



City of  
Wagga Wagga

# Report of Development Application

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

### APPLICATION DETAILS

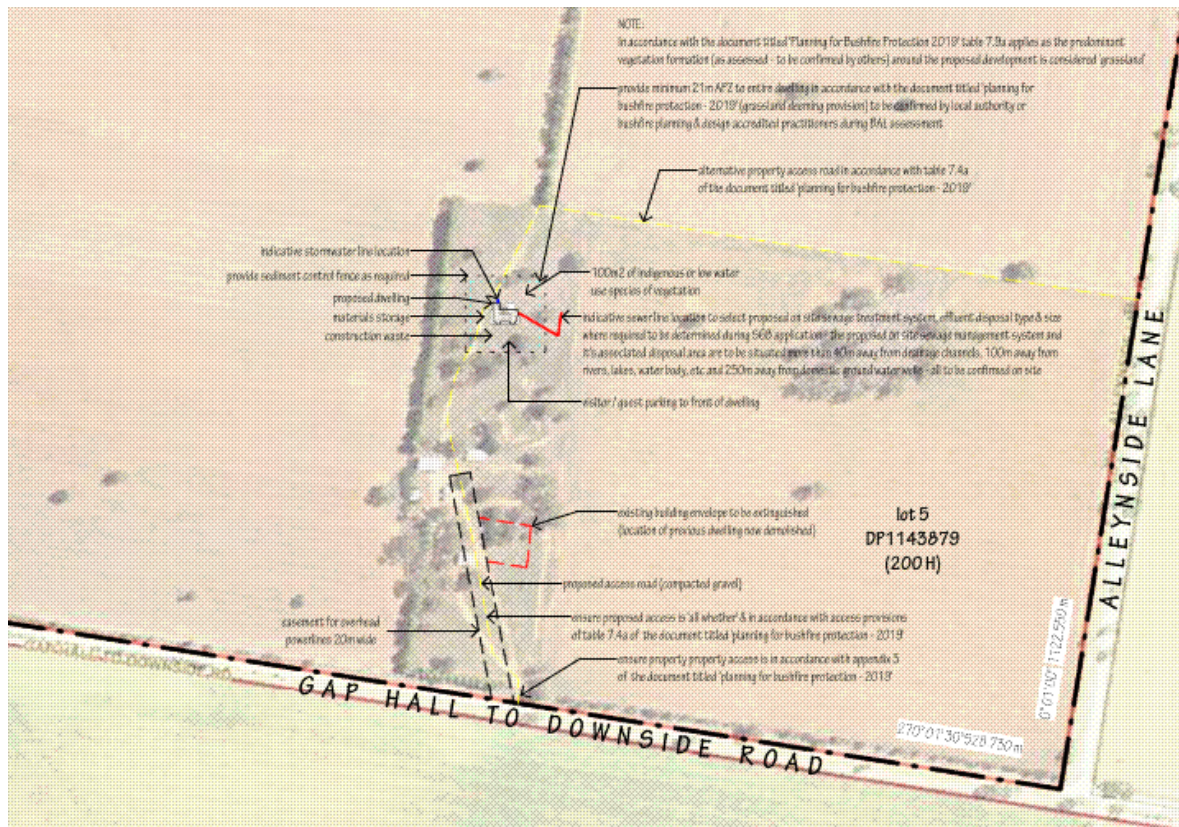
Application No.:	DA23/0255
Modification No.:	N/A
Council File No.:	D/2023/0255
Date of Lodgement:	25/05/2023
Applicant:	LM Brown Po Box 6050 WAGGA WAGGA NSW 2650
Proposal:	New dwelling with attached garage and removal of existing building envelope
Description of Modification:	N/A
Development Cost:	\$900000
Assessment Officer:	Bikash Pokharel
Determination Body:	Officer Delegation 7.39
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	Yes, 27/06/2023 to 4/07/2023
Advertising:	Not Required
Owner's Consent Provided:	Yes
Location:	Located on the northern side of the Gap Hall to Downside Road, approximately 3866m west of intersection of Gap Hall to Downside Road and Coolamon Road

### SITE DETAILS

Subject Land:	534 Gap Hall To Downside Rd DOWNSIDE NSW 2650 Part Lot 5 DP 1143879
Owner:	LM Brown & JL Moloney

