



City of
Wagga Wagga

Report of Development Application

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

APPLICATION DETAILS

Application No.:	DA21/0589
Modification No.:	DA21/0589.01
Council File No.:	D/2021/0589
Date of Lodgement:	24/05/2023
Applicant:	AJ Jones Po Box 268 WAGGA WAGGA NSW 2650
Proposal:	Proposed community title subdivision and demolition of existing dwelling and sheds
Description of Modification:	Deletion of condition C12 and amendment to Condition C33 relating to construction restrictions for tree protection. Amendment to lot sizes.
Development Cost:	\$200000
Assessment Officer:	Cameron Collins
Determination Body:	Officer Delegation 7.39
Other Approvals	Nil
Type of Application:	Section 4.55(1A) Modification
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	N/A
Advertising:	N/A
Owner's Consent Provided:	Yes
Location:	On the northern side of Crampton Street, approximately 75 metres west of its intersection with Trail Street.

SITE DETAILS

Subject Land:	53 Crampton St WAGGA WAGGA NSW 2650 Lot 6 DP 11835, Lot 1 DP 307445, Lot 7 DP 1087361
Owner:	Oldgirl Pty Ltd

Description of Development

The application for a 17 lot subdivision under community title was originally approved by Council on 20/7/2022.

The application seeks approval to modify the consent under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979. The requested modification is summarised as follows:

- Request to delete condition C12 and to amend condition C33 as a result of Council's recent approval to remove 2 trees located on the adjacent property (102 Trail Street). The subject conditions were imposed to ensure protection of these trees and the applicant contends that the restriction imposed via the conditions are no longer relevant. No objection is raised to this request as discussed late in this assessment.
- Request to vary the size of the proposed allotments within the subdivision. The amendments are required as a result of servicing requirements. These amendments are minor and remain generally consistent with the originally approved subdivision plan. No objection is raised to this request.

The Site and Locality

The subject land is known as 53 Crampton Street and is located on the northern side of Crampton Street, approximately 75 metres west of its intersection with Trail Street. The property has a combined area of 5645.7 square metres and consists of 3 allotments identified as:

- Lot 6 DP 11835 - 4274 square metres
- Lot 7 DP 1087361 - 1201 square metres
- Lot 1 DP 307445 - 170.7 square metres

The property has a 20 metre frontage/handle to Crampton Street which widens to a large rectangular area of approximately 80 metres by 60 metres.

With the exception of its frontage to Crampton Street, the site is bound on all sides by residential properties with a mixture of dwelling types (single and multi dwelling).

The site is clear of any structures. Development Consent (DA21/0668) was granted on 16 December 2021 for the demolition of the dwelling fronting Crampton Street and for the removal of sheds and structures located within the site.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.55(1A)

(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

Comment - The modification is for minor amendments to the size of allotments within the subdivision, and for the removal of restrictions around construction works within a now redundant tree protection zone (noting that the 2 affected trees have been approved for removal under separate application). It is satisfied that the modification will result in minimal environmental impact.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

Comment - It is satisfied that the modified development, as described above, will result in substantially the same development to that which was originally approved..

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Comment - The application is not required to be notified under the provisions of the DCP 2010.

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment - no submissions have been received.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

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

Wagga Wagga Local Environmental Plan 2010 (WWLEP2010)

The nature of the modification is such that the development remains compliant with the provisions of the Wagga Wagga Local Environmental Plan 2010. It is satisfied that the modified development will result in negligible environmental impact. The previous assessments under the LEP provisions remain entirely valid.

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy (Resilience and Hazards) 2021

This application was originally assessed under the provisions of this policy. Having regard to the nature of the proposed amendments, it is satisfied the previous assessments under the provisions of this policy remain entirely valid.

State Environmental Planning Policy (Transport and Infrastructure) 2021

This application was originally assessed under the provisions of this policy. Having regard to the nature of the proposed amendments, it is satisfied the previous assessments under the provisions of this policy remain entirely valid.

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

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

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

Wagga Wagga Development Control Plan 2010

The nature of the modification is such that the development remains compliant with the Wagga Wagga Development Control Plan 2010, as no physical changes are proposed, the development will result in negligible environmental impact. The previous assessments under the DCP provisions remain entirely valid subject to the following comments.

