b) (c) (e)	Context, setting and streetscape <p>DCP <i>9.2.2 Streetscape</i> <i>9.2.3 Corner lots and secondary facades</i> <i>9.2.4 Sloping Sites</i> <i>9.3.1 Site area per dwelling</i> <i>9.3.2 Site cover</i> <i>9.3.6 Front setbacks</i> <i>9.3.7 Side and rear setbacks</i> <i>9.4.1 Building elements</i> <i>9.4.2 Materials and finishes</i> <i>9.4.4 Garages, carports, sheds and driveways</i> <i>9.4.5 Site facilities</i></p>		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>
	(a)(iii) (b) (c) (e)	Public Domain <p>Impact on street or adjoining public place</p> <p>Condition/Dilapidation</p>		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>

		Construction access <i>DCP</i> <i>2.7 Development adjoining open space</i> <i>9.4.5 Site facilities</i>			
	(a)(iii) (b) (c) (e)	Safety, security and crime prevention <i>DCP 2.5 Safety and security</i>		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>
	(a)(iii) (b) (c) (e)	Site and internal design <i>DCP</i> <i>9.2.1 Site layout</i> <i>9.4.1 Building elements</i> <i>9.4.4 Garages, carports, sheds and driveways</i>		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>
	(a)(iii) (b) (c) (e)	Solar impact <i>DCP</i> <i>9.3.4 Solar access</i> <i>9.3.7 Side and rear setbacks</i>		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>
	(a)(iii) (b) (c) (e)	Visual Privacy Private open space Boundary fencing and screening <i>DCP</i> <i>9.3.5 Private open space</i>		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>

		9.3.7 Side and rear setbacks 9.4.3 Privacy				
	(a)(i) (b) (c) (e)	Noise and Vibration Acoustic privacy conflicts Impacting nearby land uses (Rail, Road, Infrastructure SEPP referrals)		● NR	○ Sat	
	(a)(i) (b) (c) (e)	Air and microclimate Impacting nearby land uses (Rail, Road, Infrastructure SEPP referrals)		● NR	○ Sat	
	(a)(i) (a)(iii) (b) (c) (e)	Earthworks and Soils Cut and fill Stability and erosion control Stormwater quality <i>DCP</i> <i>9.4.6 Changing the landform – cut and fill</i>		○ NR	● Sat	
			LEP 7.1A Earthworks	○ NR	● Sat	
	(b) (c) (e)	Landscaping		● NR	○ Sat	
	(b) (c) (e)	Waste		○	●	

		Construction waste management		NR	Sat	
		Asbestos				
	(a)(iii) (b) (c) (e)	Energy & Water <i>DCP</i> <i>9.3.7 Side and rear setbacks</i> <i>9.4.1 Building elements</i> <i>9.4.2 Materials and finishes</i>		○ NR	● Sat	
	(a)(i) (b) (c) (e)	BASIX (Use assessment checklist)	BASIX SEPP 2004	● NR	○ Sat	
	(b) (c) (e)	Other hazards Natural Technological		○ NR	● Sat	
	(a)(iii) (b) (c) (e)	Flora and Fauna (on and off-site) Check for native veg requirements (R5 and RU4 Land) <i>DCP</i> <i>5.2 Preservation of trees</i> <i>5.3 Native Vegetation Cover</i>		○ NR	● Sat	
			Section 5AA and Part 7 of the Biodiversity Conservation Act 2016 <i>Test for determining whether proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats)</i>	○ NR	● Sat	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) There are a number of tests to determine whether the proposal triggers the NSW Biodiversity Offset Scheme under the NSW

					<p>Biodiversity Conservation Act 2016 and results in the need for further assessments or offsets.</p> <p><i>1 Is the subject site identified as an area of outstanding biodiversity value on the biodiversity values map?</i></p> <p>No</p> <p><i>2 Does the amount of native vegetation being removed exceed the biodiversity offsets scheme threshold.</i></p> <p>No native vegetation is proposed to be removed.</p> <p><i>3 Test of Significance - the test to determine whether the proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats.</i></p> <p>Given that no native vegetation is being removed and in the absence of any recorded endangered flora or fauna on the site of the proposed development, it is not anticipated that the development will significantly affect threatened species or ecological communities or their habitats.</p>
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						Based on the above assessment it is satisfied that the development will not trigger the Biodiversity Offset Scheme.
	(b) (c) (e)	Social and economic impacts		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(b) (c) (e)	Facilitation of Ecologically Sustainable Development		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(a)(i) (b) (c) (e)	Other LEP Clauses	LEP 2.7 Demolition requires development consent	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
			LEP 4.3 Height of buildings	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
			LEP 7.9 Primacy of Zone B3 Commercial Core	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
			LEP 4.2A Erection of dwelling houses and dual occupancies on land in certain residential, rural and environmental protection zones	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
			LEP 5.16 Subdivision of, or dwellings on, land in	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	