## Description of Development

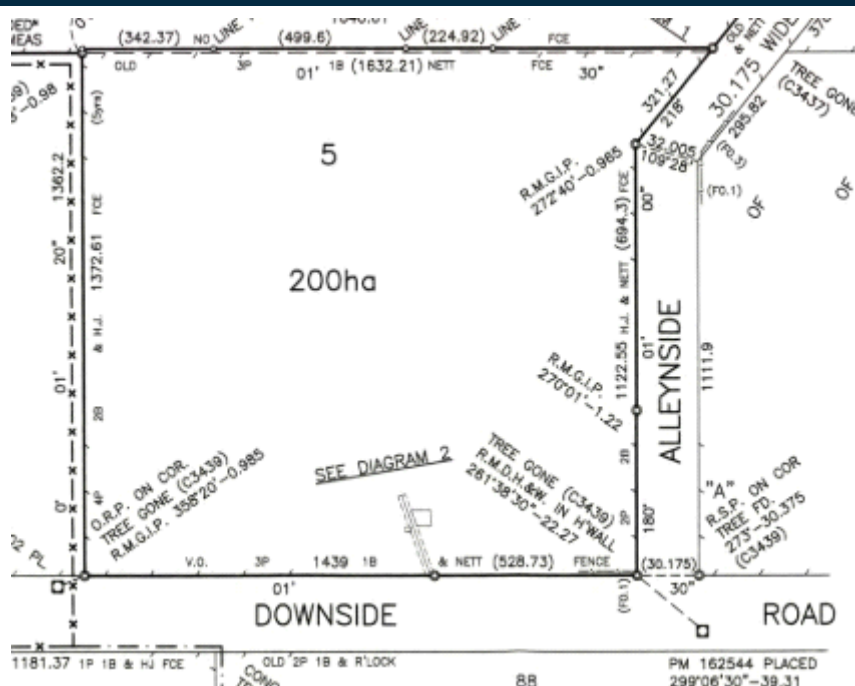
The proposal is for the construction of a single storey dwelling with attached double garage on an existing rural lot. The dwelling will consist of 4 bedrooms, office room, rumpus room, an open plan living and dining area, kitchen with butler pantry, laundry, and bathrooms. An alfresco area is included on the northern side of the proposed dwelling and is directly accessible from the main internal living area.



The proposal also seeks approval to extinguish existing building envelope from the property title as no dwelling that was approved under DA07/1058 ever been built on the site and the new dwelling is proposed to be built in a new location.

## The Site and Locality

The subject site is identified as Lot 5 under DP 1143879, located on the northern side of the Gap Hall to Downside Road, approximately 3866m west of intersection of Gap Hall to Downside Road and Coolamon Road. The total site extends to an area of 200ha and is surrounded by rural blocks of similar landscapes to the east, north and west.



The site is generally used for agricultural purposes. There are currently number of farm buildings ancillary to current use of the land. There are number of trees across the block however proposed site for new dwelling is clear of the vegetation.

Vehicular access to the new dwelling is via Gap Hall to Downside Road through internal road. An all-weather gravelled driveway is proposed to service the proposed new dwelling.

### Relevant Previous Consents

DA07/1058 - Staged Development - Proposed Rural Dwelling and Boundary Adjustment (Stage 1 only)

Note: It was noted that the boundary adjustment including creation of building envelope for the proposed rural dwelling was completed at stage 1, construction of the rural dwelling (concept approval -stage 2) was never commenced.

Given first stage of the development has already completed, the applicant will be required to amend the original DA (DA07/1058) pursuant to section 4.17(1)(b) and (5) of the Environmental Planning and Assessment Act 1979 to delete reference to concept approval for the proposed rural dwelling including associated works and creation of a building envelope. Relevant conditions have been included in the development consent.

### Easement

The subject site is burdened by easement for overhead powerlines 20m wide. Proposed development is located clear of the easement.



## **MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)**

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

#### **Wagga Wagga Local Environmental Plan 2010 (LEP 2010)**

The following provisions of the LEP 2010 apply:

#### **Land Use Table**

Under the LEP the site is zoned RU1 Primary Production. The objectives of the zone are as follows:-

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To foster strong, sustainable rural community lifestyles.*
- *To maintain the rural landscape character of the land.*
- *To allow tourist and visitor accommodation only where it is in association with agricultural activities.*

The proposed development is for new dwelling on the subject lot as the previous dwelling has already been partially demolished and unfit for habitation purpose. There are currently number of farm buildings that supports agriculture activity on the site and proposed new dwelling will provide additional support in carrying out primary production activity on the land.

