

Report of Development Application

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

APPLICATION DETAILS

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| Application No.: | DA23/0219 |
| Modification No.: | N/A |
| Council File No.: | D/2023/0219 |
| Date of Lodgement: | 16/05/2023 |
| Applicant: | Bar-Up Bullbars Super Pty Ltd 5c Dobney Ave WAGGA WAGGA NSW 2650 |
| Proposal: | Ancillary building to existing metal fabrication business |
| Description of Modification: | N/A |
| Development Cost: | \$182547 |
| Assessment Officer: | Sam Robins |
| Determination Body: | Officer Delegation 7.39 |
| Other Approvals | Nil |
| Type of Application: | Development Application |
| Concurrence Required: | No |
| Referrals: | Internal |
| Adjoining Owners Notification: | 7/6/23 - 21/6/23 |
| Advertising: | N/A |
| Owner's Consent Provided: | Yes |
| Location: | The site, being Lot 11 DP 837397, No.293 Copland Street East Wagga, is located centrally in the block between Lawson Street and Hartog Place. |

SITE DETAILS

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| Subject Land: | 293 Copland St EAST WAGGA WAGGA NSW 2650 Lot 11 DP 837395 |
| Owner: | Bar-Up Bullbars Super Pty Ltd |

DESCRIPTION OF DEVELOPMENT

The applicant seeks permission for the erection of a 12m x 30m steel framed shed to be located across the rear of the subject site to be used as storage ancillary to the existing metal fabrication business currently operating from the existing building located at the front of the site.



The site, being Lot 11 DP 837397, No.293 Copland Street East Wagga, is located centrally in the block between Lawson Street and Hartog Place.

The site measures 3935m² and is generally flat and free of any vegetation. The main building is situated centrally within the lot towards the front with a smaller shed to the eastern side of the main building. Separate entry and exit driveways exist that wrap around the back of the building. The site contains no restrictive easements.

The surrounding area is a mix of expected Industrial land uses.

The site is considered flood prone this issue has been discussed in the body of the report.

An inspection of the site was undertaken on 24/5/23 by the assessment officer.

- DA03/0248 - Additions to existing industrial premises. It should be noted that whilst this says 'additions' it appears from file that it was the complete construction of the main building on site.
- DA04/0360 - Additions to industrial premises for display purposes (display garage)

Nil

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.

Local Environmental Plan

The following provisions of the LEP 2010 apply:

Land Use Table

Under the LEP the site is zoned E4 - General Industrial

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

- *To provide a range of industrial, warehouse, logistics and related land uses.*
- *To ensure the efficient and viable use of land for industrial uses.*
- *To minimise any adverse effect of industry on other land uses.*
- *To encourage employment opportunities.*
- *To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers*

Under part 2 section 3 of Zone E4 the relevant land uses to this application are defined as follows:

general industry means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

industrial activity means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.

The use of the site is a metal fabrication business which would be considered a general industry. The proposed shed would be used to store machinery and raw and fabricated product required for the business and would therefore be considered storage associated with the operation of the industry.

The works are consistent with the relevant objectives.

Part 5 Miscellaneous provisions

5.21 Flood planning

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

- (a) *to minimise the flood risk to life and property associated with the use of land,*
- (b) *to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- (c) *to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- (d) *to enable the safe occupation and efficient evacuation of people in the event of a flood.*

(2) *Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development-*

- (a) *is compatible with the flood function and behaviour on the land, and*
- (b) *will not adversely affect flood behaviour in a way that results in detrimental*

increases in the potential flood affectation of other development or properties, and
(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
(d) incorporates appropriate measures to manage risk to life in the event of a flood, and
(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters-

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

(4) A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.

(5) In this clause-

Considering Flooding in Land Use Planning Guideline means the Considering Flooding in Land Use Planning Guideline published on the Department's website on 14 July 2021.

flood planning area has the same meaning as it has in the Floodplain Development Manual.

Floodplain Development Manual means the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

The site is within the East Wagga Wagga Medium Flood Risk area. The site is subject to flooding in a 1% event as mapped under the 2018 Riverine Study. A Small section of the very front of the site is also located within the FPA for the MOFFs study, however the impact from this is negligible given its location and heights and therefore no further assessment against the MOFFs flood data is required.