Section 1 - General

1.10 Notification of a Development Application

Applications under Section 4.55(1A) are not required to be notified under the provisions of this section of the DCP 2010.

Section 5 - Natural Resource and Landscape Management

5.2 Preservation of trees

The original assessment included the following statement with respect to existing 3 trees located on the adjoining property that are the subject of this modification:

- *Trees 11 and 12 - Two trees located on 102 Trail Street adjoining to the north and in close proximity to the north boundary of the development site. Trees 11 and 12 are both located 0.6 and 1.6 metres respectively off the boundary of the development. The development impacts from the building footing and service trenching of future dwellings on proposed Lot 5 will severely impact the structural root zones and may destabilise the trees. The trees currently provide significant amenity value to the rear yard of 102 Trail Street.*

Having regard to tree 11, being the closest tree to the development site (0.5m), it is noted from the report that the calculated structural root zone is 2.5 metres which therefore encroaches approximately 2 metres into the development site (within proposed Lot 5) and that approximately 90% of the canopy of this tree overhangs the development site. The report recommends that a 4 metre exclusion zone be established at the rear of proposed lot 5 to ensure the protection of this tree (and also tree 12). This zone would exclude any building works or trenching works within

this area. The assessment also identifies that superficial works (minor earthworks, etc) close to the boundary would be acceptable subject to appropriate assessment. In addition to this exclusion zone, it is therefore also recommended that a condition of any consent require appropriate assessment of final works within the recommended exclusion zone.

- *Tree 13 - a located on 102 Trail Street adjoining to the north and 3.5 metres from the north boundary of the development site. There will be minor impacts to the Tree Protection Zone in the order of less than 5% and overall impacts to the tree should be negligible. The tree can be retained.*

Approval has been recently granted by Council under TP23/0010 dated 16/2/2023 to remove the 2 trees identified above as Trees 11 and 12. As the trees will be removed and as there will be no expected impact on Tree 13 which will be retained, no objection is raised to the removal of the related restrictions imposed under Conditions C12 and C33 of this consent. These conditions have been reproduced in full below for clarity.

It is recommended that Condition C12 be deleted in its entirety and that Condition C33 be amended by the deletion of the requirement for the first restriction (burdening Lot 5) in the table.

A.1 C12 *Prior to the commencement of any works, the applicant shall provide final construction details specifying all works required within the 4 metre exclusion (tree protection) zone within proposed Lot 5 as required under Condition C33 of this consent. The plan shall detail, as a minimum, all works required in this area and shall confirm that no trenching or servicing will occur and that no significant earthworks (cut or fill) or retaining walls shall occur within this area. Any required works detailed on the plan shall be to the satisfaction of the General Manager or their delegate. No works shall commence until written approval has been received from Council with respect to the required plan.*

A.2 C33 *Prior to the release of the Subdivision Certificate, pursuant to Section 88B of the Conveyancing Act 1919, the following Restriction as to Users, and Positive Covenants (as relevant), with Council empowered to uplift, shall be written and shown on the submitted Plans of Subdivision:*

Item	Lots Burdened	Effect of Restriction as to User / Positive Covenant
1	5	<i>A building and earthwork exclusion zone for tree protection. The exclusion zone will be a minimum of 4 metres wide measured from the northern boundary of Lot 5. The exclusion zone shall restrict any buildings, structures or earthworks (including service trenching works) from occurring within this area.</i>
2	2 - 17	<i>The setback and design of the dwelling (including all landscaping and paved/hardstand areas) shall be consistent with the approved concept landscape masterplan as required under condition C.32 of this consent. All dwelling setbacks (including side setbacks where applicable) to the community allotment (Lot 1) shall be</i>

		<i>landscaped, and maintained at all times, generally in accordance with the approved concept landscape masterplan.</i>
3	2 - 17	<i>The finished habitable floor level of the dwelling shall be constructed with a minimum 300mm freeboard to the 1% AEP overland flow flood level. The required minimum finished floor level is 178.80m AHD.</i>
4	2 and 3	<i>Drainage easement 2 metres wide over existing Council stormwater infrastructure.</i>

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

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

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

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

The impacts with respect to existing vegetation have been resolved given the recent approval for removal of the affect trees as discussed above. With the exception of this matter, the original assessments with respect to the likely impacts of the development remains applicable to the modified development.

