

Report of Development Application

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

APPLICATION DETAILS

Application No:	DA22/0722
Council File No:	D/2022/0722
Date of Lodgement:	29/11/2022
Applicant:	Rbuy Property Wagga Ptd Ltd Po Box 8051 KOORINGAL NSW 2650
Proposal:	Internal alterations to existing food and drink premises (restaurant) and consolidation of lots
Development Cost	180290
Description of Modification:	N/A
Other Approvals:	Nil
Determination Body & Reason:	Officer Delegation 7.39
Assessment Officer:	Cameron Collins

SITE DETAILS

Subject Land:	101-107 Fitzmaurice St WAGGA WAGGA NSW 2650 Lot 1 DP 67693
Owner:	Rbuy Property Wagga Ptd Ltd

REPORT

Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	2/12/2022 to 9/12/2022
Advertising:	N/A
Owner's Consent Provided:	Yes
Location:	On the eastern side of Fitzmaurice Street, approximately 90 metres north of its intersection with Gurwood Street.

DESCRIPTION OF DEVELOPMENT

The proposal is described by the applicant as follows:

The proposal is to refurbish the interior of the restaurant with minor alterations to layout to improve the workflow and staff amenities and increase amenities for customers.

The works are primarily to the rear of section of the restaurant tenancy and include alterations to the existing kitchen and bar area, staff and patron toilet amenities and storage and delivery areas. All works are internal.

The applicant also proposes to consolidate the 3 allotments (as described below) that form the property to ensure that the tenancy and work satisfy fire separation requirements.

THE SITE AND LOCALITY

The subject site is identified as 101-107 Fitzmaurice Street which is located on the eastern side of Fitzmaurice Street, approximately 90 metres north of its intersection with Gurwood Street. The site consists of 2 main parts - a single storey building containing the restaurant tenancy and a double storey tenancy containing a bicycle store on the ground floor.

The site consists of 3 allotments - Lot 1 DP 67693, Lot 1 DP 322123 and Lot 1 DP 388938. The Restaurant tenancy occupies Lot 1 DP 322123 and Lot 1 DP 388938. The rear section of the tenancy also encroaches onto Lot 1 DP 322123, hence the proposal to consolidate all 3 allotments.

The site is located within the central business district and is surrounded by other commercial land uses. The site is located within the heritage conservation area.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

For the purpose of determining this development application, the following matters that are of relevance to the development have been taken into consideration pursuant to the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act, 1979.

Section 4.15(a)(i) - The provisions of any environmental planning instrument (EPI) Local Environmental Plan

Wagga Wagga Local Environmental Plan 2010 (LEP 2010)

The following provisions of the LEP 2010 apply:

Part 2 Permitted or prohibited development Land Use

Land Use Table

Under the LEP the site is zoned B3 - Commercial Core

The objectives of the zone that would be considered relevant are;

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To ensure the maintenance and improvement of the historic, architectural and aesthetic character of the commercial core area.*

The development proposes internal alterations to an existing restaurant tenancy. The use is defined as a 'food and drink premises' which is a form of 'commercial premise'. Commercial premises are permissible with consent in the B3 zone.

The development is consistent with the objectives of the zone.

Part 4 Principal development standards

4.3 Height of Buildings

The proposed development is within an existing building and no works are proposed that will alter the existing building height therefore the proposal is considered acceptable and complies with the objectives of this clause.

4.4 Floor Space Ratio

The proposed development is within an existing building and no works are proposed that will alter the existing floor space ratio therefore the proposal is considered acceptable and complies with the objectives of this clause.

Part 5 Miscellaneous Provisions

5.10 Heritage conservation

The development proposes no alterations to the exterior of the existing building. It is satisfied that the objectives and provisions of this Clause of the LEP are satisfied.

Part 7 Additional Local Provisions

7.6 - Groundwater Vulnerability

As the application site falls within an area which is identified as 'Groundwater' on the *Water Resources Map*, the development would be subject to assessment under this clause. The application is for the use of an existing building as a business premises. The impact of this use on existing groundwater sources will be minimal. The proposal is therefore not considered to be detrimental to any of the issues under this section of the LEP 2010 and complies with this section of the LEP 2010.

7.9 - Primacy of Zone B3 Commercial Core

(1) *The objectives of this clause are as follows:*

- (a) *to maintain the primacy of Zone B3 Commercial Core as the principal business, office and retail hub of the Wagga Wagga city centre and to ensure that development does not conflict with the hierarchy of commercial centres,*
- (b) *to strengthen Wagga Wagga's position as an eminent regional centre by creating employment opportunities for tourism, commerce, education, health care, culture and the arts.*

(2) *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 building is located within the B3 zone and is for a use that is permissible in the zone. The development raises no concerns regarding this control as the development will assist in maintaining the primacy of the B3 commercial core.