The riverine model shows maximum depths of approximately 0.59m located at the rear of the site with a flood hazard of H1 - H3. The building is proposed within the H2 and H3 area (which are considered low hazard and identified in the 'Wagga Wagga Revised Murrumbidgee River Floodplain Risk Management Study and Plan' as "H2 - unsafe for small vehicles and H3 - unsafe for vehicles, children and the elderly"). The site is shown to be above the 5% flood level. The development has not proposed a floor level so it is assumed it will be constructed at existing ground level which is greater than the 1:20 year flood level, the flood height that Council plans to for industrial development in this area. Given the proposed floor height, the minimal earthworks involved, and that the site is already a developed industrial site (which is non-residential and has no permanent habitation), it is considered that the development is consistent with the matters set out above, will not unreasonably impact on adjoining land, and that the development is compatible with the flood hazard of the land.

The flood modelling for the site considered climate change.

The proposed development is considered to meet the objectives listed above.

Part 7 - Additional Local Provisions

7.1A Earthworks

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

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring separate development consent.*

(2) *Development consent is required for earthworks unless:*

- (a) the work is exempt development under this Plan or another applicable environmental planning instrument, or*
- (b) the work is ancillary to other development for which development consent has been given.*

(3) *Before granting development consent for earthworks, the consent authority must consider the following matters:*

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
- (b) the effect of the proposed development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

Note. The National Parks and Wildlife Act 1974, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.

The site is relatively flat with minor earthworks proposed under this application. In terms of the controls under this clause, no issues are raised given the relatively flat nature of the site. Conditions will ensure that the fill that is required will be suitable for use.

7.6 - Groundwater Vulnerability

As the application site falls within this zone as identified as 'Groundwater' of the Water Resources Map, the development would be subject to assessment under this clause.

The objective of this clause is to protect and preserve groundwater sources.

Development consent must not be granted for development specified for the purposes of this clause on land to which this clause applies unless the consent authority is satisfied that the

development:

- (a) is unlikely to adversely impact on existing groundwater source, and*
- (b) is unlikely to adversely impact on future extraction from groundwater sources for domestic and stock water supplies, and*
- (c) is designed to prevent adverse environmental impacts, including the risk of contamination of groundwater sources from on-site storage or disposal facilities.*

The development is not considered to be detrimental to any of the issues above and therefore complies with this section of the LEP 2010.

Clause 7.9 - Primacy of Zone E2

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 E2 Commercial Centre as the principal business, office and retail hub of Wagga Wagga.

The development is for a storage building ancillary to an existing industrial building. The use is not of a type that would be appropriate or could be reasonably housed in the CBD. Therefore, it is considered that the development is unlikely to impact on the primacy of the E2 Commercial Centre zone of the city.

7.11 - Airspace operations

The proposed development does not compromise the Obstacle Limitation Surface for the airport. No concerns are raised.

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 3 Hazardous and offensive development

Clause 3.7 of the SEPP requires the following:

In determining whether a development is-

- (a) a hazardous storage establishment, hazardous industry or other potentially hazardous industry, or*
- (b) an offensive storage establishment, offensive industry or other potentially offensive industry,*

consideration must be given to current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development.

The existing industry on site is a metal fabrication business for a company that makes and fits bull bars for vehicles. The proposed shed is only to be utilised as storage for the raw materials and finished product. No dangerous goods will be used or stored within the proposed shed and therefore this element would not be considered potentially hazardous or potentially offensive and therefore no further assessment is required.

Conditions of consent will ensure no dangerous goods are stored or used within the proposed shed.

Chapter 4 Remediation of land

Clause 4.6 of the SEPP requires the following:

4.6 Contamination and remediation to be considered in determining development application

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

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

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

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

(4) The land concerned is-

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

Council is required 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.

The site is listed on Councils potentially contaminated land register given its historic use as an airfield. A site visit did not identify any signs of contamination and the history of the site is known.

The historical use as an airfield appears to have had no lasting contamination issues on the land given its development to an industrial precinct overtime. As mentioned, there was no evidence on site of any form of contamination and the development of the site raised no concerns at the time of assessment regarding this previous land use.

The recent DA approvals for the site (listed above) raised no contamination concerns. The majority of the area to be built on is gravel or hardstand and there were no obvious signs of contamination on site during the site visit. Council can be satisfied that the site is suitable for this development.

(a)(ii) - The provisions of any draft environmental planning instrument
Draft local environmental plans

N/A

Draft state environmental planning instruments

Nil

(a)(iii) - Any development control plan
Wagga Wagga Development Control Plan 2010

The relevant controls of the DCP have been addressed below.