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

The site has been previously assessed as being suitable for the proposed development. The proposed modification will not alter the previous assessments.

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

No external referrals were required with respect to the modifications proposed.

Advertising and Notification

The application is not required to be advertised or notified (see earlier comments).

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

The public interest is a broad consideration relating to many issues and is not limited to. 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 modified application is in the public interest.

Developer Contributions Plans

Developer Contributions - Section 94/94A & Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000

There is no change with respect to the existing contribution requirements under this consent.

REFERRALS:

Nil

Other Approvals

Nil

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.

CONCLUSION:

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

RECOMMENDATION

It is recommended that application number DA21/0589.01 to modify Development Consent DA21/0589 for Proposed community title subdivision and demolition of existing dwelling and sheds 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
202106 (Sheet 1)	Service Plan	Jones Design	2	15/5/2023
202106 (Sheets 3 - 4)	Site Plan	Jones Design	2	15/5/2023
210570 (A1000)	Proposed Site Plan	Xeros Piccolo	P2	25/10/2021
210570 (A2000)	Typical Site Sections	Xeros Piccolo	P2	25/10/2021
210570 (B1001)	Layout Plan 1/2	Xeros Piccolo	P2	25/10/2021
210570 (B1002)	Layout Plan 2/2	Xeros Piccolo	P2	25/10/2021
210570 (B1100)	Depth Contours Plan	Xeros Piccolo	P2	25/10/2021

210570 (B2000)	Preliminary Stormwater and Sewer Plan	Xeros Piccolo	P2	25/10/2021
210570 (B4001)	Turning Paths	Xeros Piccolo	P2	25/10/2021
	Statement of Environmental Effects	Andrew Jones	2	23/2/2022
	Aboricultural Assessment	Wade Ryan	-	4/3/2022

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.

- C.2 The configuration of proposed Lot 1 and the driveway location to Crampton Street shall be generally consistent with approved plan titled "Site Plan" numbered 202106 as referenced in condition C1 of this consent.

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 standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by Council, or
- 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 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.5 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.6 Prior to the commencement of any works:

- i) stormwater drainage shall be designed to limit post development flows from the site to pre-developed flows for all storms up to and including the 100 Year ARI event. Full plan details of any proposed On-Site Detention (OSD) system and supporting calculations shall be provided to Council.
- ii) certification for the underground OSD proposed within the trafficable area shall be provided to Council by a practicing Structural Engineer to certify that the design is capable of accepting the expected traffic loads in accordance with Australian Standards.

C.7 Prior to the commencement of any works, a revised site plan shall be submitted to Council for approval that identifies;

- i) The stormwater connecting to the existing stormwater mains
- ii) The existing sewer spur to be upgraded to 150mm diameter and sewer connected to this point

- iii) The finished paving levels demonstrating that the stormwater overland flow path is directed towards the street or an alternative appropriate point of discharge.
 - iv) A stormwater plan indicating pipe and pit levels, inverts and sizes. This plan shall also show existing and proposed surface contours within the site and along its boundaries with immediately adjacent properties, and shall define overland flow paths for storms which exceed a 1 in 10 year event.
 - v) The stormwater plan shall demonstrate that overland flow from adjoining properties is not impeded or re-directed in any way so as to have an adverse affect on adjoining properties.
- C.8 Prior to the commencement of works, amended plans shall be submitted to Council showing the minimum finished floor level for all lots to be 178.80m AHD.
- C.9 Prior to the commencement of works a pavement design of the internal driveway shall be prepared by a Geotechnical Engineer in accordance with AUSTROADS standards based on existing site soil conditions and expected traffic volumes and submitted to Council.
- C.10 Prior to the commencement of works, a signage and line marking plan shall be submitted to Council to demonstrate how vehicles will be directed in a one-way travel direction through the site.
- C.11 Prior to the commencement of works, a dilapidation report is to be undertaken. This shall include clear photos and descriptions of all existing Council infrastructure adjacent to the subject site. A copy of the dilapidation report shall be submitted to and approved by Council.
- C.12 DELETED
- C.13 Prior to the commencement of any service/trenching works within Crampton Street, the applicant shall provide detailed construction plans demonstrating compliance with the recommended minimum trenching distances from the 3 street trees fronting the development site as outlined in the approved arboricultural assessment report referred to in condition C1 of this consent. The plans shall also detail any other earthworks required within this area including details of removal of the existing redundant driveways and construction of the new driveway. All works detailed on the plan shall be to the satisfaction of the General Manager or their delegate. No works shall commence until written approval has been received from Council with respect to the required plan.
- C.14 Prior to the commencement of any works, the applicant shall ensure compliance with the following requirements of Essential Energy:
 - a) Any existing encumbrances/easements in favour of Essential Energy (or its predecessors) noted on the title of the above properties shall be complied with.
 - b) Essential Energy's records indicate there is overhead electricity infrastructure located within the properties and within close proximity to the properties. Any activities within these locations must be undertaken in accordance with the latest industry guideline currently known as 2 ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the properties