			certain rural, residential or environment protection zones			
			Other Clauses	● NR	○ Sat	
	(a)(i) (b) (c) (e)	Other EPIs	SEPP (Infrastructure) 2007	● NR	○ Sat	
			SEPP (Activation Precincts) 2020	● NR	○ Sat	
			Other SEPPs	● NR	○ Sat	
	(a)(ii) (b) (c) (e)	Draft EPIs		○ NR	● Sat	There are a number of state environmental planning policies currently subject to review, including some which have involved consultation and notification. None of these are applicable to this application.
	(a)(iiia) (e)	Planning agreements		● NR	○ Sat	No related planning agreement has been entered into under section 7.4.
	(d) (e)	Submissions		○ NR	● Sat	Nil
	(e)	Section 68 Application made as part of DA	<i>Local Government Act 1993</i>	● NR	○ Sat	
	(e)	Section 7.11 Contributions (Local Infrastructure Contributions Plan 2019 - 2034)	<i>EP&A Act 1979</i>	● NR	○ Sat	

	(e)	Section 7.12 Contributions (Local Infrastructure Contributions Plan 2019 - 2034)	<i>EP&A Act 1979</i>	● NR	○ Sat	
	(e)	Section 64 sewer (Development Servicing Plan – Sewerage Services – July 2013)	<i>s64 LG Act 1993 & s306 Water Management Act 2000</i>	● NR	○ Sat	
	(e)	Section 64 stormwater (Development Servicing Plan – Stormwater – November 2007)	<i>s64 LG Act 1993 & s306 Water Management Act 2000</i>	○ NR	● Sat	<p>A referral was sent to Councils Contributions Officer, a response was provided;</p> <p>Section 64 Stormwater contributions are not required as the increase in hardstand is 33m2, producing a charge below \$100.</p> <p>No further action required.</p>
	(a)(iv) (e)	The Regulation – Prescribed Matters <i>EP&A Regulation 2000</i>		○ NR	● Sat	
			<i>cl.92(1)(b) - Demolition of a building, the provisions of AS 2601</i> <i>(ensure condition included requiring compliance with standard)</i>	● NR	○ Sat	
			<i>cl.92A - Additional matters that consent authority must consider for Wagga Wagga</i>	● NR	○ Sat	

			cl.94 require existing building to be brought into total or partial conformity with BCA <i>(check with Building Surveyor for development proposing the rebuilding, alteration, enlargement or extension of an existing building)</i>	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
	(a)(iv) (e)	The Regulation – Prescribed Conditions <i>(ensure conditions of consent included)</i>	EP&A Regulation 2000	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(e)	Other regulation matters	EP&A Regulation 2000	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(e)	Council Policies		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	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.
	(e)	Other public interest matters		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	It is considered that this application will not have a detrimental effect on the public interest.

Development Control Plan 2010

Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979

DCP Section (Objectives and Controls)	Not Relevant	Satisfactory	Comment
(☒ section not relevant)			

☐ 1.10 Notification of a Development Application

Compliance with the advertising and notification procedures detailed in this section of the DCP	<input type="radio"/>	<input checked="" type="radio"/>	In accordance with the Council's advertising and notification provisions outlined in Section 1.10 of the WWDGP the application was not required to be notified.
	NR	Sat	

☒ 1.11 Complying with the Wagga Wagga Development Control Plan 2010

☒ 2.1 Vehicle access and movements

☒ 2.2 Off-street parking

☒ 2.3 Landscaping

☒ 2.5 Safety and security

- ☒ 2.6 Erosion and sediment control
- ☒ 2.7 Development adjoining open space
- ☒ 3 Heritage Conservation
- ☒ 4.1 Bushfire
- ☒ 4.2 Flooding
- ☒ 5.1 Development on ridges and prominent hills
- ☒ 5.2 Preservation of trees
- ☒ 5.3 Native Vegetation Cover
- ☒ 5.4 Environmentally sensitive land
- ☒ 6 Villages
- ☒ 8 Rural Development
- ☒ 9.1.5 R3 Zone – Staunton Estate
- ☐ 9.2.1 Site layout