1.10 Notification of a Development Application

The application was notified to adjoining neighbours from 7/6/23 - 21/6/23 in accordance with the provisions of the DCP. No submissions were received during the notification period.

2.1 Vehicle access and movements

The relevant objectives and controls are as follows:

Objectives

O1 Ensure the safety and efficiency of urban and rural roads.

O2 Limit new access points to arterial roads or ensure alternative access is utilised where practical.

Controls

C3 Vehicles are to enter and leave in a forward direction unless it can be demonstrated that site conditions prevent it.

The entry and exit to the site have not been altered and the location of the proposed shed will still allow for vehicles to circulate without concern. No issues are raised.

C4 Provide adequate areas for loading and unloading of goods on site. The loading space and facilities are to be appropriate to the scale of development.

The plans show more than adequate space at the rear of the building for loading and unloading to occur.

The proposal would be considered compliant with this section of the DCP.

2.2 Off-street parking

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

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

The table lists industrial as requiring 1 space per 100m² of GFA. The previous relevant consents required 11 spaces on site and these have been shown on the plan. This number is consistent with what would have been required under the current DCP for the two sheds currently on site.

The new building measures 360m² and would be considered storage associated with the existing general industry. Whilst this is not a specific land use listed in the table it is reasonable to consider it a similar land use to a warehouse which requires 1 space per 300m² GFA. An additional two spaces are therefore required and have been shown on the plans.

The proposal complies with this control.

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

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

C3 *Parking spaces are to be provided for disabled persons. Accessible parking spaces to comply with the relevant Australian Standard at the time of lodgement of the application.*

As above.

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

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

C11 *To ensure sightlines are maintained for drivers and pedestrians, trees used within or adjacent to car parking areas shall have a minimum clear trunk height of 2.5m, with shrubs and ground covers not to exceed 500mm in height.*

The plans show no landscaping and the site visit confirmed the site is either hardstand or compacted gravel. A review of the previous approvals identified that 50% of the front setback should have been landscaped and that enforcement action was undertaken on this matter. However, there is no record of any conclusion to the enforcement matter that dates back to 2006. Given the extended period of time with no action taken, the location of the building to the rear of the site the existing hardstand that covers the entirety of the front setback it would be considered unreasonable to require the hardstand to be removed and vegetation planted in the front setback. For these reasons a variation to these controls can be supported.

2.3 Landscaping

See discussion above.

2.4 Signage

No signage proposed.

2.5 Safety and Security

The proposed works will not compromise the safety and security of the site.

2.6 Erosion and Sediment Control Principles

Given the location of the proposed works minimal impacts are expected from the works. However, recommended conditions of consent will ensure appropriate measures are put in place during the construction/demolition phase.

4.2 Flooding

Clause 4.2 refers to the Wagga Wagga Floodplain Risk Management Study 2009 which identifies flood risk precincts. Council's Flood Risk Map identifies the subject land as being located with the Eastern Industrial flood precinct identified as being at medium risk.

Control C31 requires development in the East Wagga Industrial area to comply with the provisions of Table 4.2.7. Requirements for industrial development under table 4.2.7 are as follows;

Floor levels

- *All new developments to have floor levels greater than the 20yr ARI flood level (plus freeboard)*
- *New development is to be consistent with flood hazard and evacuation needs.*

Structural soundness

- *Engineers report to certify that any new structure can withstand the forces of floodwater, debris and buoyancy up to and including the 100yr ARI (excludes sheds less than 20m²).*
- *Fencing to be constructed in a way, and of materials which permit flood waters to equalise on either side*

Evacuation

- *Encourage the development of a Flood Plan by owner including evacuation of employees and storage of material above 100y ARI flood level plus freeboard.*

Management and design

- *Applications for non-habitable developments are to demonstrate that area is available to store goods above the 100yr ARI flood level, plus freeboard.*
- *Parts of building below the 100yr flood level, plus freeboard to be constructed from flood compatible materials*

The site is located above the 1 in 20 year flood event level, and therefore no minimum floor height is required.

A condition of consent is recommended that requires engineer's certification for the structural soundness of the building in accordance with this section.

A flood evacuation plan is not considered necessary given the nature of the use and the warning time that exists for riverine flooding within this precinct.

A condition of consent for adequate storage above the 1% event will be imposed.

The proposed development is assessed as being consistent with the provisions of this section, and appropriate conditions of consent have been recommended.