encroach on the electricity infrastructure.

- c) Prior to carrying out any works, a “Dial Before You Dig” enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).
 - d) Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice - Work near Overhead Power Lines and Underground Assets.
 - e) If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
 - f) Satisfactory arrangements must also be made with Essential Energy for the provision of power with respect to the proposed development. It is the Applicant’s responsibility to make the appropriate application with Essential Energy for the supply of electricity to the development, which may include the payment of fees, contributions and if required, new designated electrical infrastructure, such as a padmount substation. If it is deemed that designated electrical infrastructure is required, then all fees for such infrastructure (which may be substantial) will be borne by the Applicant. Refer Essential Energy’s Contestable Works Team for requirements via email contestableworks@essentialenergy.com.au.
- C.15 The 3 existing street trees in Crampton Street fronting the property shall be retained and protected from the proposed development. These trees shall not be impacted upon in any way without the consent of Council’s Supervisor of Tree Planning and Management.
- A Tree Protection Zone (TPZ) shall be constructed for all existing trees fronting 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.
- C.16 Any required pruning maintenance to Council street trees shall be carried out by Council or an approved contractor of Council at full cost to the applicant. Council is to be notified of any contractor prior to the commencement of works.
- Pruning shall be carried out in accordance with Australian Standards AS 4373-2007 Pruning of Amenity Trees.
- C.17 Prior to the commencement of works, an Activity Approval is required under Section 68, Part B - 4, 5 and 6, of the Local Government Act 1993 for any public

infrastructure sewer / stormwater works, where that work is proposed to be carried out on public or Council owned land. This includes the required upgrade of the existing sewer spur to 150mm diameter (or alternatively the provision of a new 150mm diameter sewer spur).

NOTE 1: Works carried out under an approved Section 68 prior to a Development Consent and/or Construction Certificate being issued are subject to change and are at the applicant's risk.

NOTE 2: Prior to the commencement of works a 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.18 Prior to the commencement of works, an Activity Approval is required under Section 68, Part B - 4, 5 and 6, of the Local Government Act 1993 for any sewer or stormwater works being carried out on the site. The licensed plumber must submit to Council, at least two (2) days prior to the commencement of any plumbing and drainage works on site a "Notice of Works".

NOTE: A copy of the Notice of Works form can be found on Council's website.

- C.19 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.20 Vehicular access within the road reserve must be constructed to Council standards, at full cost to the developer, by a licensed Council approved contractor. A list of Contractors can be found on Council's website at- <<https://wagga.nsw.gov.au/city-of-wagga-wagga/engineering-services/traffic-and-transport/working-in-a-road-reserve-or-footpath>> Driveway design and grades shall comply with AS2890.1: 2004 (or as amended) and Council's Engineering Guidelines for Subdivisions and Developments.
- C.21 All excavation and backfilling associated with the erection/demolition of the building must be properly guarded and protected to prevent them from being dangerous to life or property.
- C.22 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.23 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.24 Any proposed site fill must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997, or Excavated Natural Material (ENM), as defined by the Excavated Natural Material Order 2014, free from organic matter, and compacted in horizontal layers

not more than 250mm thick to 95% of the standard maximum dry density of the soil. A validation certificate shall be provided to Council verifying that the material to be used is free of contaminants and fit for purpose and re-use in residential, commercial or industrial use, prepared by a qualified Geotechnical Engineer. All such works are to comply with Wagga Wagga City Council's Guideline for Subdivision and Developments.