The proposed new dwelling is located within an area not used for agricultural purposes therefore unlikely to cause any adverse impact on main productive land on the site. The proposal is for replacement dwelling and does not involve subdivision of the agricultural land therefore fragmentation of land is unlikely.

In addition, the proposed development fulfils the objectives of the zone by providing residential dwelling to foster strong, sustainable rural communities. As such, the proposal is considered consistent with the objectives of the zone.

The development is defined as a dwelling house. Under the Wagga Wagga LEP 2010

***“dwelling house” means a building containing only one dwelling.***

Dwelling house are permitted with consent in this zone.

#### **Part 3 Exempt & Complying Development**

There are no clauses within part 3 of the LEP relevant to this application as the proposal is not exempt or complying development.

## **Part 4 Principal development standards**

### **4.2A Erection of dwelling houses and dual occupancies on land in certain residential, rural and environmental protection zones**

*The objectives and relevant clause that applies to this development are as follows:*

- (a) to minimise unplanned rural residential development,*
- (b) to enable the replacement of lawfully erected dwelling houses and dual occupancies in residential, rural and environmental protection zones.*

The proposal is to replace a lawfully erected dwelling on the subject site. As such the proposed development meets the objectives of this section.

*(3) Development consent must not be granted for the erection of a dwelling house or a dual occupancy on a lot in a zone to which this clause applies, and on which no dwelling house or dual occupancy has been erected, unless the lot is:*

- (a) a lot that is at least the minimum lot size specified for that lot by the Lot Size Map, or*
- (b) a lot created before this Plan commenced and on which the erection of a dwelling house or dual occupancy was permissible immediately before that commencement, or*
- (c) a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or dual occupancy would have been permissible if the plan of subdivision had been registered before that commencement, or*
- (c1) a lot resulting from a subdivision for which development consent (or equivalent) was granted before Wagga Wagga Local Environmental Plan 2010 (Amendment No. 13) commenced and on which the erection of a dwelling house or dual occupancy would have been permissible if the plan of subdivision had been registered before that commencement, or*
- (d) an existing holding to which the Wagga Wagga Rural Local Environmental Plan 1991 applied.*
- (e) a lot created by a boundary adjustment in accordance with clause 4.6A and on which the erection of a dwelling house would have been permissible before the adjustment of the boundary.*

A dwelling house has been erected on the land, and therefore this control does not apply. The proposal is for replacement dwelling.

## **Part 5 Miscellaneous provisions**

### **5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones**

- (3) A consent authority must take into account the matters specified in subclause (4)*

*in determining whether to grant development consent to development on land to which this clause applies for either of the following purposes-*

- a) subdivision of land proposed to be used for the purposes of a dwelling,*
- b) erection of a dwelling.*

*(4) The following matters are to be taken into account-*

- a) the existing uses and approved uses of land in the vicinity of the development,*
- b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*
- c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*
- d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).*

The proposal meets the objectives of this clause given the proposal is for erection of a dwelling on agricultural land which will be used to facilitate existing agricultural use.

Given the location of proposed dwelling it is unlikely that the proposal will have adverse impact on the existing use or approved use of the land in the vicinity. Proposed dwelling maintains over 500m setback from side and rear boundary therefore the proposal is unlikely to cause any interference with surrounding agricultural land uses.

## **Part 6 Urban Release Areas**

There are no clauses within Part 6 of the LEP relevant to this development as the site is not within an urban release area.

## **Part 7 Additional Local Provisions**

### **7.3 Biodiversity**

A small portion of the site is mapped as Biodiversity and therefore this clause applies.

The objectives of this clause are to protect, maintain or improve the diversity of the native vegetation. There is no vegetation being removed as part of the development and the application does not impact the area affected by this layer.

The development is consistent with the objectives and there are no anticipated impacts to existing native vegetation communities. As such, the proposal meets the objectives of this clause.

### **7.9 Primacy of Zone E2 Commercial centre**

This clause states that 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 city centre.

The development is for new dwelling on a rural block which will have no detrimental impact upon the ongoing primacy of the CBD.

## State Environmental Planning Policies (SEPPs)

### State Environmental Planning Policy (Resilience and Hazards) 2021

Section 4.6 of Chapter 4 of SEPP (Resilience and Hazards) 2021 requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on the land. Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use.

The land has traditionally been used for agricultural pursuits which is a potentially contaminating use. However, there was no indication from the site visit that the location of the proposed replacement dwelling was on a part of the site that had been used for an activity that would be considered potentially contaminating such as sheep dips or fuel storage. Furthermore, the land is not identified on Councils register of contaminated sites. Accordingly, it is not considered necessary to request any investigation reports on the subject site. The land is suitable for the intended purpose of a rural dwelling to support the continuing agricultural use of the land.

