



City of
Wagga Wagga

Notice of Determination of Development Application

Environmental Planning and Assessment Act 1979

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

Application Number:	DA23/0241
Applicant:	SR Hugler 23 Benedict Ave SAN ISIDORE NSW 2650
Land to be Developed:	23 Benedict Ave SAN ISIDORE NSW 2650 Lot 20 DP 29976
Description	Use of existing internal alterations to shed
Determination:	Approved subject to Conditions
Date of Determination:	17/07/2023
Consent to Operate from:	17/07/2023
Consent to Lapse on:	17/07/2028
Other Approvals:	Nil

On behalf of the Council

Sam Robins
Senior Town Planner

Right of Appeal - Where an applicant is dissatisfied with this determination, the applicant has the right to appeal the decision to the Land and Environment Court within a period of 6 months from the date the decision is notified or registered on the NSW planning portal. An objector has no right of appeal against this determination.

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

CONDITIONS OF CONSENT FOR APPLICATION NO. DA23/0241

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	CK Design & Drafting		15/05/23
A01 - 23-30	Site analysis plan	CK Design & Drafting		15/05/23
A02 - 23-30	Floor plan	CK Design & Drafting		15/05/23
A03 - 23-30	Elevations	CK Design & Drafting		15/05/23

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 prior to issue of a Building Information Certificate or prior to operation

- C.2 Prior to the issue of a Building Information 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 Development Application number.

General requirements

- C.3 A Building Information Certificate must be obtained from Council within 3 months of the date of this consent pursuant to Division 6.7 of the Environmental Planning and Assessment Act 1979, as amended.
- C.4 The building must not be used as a separate dwelling.

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.

- E1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 (clause 69 EP&A Reg 2021)
- (1) It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.
 - (2) It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.
 - (3) It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with the Building Code of Australia, Volume 1, Part B1 and NSW Part I5.
 - (4) In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the relevant date.
 - (5) In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.
 - (6) This section does not apply-
 - (a) to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or

- (b) to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.
- (7) In this section -
 - relevant date has the same meaning as in the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, section 19.
- E2 Erection of signs (clause 70 EP&A Reg 2021)
 - (1) This section applies to a development consent for development involving building work, subdivision work or demolition work.
 - (2) It is a condition of the development consent that a sign must be erected in a prominent position on a 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 certifier for the work, and
 - (b) showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.
 - (3) The sign must be-
 - (a) maintained while the building work, subdivision work or demolition work is being carried out, and
 - (b) removed when the work has been completed.
 - (4) This section does not apply in relation to-
 - (a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
 - (b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.
- E3 Notification of Home Building Act 1989 requirements (clause 71 EP&A Reg 2021)
 - (1) This section applies to a development consent for development involving residential building work if the principal certifier is not the council.
 - (2) It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following-
 - (a) for work that requires a principal contractor to be appointed-
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer of the work under the Home Building Act 1989, Part 6,
 - (b) for work to be carried out 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 the Home Building Act 1989-the number of the owner-builder permit.

- (3) If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.
- (4) This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

E4 Entertainment venues (clause 72 EP&A Reg 2021)

- (1) The requirements specified in this section are conditions of development consent for the use of a building as an entertainment venue.
- (2) During a stage performance at an entertainment venue, there must be at least 1 suitably trained person in attendance in the stage area at all times for the purpose of operating, if necessary, a proscenium safety curtain, drencher system and smoke exhaust system.
- (3) If a proscenium safety curtain is installed at an entertainment venue, there must be no obstruction to the opening or closing of the curtain and the curtain must be operable at all times.
- (4) When a film is being screened at an entertainment venue, there must be at least 1 person in attendance at the entertainment venue who is trained in-
 - (a) the operation of the projectors being used, and
 - (b) the use of the fire fighting equipment in the room in which the projectors are installed (the projection room).
- (5) If the projection room is not fitted with automatic fire suppression equipment and a smoke detection system, in accordance with the Building Code of Australia, the person required by subsection (4) to be in attendance must be in the projection suite in which the projection room is located during the screening of a film.
- (6) A member of the public must not be present in the projection suite during the screening of a film.
- (7) An entertainment venue must not screen a nitrate film.
- (8) An emergency evacuation plan must be prepared, maintained and implemented for a building, other than a temporary structure, used as an entertainment venue.
- (9) The emergency evacuation plan must specify the following-
 - (a) the location of all exits, and fire protection and safety equipment, for the part of the building used as an entertainment venue,
 - (b) the number of fire safety officers that must be present during performances,
 - (c) how the audience will be evacuated from the building if there is a fire or other emergency.
- (10) A fire safety officer appointed to be present during a performance must have appropriate training in evacuating persons from the building if there is a fire or other emergency.
- (11) In this section-
 - exit has the same meaning as in the Building Code of Australia.