NOTE: Soil density tests from a NATA registered laboratory, and conducted in accordance with Australian Standard 1289, will be required, prior to the issue of a Subdivision Certificate.

- C.25 Where works involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where excessive dust generation is occurring due to high winds and/or dry conditions it may be necessary to temporarily cease operations.
- C.26 Any earthworks (including any structural support or other related structure for the purposes of the development):
- (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
 - (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
 - (c) retained material must have a gradient of at least 5%, and
 - (d) must be constructed in accordance with the approved plans for such work(s).
 - (e) must be wholly located within the subject site (including footings of any retaining structures)
- C.27 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.28 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.
- C.29 Trees indicated on the submitted plans for removal, shall be removed from the site in accordance with the proposed development. Consent under Council's Tree Preservation Order is not required for removal of the subject trees.

The approved works shall be executed so as to comply with the NSW Work Cover Code of Practice - amenity tree industry 1998 No. 034.

Any works associated with tree removal shall be carried out in Accordance with Australian Standards - AS 4373-2007, Pruning of Amenity Trees.

All tree stumps shall be removed below ground level and the surface area reinstated to prevent potential injury.

All waste material from the subject tree/s shall be removed from site in conjunction with clearing.

Requirements before a Subdivision Certificate can be issued

- C.30 Pursuant to s7.11 of the Environmental Planning and Assessment Act 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, a monetary contribution as identified in the table below must be paid to Council, prior to the issuing of the Subdivision Certificate. 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.

Base monetary contribution (Contribution Rate in Wagga Wagga Local Infrastructure Contributions Plan 2019-2034)	\$10,012 per lot (see Note 1)
Adopted CPI indexation applied at date of determination (as per Section 3.2 of Wagga Wagga Local Infrastructure Contributions Plan 2019-2034)	123.7/115.1
Indexed monetary contribution to be paid (valid for the financial year in which the date of determination was made)	\$10,308 per lot (see Notes 1 and 3)

NOTE 1: The per lot contribution is payable for 14 of the 16 proposed residential allotments as credit has been given for the 2 existing allotments (Lot 6 DP 11835 and Lot 7 DP 1087361).

NOTE 2: Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 provides for Section 7.11 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. Indexed developer contributions are adopted annually by Council for the financial year.

NOTE 3: The final indexed 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.

NOTE 4: 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.31 Prior to the release of the Subdivision 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 Subdivision 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 \$3,538 per lot.

The Section 64 Sewer contribution (updated by the CPI 121.6/100.5) required to be paid is \$4,281 per lot.

The per lot contribution is payable for 14 of the 16 proposed residential allotments as credit has been given for the 2 existing allotments (Lot 6 DP 11835 and Lot 7 DP 1087361).

NOTE 6: The Section 64 Stormwater base figure is \$3,007 per lot.

The Section 64 Stormwater contribution (updated by the CPI 123.7/87.9) required to be paid is \$4,160 per lot.

The per lot contribution is payable for 14 of the 16 proposed residential allotments as credit has been given for the 2 existing allotments (Lot 6 DP 11835 and Lot 7 DP 1087361).

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.32 A concept landscape plan shall be prepared for the area of the site comprising the front setbacks (and side setbacks where applicable) of all allotments to the community lot (internal roadway). The plan shall detail as a minimum:

- appropriate soil and drainage preparation;

- limited hard/paved surfaces (driveway and paths);
- exclusion of fencing and structures; and
- appropriate low maintenance landscaping including tree species suited to the confined environment, shrubs, ground covers and mulching.

The concept landscape plan shall be to the satisfaction of the General Manager or their delegate prior to the release of the subdivision certificate.