### SEPP (Building and Sustainability Index: BASIX) 2004

A valid BASIX Certificate has been lodged with this application (Certificate No. 1385288S) and assessed as being compliant.

### SEPP (Primary Production) 2021

*The aims of this Policy are as follows:*

- a) to facilitate the orderly economic use and development of lands for primary production,*
- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,*
- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,*
- (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,*
- (e) to encourage sustainable agriculture, including sustainable aquaculture,*
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,*
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.*

The development is for the construction of a new dwelling that is permissible on the land consistent with the LEP 2010. It is compatible with the surrounding existing and approved uses in the vicinity of the development, including other rural dwellings. The development has been sited to avoid any potential adverse environmental impacts and conflicts with the surrounding land uses. As such the development is consistent with the provisions of the Primary Production SEPP.

### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

The application was referred to Essential Energy pursuant to Section 2.48 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* for 21 days given the proposal involves upgrade to existing access driveway which are located underneath the existing electricity powerline/easement.

Below comments have been received from Essential Energy.

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
- Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure;
- 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); and
- 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](http://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 Code of Practice - Work near Underground Assets.

Above comments have been included as condition of consent.

### **Section 4.15(1)(a)(ii) - the provisions of 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**

No relevant planning instrument under this clause is currently the subject of public exhibition or comment.



## **Section 4.15(1)(a)(iii) - the provisions of any development control plan**

### **Wagga Wagga Development Control Plan 2010**

Proposed development complies with the development standards of the Wagga Wagga Development Control Plan 2010 as follows:

#### **1.10 Notification of a Development Application**

The application was notified to adjoining neighbours from 27/06/2023 to 4/07/2023 in accordance with the provisions of the DCP. No submissions were received.

#### **2.1 Vehicle access and movements**

*C1 Access should be from an alternative secondary frontage or other non-arterial road where possible.*

The site has an existing access from Gap Hall to Downside Road. Vehicular access to the new dwelling is through internal road from Gap Hall to Downside Road. Proposed development does not change the existing access arrangements. All weather gravelled driveway is proposed internally to service proposed new dwelling.

*C2 A Traffic Impact Study may be required where adverse local traffic impacts may result from the development. The traffic impact study is to include the suitability of the proposal in terms of the design and location of the proposed access, and the likely nature, volume or frequency of traffic to be generated by the development.*

A traffic impact study is not required for a new dwelling.

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

There is ample room on site to enable compliance with this section.

*C5 Access driveways are to be located in accordance with the relevant Australian Standard at the time of lodgement of an application.*

The proposal does not alter the existing vehicular access arrangement.

*C6 Ensure adequate sight lines for proposed driveways.*

The driveway onto Gap Hall to Downside Road is existing and provides adequate sightlines in both directions.

#### **2.2 Off-street parking**

*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.*

Table 1 requires that 1 space per 3-bedroom dwelling be provided. A double garage is proposed attached to the proposed new dwelling therefore complies with the control.

## 2.3 Landscaping

*C1 A landscape plan is required for applications for: Commercial and Industrial developments, Residential development (other than dwelling houses).*

A landscape plan is not required for this development.

*C2 Natural features at the site, such as trees, rock outcrops, cliffs, ledges and indigenous species and vegetation communities are to be retained and incorporated into the design of the development.*

Natural features are unlikely to be impacted by proposed development.

## 2.5 Safety and security

*C2 Entries are to be clearly visible and identifiable from the street, and are to give the resident/occupier a sense of personal address and shelter. For non-residential uses, administration offices or showroom are to be located at the front of the building.*

The proposed development is within a rural area and setback over 350m from the street therefore will not be visible and identifiable from the street. The proposal is for a new dwelling and does not compromise the ability of the resident/occupier to establish a sense of personal address and shelter. The proposed new dwelling on this lot allows for natural surveillance across the landscape.

*C6 Planting and fencing is not to reduce the safety of users or compromise areas of natural surveillance.*

There is no planting or fencing proposed that would compromise natural surveillance.

## 2.6 Erosion and Sediment Control Principles

Standard conditions will apply to ensure appropriate controls are put in place during construction.

## 2.7 Development adjoining open space.

The land does not adjoin public open space.