- E5 Maximum capacity signage (clause 73 EP&A Reg 2021)
- (1) This section applies to a development consent, including an existing development consent, for the following uses of a building, if the development consent contains a condition specifying the maximum number of persons permitted in the building-
 - (a) an entertainment venue,
 - (b) a function centre,
 - (c) a pub,
 - (d) a registered club,
 - (e) a restaurant or cafe.
 - (2) It is a condition of the development consent that a sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in the development consent, that are permitted in the building.
- E6 Shoring and adequacy of adjoining property (clause 74 EP&A Reg 2021)
- (1) This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.
 - (2) It is a condition of the development consent that 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 on adjoining land from possible damage from the excavation, and
 - (b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.
 - (3) This section does not apply if-
 - (a) the person having the benefit of the development consent owns the adjoining land, or
 - (b) the owner of the adjoining land gives written consent to the condition not applying.
- E7 Fulfilment of BASIX commitments (clause 75 EP&A Reg 2021)
- It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled-
- (a) BASIX development,
 - (b) BASIX optional development, if the development application was accompanied by a BASIX certificate.
- E8 Deferred commencement consent (clause 76 EP&A Reg 2021)
- (1) A development consent with a deferred commencement, as referred to in the Act, section 4.16(3), must be clearly identified as a "deferred commencement" consent, whether by using the expression, referring to that section or otherwise.
 - (2) A deferred commencement consent must clearly distinguish between-
 - (a) conditions that relate to matters about which the consent authority must be satisfied before the consent can operate (the relevant matters), and

- (b) other conditions.
 - (3) A consent authority may specify the period within which the applicant must produce sufficient evidence to the consent authority to enable it to be satisfied about the relevant matters.
 - (4) If the applicant produces evidence in accordance with this section, the consent authority must notify the applicant whether it is satisfied about the relevant matters.
 - (5) If the consent authority does not notify the applicant within 28 days after the applicant produces the evidence, the consent authority is taken to have notified the applicant, on the day on which the period expires, that it is not satisfied about the relevant matters.
 - (6) Subsection (5) applies for the purposes of the Act, section 8.7 only.
- E9 Conditions for ancillary aspects of development (clause 77 EP&A Reg 2021)
- (1) If a consent authority grants development consent subject to a condition referred to in the Act, section 4.17(2) in relation to an ancillary aspect of the development, the consent authority may specify the period within which the ancillary aspect must be carried out to the satisfaction of the consent authority or a person specified by the consent authority.
 - (2) The applicant may produce evidence to the consent authority, or to the person specified by the consent authority, sufficient to enable the consent authority or the person to be satisfied in relation to the ancillary aspect of the development.
 - (3) For the purposes of the Act, section 4.17(3), the relevant period is the period of 28 days after the applicant's evidence is produced to the consent authority or a person specified by the consent authority.
- E10 Conditions for State significant development (clause 78 EP&A Reg 2021)
- A development consent may be granted subject to a condition referred to in the Act, section 4.17(4A) or (4B) only if the development is State significant development.
- E11 Review conditions-the Act, s 4.17(10C) (clause 79 EP&A Reg 2021)
- (1) A development consent that is granted subject to a reviewable condition may, as referred to in the Act, section 4.17(10B), be granted subject to a further condition (a review condition) if the development consent relates to the following kinds of development-
 - (a) an entertainment venue,
 - (b) a function centre,
 - (c) a pub,
 - (d) a registered club,
 - (e) a restaurant or cafe.
 - (2) A development consent that is subject to a review condition must contain the following-
 - (a) a statement that the development consent is subject to the review condition and the purpose of the review condition,
 - (b) a statement that the consent authority will carry out the reviews,

- (c) when, or at what intervals, the reviews must be carried out.
- (3) The consent authority must give written notice to the operator of a development that is subject to a review condition at least 14 days before carrying out a review.
- (4) The consent authority may notify other persons of the review as it considers appropriate.
- (5) The consent authority must take into account submissions that are received from any person within 14 days after notice of a review is given to the person.

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

N/A