- C.33 Prior to the release of the Subdivision Certificate, pursuant to Section 88B of the Conveyancing Act 1919, the following Restriction as to Users, and Positive Covenants (as relevant), with Council empowered to uplift, shall be written and shown on the submitted Plans of Subdivision:

Item	Lots Burdened	Effect of Restriction as to User / Positive Covenant
1	DELETED	DELETED
2	2 - 17	The setback and design of the dwelling (including all landscaping and paved/hardstand areas) shall be consistent with the approved concept landscape masterplan as required under condition C.32 of this consent. All dwelling setbacks (including side setbacks where applicable) to the community allotment (Lot 1) shall be landscaped, and maintained at all times, generally in accordance with the approved concept landscape masterplan.
3	2 - 17	The finished habitable floor level of the dwelling shall be constructed with a minimum 300mm freeboard to the 1% AEP overland flow flood level. The required minimum finished floor level is 178.80m AHD.
4	2 and 3	Drainage easement 2 metres wide over existing Council stormwater infrastructure.

Item 2 shall be addressed in the required Management Statement for the community subdivision.

- C.34 Prior to the issue of the subdivision certificate, the required Management Statement for the community subdivision shall include provisions to ensure that access to the internal roadway for all vehicles (including required service vehicles) is not be restricted by any activity including the parking of vehicles.
- C.35 Prior to the issue of the subdivision certificate, signs must be erected and line marking must be provided that clearly identify the one-way operation of the internal roadway to drivers of vehicles within the development site. The signage and line marking shall be in accordance with the plan referred to in condition C.10 of this consent.
- C.36 Prior to the issue of the subdivision certificate, the carparking spaces within the community lot (Lot 1) must be laid out in accordance with Australian Standards AS2890.1.2004, AS2890.2 2002 and AS/NZS2890.6.2009.
- C.37 Easement/s are to be created for any existing electrical infrastructure, using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision. Refer Essential Energy's Contestable Works Team for requirements via email contestableworks@essentialenergy.com.au <<mailto:contestableworks@essentialenergy.com.au>>.

- C.38 Prior to issue of the subdivision certificate, any redundant kerb layback in Crampton Street shall be replaced with conventional barrier kerbing, and Council's footway rehabilitated, in accordance with Council's Engineering Guidelines for Subdivisions and Developments.
- C.39 Prior to the issue of the subdivision certificate,
- i) Works-As-Executed (WAE) plans of the constructed On-Site Detention system shall be submitted to Council. The WAE plans shall confirm the volume of constructed storage areas, installation of orifice plates, pipe and pit levels and surface levels of overland flow paths. Certification shall be provided by a practising Civil Engineer that the constructed On-Site Detention system will function hydraulically as intended in accordance with the approved plans.
 - ii) Certification from a practicing Structural Engineer shall be provided to certify that the underground OSD structure has been constructed in accordance with the approved plans. Evidence of inspections at key hold points throughout the construction of the OSD structure shall be provided.
- C.40 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.41 A Subdivision Certificate, pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended must be obtained from Council, prior to its lodgement with the Lands Titles Office.
- The Final Survey Plan (two paper copies and an electronic copy) must be submitted to Council along with the application for Subdivision Certificate and associated checklist.
- NOTE: Council will only consider issuing a Subdivision Certificate in relation to this subdivision when it is satisfied that all conditions of development consent relating to the subdivision have been complied with and the appropriate fee paid.
- C.42 Prior to the issue of the Subdivision Certificate the following documents shall be submitted to Council to demonstrate that the requirements of the public utility services have been met:-
- i) Essential Energy: Notice of Arrangement (to be made to the Contestable Works Section at Essential Energy);

- ii) APA Gas: Certificate of Acceptance;
- iii) Riverina Water: Certificate of Compliance;
- iv) Certification from an approved telecommunications provider.

General requirements

- C.43 No approval is granted for the concept dwelling designs submitted as part of this development. Final dwelling designs will be subject to further development consent.

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.

<p>Report Prepared & approved by:</p>  <p>Cameron Collins Development Assessment Coordinator</p> <p>Date: 20/6/2023</p>	<p>Report Reviewed by:</p>  <p>Sam Robins Senior Town Planner</p> <p>Date: 20/6/23</p>
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