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy (Resilience and Hazards) 2021

Clause 4.6 requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. 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. Accordingly, it is not considered necessary to request any investigation reports on the subject site. The site is suitable in its current state for the proposed development.

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

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

(a)(iii) - Any development control plan

Wagga Wagga Development Control Plan 2010

The relevant controls of the DCP have been addressed below.

Section 1 - General

1.10 Notification of a Development Application

Minor alterations and additions are required to be notified under the provisions of this section of the DCP. The application was notified to adjoining and nearby properties from 2/12/2022 to 9/12/2022. No submissions were received during this period.

Section 2 - Controls that Apply to All Development

2.1 Vehicle access and movements

No changes are proposed to the vehicular access at the rear of the property. The rear roller

door for deliveries will be reduced in width as part of the proposal, however this will not affect the ability for deliveries to still occur from the rear with vehicles still being able to stand off the laneway whilst loading and unloading.

2.2 Off-street parking

The following objectives and controls of this section are relevant to this development:

Objectives

- O1 *Ensure adequate provision is made for safe and efficient movement of vehicles and pedestrians.*
- O2 *Ensure the provision of safe and efficient parking for all modes of transport to meet anticipated demands.*
- O3 *Minimise disruptions to existing levels of service and safety as a result of insufficient parking being provided on site.*
- O4 *Soften the impacts of larger car parking areas through the use of landscaping.*
- O5 *Provide both shade and solar access to car park users by means of purpose designed tree planting.*

Controls

- C6 *In the case of redevelopment or change of use within the B3 zone where there is no increase in gross floor area, no additional car parking spaces will be required, except in the following instances:*
 - a. *Outbuildings are proposed to be used in association with the development, or*
 - b. *A Traffic Impact Assessment (TIA) is required by Council for the development.*

The development will not result in additional floor space. No additional carparking is required.

2.3 Landscaping

The site is completely occupied by the existing building and therefore it would be unreasonable to require landscaping.

For this reason, a landscaping plan is not required to be submitted and no plantings would be required.

2.4 Signs

No change to signage is proposed.

2.5 Safety and security

The objectives and controls of this section that are relevant for this development are as follows:

Objectives

- O3 *Maximise opportunities for natural surveillance of public spaces and building or site entrances.*

Controls

- C1 *Use good site planning to clearly define public, semi-public and private areas.*
- C2 *Entries are to be clearly visible and identifiable from the street, and are to give the resident/occupier a sense of personal address and shelter. For non-residential uses, administration offices or showroom are to be located at the front of the building.*
- C3 *Minimise blank walls along street frontages.*
- C4 *Avoid areas of potential concealment and 'blind' corners.*
- C5 *Provide lighting to external entry areas, driveways and car parks in accordance with the relevant Australian Standards. The lighting is to be designed and sited to minimise spill and potential nuisance to adjoining properties.*
- C6 *Planting and fencing is not to reduce the safety of users or compromise areas of natural surveillance.*

The objectives and controls of this section encourage building design to incorporate principles of *Crime Prevention Through Environmental Design* to maximise the safety and security of individuals from crime. There are no changes to the existing building proposed that would impact on the public safety and security therefore the proposal raises no issues.

2.6 Erosion and Sediment Control Principles

The development will not result in erosion or sediment control issues.

Section 3 - Heritage Conservation

3.3.1 Fitzmaurice Commercial Precinct

The Fitzmaurice Street precinct comprises of the early town centre. The proposed development is for the use of an existing building with only internal alteration proposed. As such, the proposed development will not have an adverse impact on the heritage significance of the surrounding sites or within the wider locality.

Section 4 - Environmental Hazards and Management

4.2 Flooding

This section of the DCP is applicable as the site is flood prone land given that it is subject to the PMF. However, with respect to the general flood controls, there are no relevant provisions requiring consideration. The specific controls relating to commercial development within the levee protected central business area requires a minimum floor height of 225mm above ground level and for consideration to be given to stormwater impacts. It is satisfied that the existing floor level of the building is compliant. In addition to this, the MOFFS for the 1% event does not identify any flooding at this site.