## Section 4 - Environmental Hazards and Management

### 4.1 Bushfire

*C1 Applications are to satisfy the relevant provisions of Planning for Bush Fire Protection 2006 (or any later versions) and Australian Standard: 3959 Construction of Buildings in Bush Fire Prone Areas.*

*C2 Where required, a clear separation is to be provided between buildings and bushfire hazards in the form of a fuel-reduced Asset Protection Zone (APZ). In all cases the APZ is to be located wholly within the land zoned Residential. Refer to the requirements of Planning for Bush Fire Protection 2006*

Developments in bush fire prone areas are subject to *Planning for Bush Fire Protection 2019* (or any later versions) and *Australian Standard: 3959 Construction of Buildings*

*in Bush Fire Prone Areas (AS: 3959).*

The proposal is on large rural block and the site is mapped as bushfire prone land. The primary vegetation has been assessed as grassland in all directions from the development site. The applicant has proposed an APZ of 21m in all direction from the proposed dwelling.

Given the dwelling can maintain an APZ of 21m from the hazard, grassland deeming provisions of table 7.9a of Planning for Bushfire Protection (PBP) is applied.

Following performance criteria under 7.9a of the PBP the development is considered acceptable subject to conditions.

- APZ - An APZ of 21m shall be provided from the external wall of the dwelling in all directions, this will be conditioned.
- Construction Standards - Conditions of consent will ensure the building is constructed to relevant standards to meet a BAL12. 5 and Section 7.5 of PBP.
- Access requirements - The subject site is easily accessible from Gap Hall Downside Road. The proposed access shall comply with the property access provision as per table 5.3b of the PBP 2019. This will be conditioned.
- Water Supply- A reticulated water supply is available on site for Fire Fighting purposes.
- Landscaping - Comply with the relevant provisions in Appendix 4. This will be conditioned.

With compliance with conditions of consent the proposal meets the aim and objectives of PBP 2019.

## **4.2 Flooding**

The subject site is not identified as a flood prone land.

## **Section 5 - Natural Resource and Landscape Management**

### **5.3 Native Vegetation Cover**

This section does not apply as the development is located within the RU1 zone, however it is important to note removal of trees is not proposed.

### **5.4 Environmentally Sensitive Land**

This issue has been addressed under Clause 7.3 of the LEP above. No further discussion is required.

## **Section 8 - Rural Development**

### **8.1 Development in rural areas**

*C1 Uses are to be compatible with the character of the locality in terms of buildings,*

*structures and the nature of operations.*

The proposed dwelling would appear as a rural dwelling as it forms part of a homestead group of buildings viewing from the road. The use would be compatible with the character of the area as it supports an agricultural undertaking and the proposed new dwelling is adequately setback from primary road and adjoining properties, as well as maintains consistency with the rural landscape.

*C2 Provide adequate buffer areas and setbacks to minimise potential conflicts with adjoining lawful land uses. Where there is potential for a conflict between land uses, priority will be given to the existing productive use.*

The proposed dwelling has adequate setback from neighbouring properties. As such, the proposal does not raise any potential conflict with adjoining lawful land uses.

*C3 Use landscaping and other screening options to help integrate new uses and developments into the rural landscape.*

The existing vegetation present on the site provides adequate level of screening and the proposal integrates well within the rural landscape. No additional screening is required.

*C4 Uses must be capable of operating within capacities of available existing services.*

The site is connected to existing services and conditions of consent will ensure that the site is adequately serviced.

*C5 Provide adequate facilities for additional traffic in terms of vehicle access and movements, parking areas, and loading and unloading of goods.*

All weather internal gravelled driveway is proposed to service the proposed new dwelling. Adequate parking, access and movement is available within the site.

*C8 Locate dwellings to minimise conflicts with activities associated with primary production, so as to not interfere with the ability to farm adjoining or adjacent land.*

Despite the proposed new dwelling is located within a cluster of existing farm buildings on site it maintains adequate separation from adjoining farmland. As such, the proposed development does not conflict with adjoining land uses and therefore the proposal is considered satisfactory.

*C9 A dwelling house and all ancillary development on a lot in the following zones must have a setback from the boundary with a primary road that is not a classified road of at least the following:*

*(a) If the lot is in Zone RU1, RU2 or RU6 - 50m*

The lot is located within the RU1 zone and the dwelling is located greater than 50m from the front boundary, consistent with this control.