<p><i>O1 Encourage site responsive development that is compatible with existing or desired built form.</i></p> <p><i>O2 Facilitate sustainable development through passive solar design.</i></p> <p><i>O3 Integrate landscaping and built form.</i></p> <p><i>O4 Encourage designs which respond to the physical context and characteristics of the particular site.</i></p> <p><i>O5 Encourage design that maximises the opportunity for passive surveillance of communal spaces from private living areas.</i></p>	C1 Use site characteristics such as trees, changes in level or rock outcrops as features within the site layout.	<input type="radio"/>	<input checked="" type="radio"/>	
	C2 Integrate access, landscaping and services in the site layout, avoiding underutilised spaces.	<input type="radio"/>	<input checked="" type="radio"/>	
	C3 Orient living spaces to maximise solar access.	<input checked="" type="radio"/>	<input type="radio"/>	
	C4 Facilitate natural cross ventilation within dwellings through the location of windows and doors.	<input checked="" type="radio"/>	<input type="radio"/>	

9.2.2 Streetscape

9.2.3 Corner lots and secondary facades

9.2.4 Sloping sites

9.3.1 Site area per dwelling

□ 9.3.2 Site cover

<p><i>O1 Ensure that development sites are of sufficient size for dual occupancy, multi dwelling housing and residential flat developments.</i></p> <p><i>O2 Ensure adequate areas for access, parking, landscaping, useable garden and outdoor areas and natural runoff.</i></p> <p><i>O3 Retain compatibility with site context and avoid over development resulting from excessive site cover.</i></p>	<p>C1 Maximum site cover is to be in accordance with Table 9.3.2a.</p>	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
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✗ 9.3.4 Solar access

□ 9.3.5 Private open space

<p><i>O1 Provide quality, useable private open space.</i></p> <p><i>O2 Ensure adequate areas for recreation and outdoor living.</i></p> <p><i>O3 Encourage good connection between dwellings and private open space.</i></p>	<p>C1 At least 24m² of private open space is required per dwelling. The private open space is to be directly accessible to the main living area and have a minimum dimension of 4m.</p>	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	<p>C2 Enclosure of approved private open space will be permitted, however at least one side of the approved private open space is to remain open. Roofing of approved private open space is permitted provided that BASIX requirements are not compromised.</p>	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	

	C3 Use screening where necessary to ensure the privacy of private open space areas.	● NR	○ Sat	
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9.3.6 Front setbacks

9.3.7 Side and rear setbacks

<p><i>O1 Ensure adequate separation between buildings for landscaping, privacy, natural light and ventilation.</i></p> <p><i>O2 Ensure new development continues the rhythm or pattern of development in the locality.</i></p> <p><i>O3 Provide access for maintenance.</i></p> <p><i>O4 Building setbacks from the side and rear boundaries shall have careful regard to the impact of proposed structures on adjoining landowners.</i></p>	C1 The rear setback for detached secondary dwellings is determined by site conditions and the setbacks of similar structures on adjoining and nearby sites.	● NR	○ Sat	Side and rear setbacks comply with the objectives
	C2 Any point of a building must have a setback from the side boundary nearest to that point of at least: a) If the lot is in Zone R5 a setback of 2m, or b) If the lot is in Zone RU1, RU2 or RU4 a setback of 10m.	● NR	○ Sat	

9.4.1 Building elements

9.4.2 Materials and finishes

<p><i>O1 Encourage the use of external materials and finishes that are suited to their location and support consistent quality streetscapes.</i></p> <p><i>O2 Encourage use of materials that have good thermal performance.</i></p> <p><i>O3 Promote the use of materials that are climate responsive and contribute to innovative building design.</i></p> <p><i>O4 Discourage corporate colours in building facades.</i></p>	C1 Select materials for their environmental performance, durability, detail and appearance to achieve quality appearance.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C2 Avoid large unbroken expanses of any single material.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C3 Minimise use of highly reflective or glossy materials on building exteriors.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C4 Use contrasting materials in combination with design elements for features such as corner elements.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	

9.4.3 Privacy

9.4.4 Garages, carports, sheds and driveways

9.4.5 Site facilities

9.4.6 Changing the landform – cut and fill

14 Boorooma Urban Release Area

15 Lloyd Urban Release Area

16 Gobbagombalin Urban Release Area