Section 5 - Natural Resource and Landscape Management

5.4 Environmentally sensitive land

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

10.1 City Centre

Fitzmaurice Street Precinct

The precinct comprises of the early town centre with a varying mix of architectural styles. The proposed development is within an existing building with no proposal to alter the existing shopfront or external features of the building. The proposed development will further support the economic viability of the precinct and generally fulfils the objectives and controls within Section 3.3.1 above. As such the proposed development is considered to be an appropriate inclusion within the locality.

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

No planning agreement has been entered into under section 7.4.

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

Matters prescribed by the regulations have been satisfied including the requirement for demolition works to be undertaken in accordance with AS2601 and the inclusion of prescribed conditions.

61 Additional matters that consent authority must consider

Clause 61(7) of the *Environmental Planning and Assessment Regulation 2021* applies to development in the Wagga Wagga Local Government Area and is as follows:

(7) In determining a development application for development on land to which Wagga Wagga Local Environmental Plan 2010 applies, the consent authority must take into consideration whether the development is consistent with the Wagga Wagga Special Activation Precinct Master Plan published by the Department in May 2021.

The development site is not in proximity to the Wagga Wagga Special Activation Precinct Master Plan area. It is considered given this remoteness that the development is consistent with the Master Plan.

Section 4.15 (b) - The likely impacts of the development

Context and setting

The proposed development will preserve the existing active shopfront to Fitzmaurice Street and therefore will maintain the existing commercial character of Fitzmaurice Street.

Streetscape

All works are internal. No adverse impacts are anticipated as a result of proposed development.

Access, transport and traffic

As mentioned above in the report, the access to the site has not been altered and remains appropriate. No adverse impact on traffic movement has been identified.

Noise and vibration

Minimal impact during construction and will be controlled by conditions of any consent granted.

Public domain

No issues raised

Other land resources

The land is zoned B3 Commercial Core and contains an existing building no issues are raised.

Heritage

Refer to comment under Section 3 of the DCP 2010 earlier in this assessment report.

Services/Utilities

As the subject development is located within the City's centre, all power, water, sewer and telecommunications are available to the site.

Air and microclimate

Conditions of consent will minimise impacts during construction. No adverse impacts are expected as a result of the proposal.

Flora and Fauna Trees

The proposed development is within an existing tenancy and does not involve the removal of any vegetation.

Soils, soil erosion

The proposal is for change of use and does not involve any additional construction works therefore raises no issues.

Natural Hazards

The site is subject to flooding during the PMF event. The development has been assessed against the provisions of the DCP with respect to flood affected land as detailed earlier in this assessment.

The site is not bush fire prone land nor flood affected land.

Waste

No waste management issues have been identified.

Safety, security and crime prevention

The proposed change of use does not raise any issues.

Social/economic impacts

The development will provide both positive social and economic impacts through employment and through education and training opportunities for youth within the community.

Hours of operation

No changes are proposed with respect to hours of operation.

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 proposal is seeking approval for internal alterations to the existing commercial premise. The environmental impacts of which have been assessed above have concluded that the development would be acceptable with minimal impact on the environment.

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

Suitability of the site in terms of the likely impacts identified under section 4.15(b)

The subject land located at 101-107 Fitzmaurice Street is zoned B3 Commercial Core. The site is considered to be suitable for the proposed development because it is a commercial use within a commercial zone that generally complies with the provisions of both the WWLEP2010 and WWDCP2010.

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

Referrals

The proposed development was referred to the relevant section of the Council in accordance with Council policy. No concerns were raised and standard conditions of consent will be imposed.

Notification and advertising

The application was notified to adjoining and nearby properties from 2/12/2022 to 9/12/2022.

Public Submissions and those from public authorities

No public submissions were received during the notification period.

Riverina Water have requested standard conditions to be included on any consent including the requirement for a Certificate of Compliance prior to issue of the Construction Certificate.

Section 4.15(e) - the public interest

Taking into account the full range of matters for consideration under Section 4.15 of the *Environmental Planning and Assessment 1979* (as discussed within this report) it is considered that approval of the application is not contrary to the public interest.

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

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 *Biodiversity Conservation Act 2016* and results in the need for further assessments or offsets.

1. *Is the subject site identified as an area of outstanding biodiversity value on the biodiversity values map?*

No

2. *Does the amount of native vegetation being removed exceed the biodiversity offsets scheme threshold.*

No native vegetation is proposed to be removed.

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.*

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.

Based on the above assessment it is satisfied that the development will not trigger the Biodiversity Offset Scheme.