Section 5 Natural Resource and Landscape Management

5.4 Environmentally sensitive land

As mentioned under part 7 of the LEP the land where the building is proposed is zoned industrial, surrounded by existing industrial uses so the use of industrial buildings would have negligible additional impact to the groundwater source in the area.

Section 11 Industrial Development

Industrial development design principles

- P1 Development is to be suited to its site in terms of the nature of the use, relationship to adjoining uses and availability of land for industrial development.*
- P2 Development should be consistent with the principles of Industrial ecology.*

The application is for a new building ancillary to the existing buildings on site used as a metal fabrication business. The proposal would be consistent with the principles listed.

11.2 Siting and setbacks

The relevant objectives and controls are as follows:

Objectives

- O1 *Promote functional and attractive buildings while providing flexibility to respond to site conditions.*
- O2 *Ensure appropriate setbacks between buildings.*
- O3 *Allow the front setback area to be partly used for parking provided it is complemented by quality landscaping.*

Controls

- C4 *Side and rear setbacks determined in accordance with the Building Code of Australia.*

The side and rear setbacks raise no concerns.

Conditions of consent will ensure the building meet the provisions of the Building Code of Australia.

Given the location of the building to the rear of the site there is negligible impact on streetscape.

The proposal is not inconsistent with the objectives or controls of this section.

11.3 Building design

The relevant objectives and controls are as follows:

Objectives

- O1 *Promote consistency architectural quality and design innovation.*
- O2 *Promote attractive and functional industrial development within quality, designed landscapes.*

Controls

- C1 *Contemporary architecture and design innovation is encouraged.*
- C2 *Minimise expanses of blank walls and blank facades, especially on front facades. A change in plane in each elevation addressing a street frontage is required every 25m of wall length.*
- C3 *Use non-reflective materials and finishes.*
- C4 *Combine materials and finishes to achieve innovative design outcomes.*

The shed is simple and located to the rear of the site behind the existing buildings. There is negligible impact on streetscape and the simple design in this location raises no concerns. The proposal is generally consistent with the objectives and controls above.

(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.

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

Matters prescribed by the Environmental Planning & Assessment Regulation 2021 and the Building Code of Australia have been satisfied.

(b) - The likely impacts of the development

Context and setting

The site is within an industrial area and the use existing. The additional building is consistent with the character of the area and in keeping with the context and setting.

Access, transport and traffic

The access, transport and traffic issues have been discussed above. The parking areas raise little concern and will meet both Council and the Australian Standards. Vehicles will be able to safely move to and from and within the site and adequate loading and unloading areas have been provided. No unreasonable access, traffic and transport issues are expected.

Public Domain

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

Heritage

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

Other land resources

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

Water

The site will be required to be sealed which will increase surface runoff into Council infrastructure and may require the need for additional private stormwater systems. Conditions of consent will ensure the correct approvals are obtained.

The site is connected to the water mains and the buildings will be adequately serviced.

Waste

Conditions of consent will control waste disposal during construction.
No waste generating issues are expected.

Soils

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

Air and Microclimate

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

Noise and vibration

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

Safety, security and crime prevention

The addition raises no additional safety and security issues.

Services

All services are in close proximity to the site, no issues are raised regarding potential for connection if required.

Flora and fauna

The issue of the lack of landscaping has been discussed above.

Natural Hazards

The site is not considered bush fire prone.

As discussed above, the site is considered subject to flooding in a riverine flood event. The issues surrounding this have been discussed above and considered acceptable.

Social and Economic Impacts

The development will have a positive social and economic impact as it will provide employment for local trades and building supply companies and once constructed will provide the business with new facilities.

Hours of operation

No hours have been proposed. However, given the zone and the use 24hrs 7 days a week raises no concerns. It is unlikely that a business of this nature would operate 24/7 however, no restrictive conditions will be placed on the consent.

Site Design and internal design

This site design raises no unreasonable concerns.

Construction

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

Cumulative impacts

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

The Principles of Ecologically Sustainable Development

The following are principles of ecological sustainability:

1 The precautionary principle

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

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

- (a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*
- (b) an assessment of the risk-weighted consequences of various options.*

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

2 Intergenerational equity

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

3 Conservation of biological diversity and ecological integrity

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

4 Improved valuation, pricing and incentive mechanisms

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

- (a) polluter pays (that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement), and*
- (b) the users of goods and services should pay prices based on the full cycle costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste, and*
- (c) environmental goals having been established should be pursued in the most cost-effective way by establishing incentive structures, including market mechanisms which enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

The proposed development would result in an extension to an existing industrial building in an industrial zone. The impacts assessed above have concluded that the use would be acceptable with minimal impact on the environment.