Section 733 of the *Local Government Act 1993*

Section 733 of the *Local Government Act 1993* provides that Councils will not incur liability for decisions or omissions concerning flood liable land or land subject to the risk of bushfire. Where required, a risk assessment has been completed and Council will be able to demonstrate that it has acted appropriately in its decision making when defending claims in liability or in circumstances where administrative decisions are challenged.

Flooding Risk Assessment

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. A risk assessment has been completed as the site is subject to the PMF.

Bush Fire Risk Assessment

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

Council Policies

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

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

Comments by Council's Officers

Council's other relevant officers have reviewed the application in accordance with Council's processing procedures. No concerns were raised and standard conditions of consent will be imposed.

Development Contributions

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

Section 7.12

As the proposed development will not see an increase in GFA, Section 7.12 contributions are not required.

Section 64 Sewer

As the lot is located in the CBD area (as shown below), Section 64 Sewer charges are not required as per the Addendum to the DSP Sewer of September 2020.

Section 64 Stormwater

As there is no increase in hardstand, the development is exempt from Section 64 Stormwater infrastructure contributions.

Other Approvals

Nil

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. No objections to the proposal were received.

Recommendation

It is recommended that application number DA22/0722 for Internal alterations to existing food and drink premises (restaurant) and consolidation of lots be approved, subject to the following conditions:-

CONDITIONS

A. SCHEDULE A – Reasons for Conditions

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

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

B. SCHEDULE B – Deferred Commencement Conditions

N/A

C. SCHEDULE C – Conditions

Approved Plans and Documentation

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

Plan/DocNo.	Plan/Doc Title	Prepared by	Issue	Date
A00	Notes	Icono Building Design	4	6/12/2022
A01	Site Plan	Icono Building Design	4	25/11/2022
A02	Demolition Plan	Icono Building Design	4	25/11/2022
A03	Floor Plan	Icono Building Design	4	25/11/2022
-	Statement of Environmental Effects	Icono Building Design	A	25/11/2022

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 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.

NOTE 6: The Section 64 Stormwater base figure is NIL.

Requirements before the commencement of any works

- C.3 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.4 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.5 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.6 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.7 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.
- C.8 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.9 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.10 The construction and finished area used for the manufacture, preparation, storage, packing, carriage or delivery of food for sale shall be constructed and maintained in accordance with the Food Act 2003 and Food Regulations 2015 and the Food Safety Standards Code.

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

- C.11 Prior to the issue of an occupation certificate, the site must be provided with only one sewer spur connection to the Council sewer main and any additional sewer spurs shall be capped off. These works shall be completed to the satisfaction of the General Manager or their delegate.

- C.12 Prior to the issue of the Occupation Certificate and at a minimum two (2) days prior to the food business premises commencing trade, a health inspection must be conducted by Council's Environmental Health Officer in accordance with the Food Act 2003 and the Food Regulations 2015, Food Safety Standards Code. A satisfactory final fit out and construction approval must be obtained by Council's Environmental Health Officer prior to commencing trade.
- C.13 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.14 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.15 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.

- C.16 Prior to the issue of an occupation certificate, Lot 1 DP 67693, Lot 1 DP 322123 and Lot 1 DP 388938 are to be consolidated into one lot. Evidence of consolidation shall be provided to Council.

General requirements

- C.17 Should asbestos material be found, it is to be handled, transported and disposed of in accordance with the legislative requirements and standards determined by NSW WorkCover. All weighbridge receipts must be provided to Wagga Wagga City Council, within 14 days of the completion of the demolition/removal.

- NOTE 1: All asbestos material needs to be double wrapped in 200µm thick plastic and disposed of at an EPA licensed facility. In this regard it should be noted that Wagga Wagga City Council's Gregadoo Waste Facility is the only EPA licensed facility within the Local Government Area to accept asbestos material. Council's Waste Management Supervisor requires 24 hours notice prior to disposal of this material
- NOTE 2: Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover — Demolition Licence and a current WorkCover — Class 2 (Restricted) Asbestos Licence.
- NOTE 3: Competent Person (as defined under Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)]) means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill, for the safe performance of the specific work.
- NOTE 4: A licence may be required for some of the tasks described in the document entitled Safe Removal of Asbestos 2nd Edition as requiring a competent person.

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>Report Prepared & approved by:</p>  <p>Cameron Collins Development Assessment Coordinator</p> <p>Date: 12/12/2022</p>	<p>Report Reviewed by:</p>  <p>Amanda Gray Senior Town Planner</p> <p>Date: 12.12.2022</p>
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