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

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

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

An assessment of the development against the applicable controls of the Wagga Wagga Development Control Plan 2010 demonstrates that the development of this industrial land will not cause significant adverse impacts on the existing built environment and local character.

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

Referrals

Internal

Notification

In accordance with the Council's advertising and notification provisions outlined in Section 1.10 of the WWDCP the application was notified for a period of 14 days on the following dates 7/6/23 to 21/6/23 and referred surrounding tenancies. No public submissions were received.

Public Submissions and those from public authorities

Riverina Water provided the following response:

- *Additional fees and charges for water supply may be incurred by the proposed development*
- *Developer must make an application for a Certificate of Compliance for water supply*
- *Certificate of Compliance for water supply required prior to issuing of Construction Certificate*
- *Riverina Water Plumbing Certificate required prior to Occupation Certificate*

Appropriate conditions have been included to address the above points.

Advertising

N/A

(e) - the public interest

Federal, state and local government interests and general community interests

It is considered that this application will not have a detrimental effect on 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)

There are a number of tests to determine whether the proposed 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 being 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 no native vegetation is being removed and the absence of any recorded endangered flora or fauna on the site of the proposed development, is not anticipated to 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 and no further evidence is required regarding the proposed vegetation removal.

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. Although the site is identified as being prone to flood no further risk assessment is required as the development can be appropriately conditioned to ensure requirements under the Act are met.

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

N/A

Comments by Council's Officers

Council's other relevant officers have reviewed the application in accordance with Council's processing procedures. Relevant comments or requirements are discussed in the body of the report and full details are available on the file.

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

Section 7.12

As the proposed development will cost \$182,547 and it increase the GFA of the building Section 7.12 contributions are required. The rate will be 0.5%.

$$\begin{aligned}\text{Section 7.12} &= 0.5\% \times \$182,574 \\ &= \$913\end{aligned}$$

The CPI at the time of assessment is 123.7.

Section 64 Sewer

As the development is for storage and therefore has no impact on the sewer network, Section 64 Sewer contributions are not required.

Section 64 Stormwater

As per the Implementation Guide Development Servicing Plan Stormwater May 2022, adopted by Council on 27 June 2022, the following calculation is to be used for new hardstand on land other than residential zoned land.

$$\begin{aligned}\text{S64 Stormwater (base)} &= \text{additional hardstand} \times 1\text{ET}/480 \\ &= 360\text{m}^2 \times \$1,721/480 \\ &= \$1,291\end{aligned}$$

CPI rate = \$1,291 x 121.6/87.9
= \$1,786

Shed = 360m²

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.

Shed = 360m²

RECOMMENDATION

It is recommended that application number DA23/0219 for Ancillary building to existing metal fabrication business 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 |
|-------------|------------------------------------|-------------------------|-------|----------|
| - | Statement of Environmental Effects | Simple Designs | - | May 2023 |
| A1 | Site Plan | Betta Sheds and Garages | C | 30/5/23 |
| A2 | Floor Plan | Betta Sheds and Garages | B | 8/5/23 |
| A3 | Elevations | Betta Sheds and Garages | A | 3/4/23 |
| A4 | Elevations | Betta Sheds and Garages | A | 3/4/23 |
| A5 | Section | Betta Sheds and Garages | A | 3/4/23 |

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 Pursuant to s7.12 of the Environmental Planning and Assessment Act 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, a monetary contribution of \$913 must be paid to Council, prior to the issuing of the Construction 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.

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

NOTE 2: The monetary contribution identified above remains applicable if paid within the same financial year as the date of determination. If payment is to be made outside this period, you are advised to contact Council prior to payment being made to determine if CPI increases/decreases have occurred since the date of this consent. The applicable rate of CPI at the time of consent is 123.7.

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

- C.3 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 \$1291

The Section 64 Stormwater contribution (updated by the CPI 121.6/87.9) required to be paid is \$1786

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.4 Prior to the issue of a Construction Certificate, engineer's certification shall be submitted to Council, to the satisfaction of the General Manager or delegate.

The certification shall be from a qualified structural/civil engineer stating that the building if constructed in accordance with the plans and specifications to which the Construction Certificate relates, will not sustain structural damage from the force of flowing floodwaters or from impact of debris associated with the floodwaters in a 1:100 year flood event.

Requirements before the commencement of any works

- C.5 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.6 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.7 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.8 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.9 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.10 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.
- C.11 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.12 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.13 All roofed and paved areas of the proposed shed must be drained and the water from those areas and from any other drainage conveyed to the existing roofwater drainage system, in accordance with AS/NZS 3500.3.2003 'Stormwater Drainage'.
- C.14 The building must be designed and constructed in such a manner and of such materials as to minimise the likelihood of damage to the building in the event of flooding.

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

- C.15 Prior to the issue of Occupation Certificate, the paving of all vehicular movement areas must be either a minimum of 150mm thick flexible pavement and sealed or 150mm thick reinforced concrete.
- C.16 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.17 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.18 Prior to the issue of an Occupation Certificate a Water Plumbing Certificate from Riverina Water County Council shall be submitted to Council.

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

General requirements

- C.19 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.20 The building must contain fixed shelving that is at or above the 1%ARI plus freeboard being 183.3 AHD (approximately 1.2m above ground level)

C.21 A minimum of 13 car parking spaces must be made available on site at all times. The car park and all associated facilities must be laid out in accordance with Australian Standards AS2890.1.2004, AS2890.2 2002 and AS/NZS2890.6.2009.

D. SCHEDULE D – Activity Approval Conditions (Section 68)

N/A

E. SCHEDULE E – Prescribed Conditions

Conditions under this schedule are prescribed conditions for the purposes of section 4.17 (11) of the Environmental Planning and assessment Act 1979.

E.1 Fulfilment of BASIX commitments (clause 97A EP&A Reg 2000)

The commitments listed in any relevant BASIX Certificate for this development must be fulfilled in accordance with the BASIX Certificate Report, Development Consent and the approved plans and specifications.

E.2 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 (clause 98 EP&A Reg 2000)

- (1) For development that involves any building work, the work must be carried out in accordance with the requirements of the Building Code of Australia.
- (2) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance shall be in force before any building work authorised to be carried out by the consent commences.
- (3) For a temporary structure that is used as an entertainment venue, the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.

NOTE 1: This condition does not apply:

- (a) to the extent to which an exemption is in force under clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000 (the Regulation), subject to the terms of any condition or requirement referred to in clause 187(6) or 188(4) of the Regulation, or
- (b) to the erection of a temporary building, other than a temporary structure to which part (3) of this condition applies.

NOTE 2: In this condition, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:

- (a) development consent, in the case of a temporary structure that is an entertainment venue, or
- (b) construction certificate, in every other case.

NOTE 3: There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.

E.3 Erection of signs (clause 98A EP&A Reg 2000)

For development that involves any building work, subdivision work or demolition work, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

NOTE 1: This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

NOTE 2: This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

NOTE 3: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained.

E.4 Notification of Home Building Act 1989 requirements (clause 98B EP&A Reg 2000)

Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

NOTE: This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

E.5 Entertainment venues (clause 98C EP&A Reg 2000)

If the development involves the use of a building as an entertainment venue, the development shall comply with the requirements set out in Schedule 3A of the Environmental Planning and Assessment regulation 2000.

E.6 Maximum capacity signage (clause 98D EP&A Reg 2000)

For the following uses of a building: a sign must be displayed in a prominent position in the building stating the maximum number of persons permitted in the building if the development consent for the use contains a condition specifying the maximum number of persons permitted in the building:

- (a) entertainment venue,
- (b) function centre,
- (c) pub,
- (d) registered club,
- (e) restaurant.

NOTE: Words and expressions used in this condition have the same meanings as they have in the Standard Instrument.

E.7 Shoring and adequacy of adjoining property (clause 98E EP&A Reg 2000)

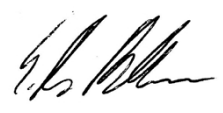
If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the building, structure or work from possible damage from the excavation, and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.

NOTE: This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

F. SCHEDULE F – General Terms of Approval (Integrated Development)

N/A

| Report Prepared & approved by: | Report Reviewed by: |
|--|---|
|  <p>Sam Robins Senior Town Planner</p> <p>Date: 27/6/23</p> |  <p>Cameron Collins Development Assessment Coordinator</p> <p>Date: 26/6/2023</p> |