*C11 A dwelling house or outbuilding must have a setback of at least 250m from a boundary with adjoining land being used for any of the following:*



- (i) Forestry*
- (ii) Intensive livestock agriculture*
- (iii) Intensive plant agriculture*
- (iv) Mines and extractive industries*
- (v) Railway lines*
- (vi) Rural industries*

There are none of the listed development types or use within 250 metres of the subject site.

### **8.3 Rural dwellings**

#### *Objectives*

*O1 Ensure that dwellings in rural areas are compatible with the rural landscape.*

*O2 Encourage dwellings and outbuildings to be located in clusters. O3 Encourage energy efficient dwellings.*

The objectives for this section are to ensure that dwellings in rural areas are compatible with the rural landscape, to encourage dwellings and outbuildings to be in clusters and to encourage energy efficient dwellings.

The proposed new dwelling is within the cluster of existing buildings and forms part of a homestead group of buildings viewing from the road. As such, the proposed development is considered to comply with the objectives of this section.

#### *Controls*

*C1 Avoid prime productive lands and prominent hill and ridgeline locations especially where alternative, more suitable locations are available.*

The proposed dwelling is not located on a prominent hill or ridgeline. The proposed dwelling is appropriately located in regard to existing site constraints and to avoid prime productive lands.

*C2 Locate dwellings either within a predetermined building envelope, or in a location that is suitable for construction, being free from contamination and capable of accommodating a sewage management system.*

The site chosen is suitable for the dwelling because it is clear of vegetation and capable of accommodating a sewage management system.

*C3 The scale, footprint and height of dwellings is to be such that buildings recede in to the landscape and do not distract from skyline views or views that are part of the visual backdrop of the area. Orientate dwellings to maximise the northern aspect of living areas.*

The scale of the dwelling is suitable for the locality. It is not the highest point of the surrounding landscape and therefore will not dominate the skyline. The living room

and outdoor area have north-easterly aspect.

*C4 Materials and finishes are to be non-reflective. Low intensity colours (lighter tones) are generally preferred.*

The dwelling will be constructed of horizontal plank and brick veneer wall cladding and colorbond roof. These materials are non-reflective and of low intensity colours.

*C5 Outbuildings are to be located close to the main dwelling and to the rear when viewed from the nearest road so as to appear as a 'homestead group' of buildings.*

The proposal does not include an outbuilding. As such, the above control is not relevant.

*C6 Driveways are to follow natural contours where possible. Avoid unreasonably steep and visually intrusive driveways.*

The proposal will utilise the existing driveway into the site. The proposed all weather gravelled internal driveway to service the dwelling is neither steep nor visually intrusive.

*C7 Native vegetation is to be retained and embellished where possible. Dwelling construction should not disturb remnant vegetation.*

The proposal does not seek removal of any vegetation from the site. Given The development does not impact any native vegetation. Relevant conditions have been added in the development consent that the construction works does not impact on the existing native vegetation.

*C8 Traditional rural fencing, such as post and wire are encouraged. Use vegetation barriers where needed to provide visual screening between adjoining properties.*

No additional fencing is proposed.

## **Section 9 Residential Development**

The proposal is for a new dwelling in a rural area. Whilst section 8 above is more relevant to this proposal controls under Section 9 are generally applicable to all residential development. Some of the relevant controls are discussed below.

### **9.2.1 Site layout**

The dwelling site is generally flat, one tree appears to have been removed from the site where the new dwelling is proposed to be located. There were no rock outcrops visible. There are no changes proposed to the characteristics of the dwelling site. Given the rural nature of the block and the size of the block the issue of underutilised space is not applicable.

The main living areas and outdoor areas of the dwelling have north-easterly aspect to maximise solar access opportunities. The dwelling layout and location of windows and doors will allow cross ventilation through the dwelling.

### **9.2.2 Streetscape**

The lot is a rural lot and the proposed new dwelling is setback over 350m from Gap Hall Downside Road. Whilst the scale and form of the dwelling is consistent with the locality, the proposed dwelling will not be greatly visible from the street therefore the proposal does not raise any streetscape issues.

### **9.3.4 Solar access**

The garage, bathroom including water closet and powder room are located on the western elevation of the building which will provide insulation from western sun. The main living areas and alfresco area of the dwelling has north-eastern orientation therefore the dwelling will be able to receive required three hours of direct sunlight. There are no impacts to adjoining properties due to the rural setting and large setbacks between dwellings.

### **9.3.5 Private open space**

Private open space is easily achieved due to the rural nature of the block.

### **9.3.7 Side and rear setbacks**

Proposed replacement dwelling maintains over 10m from the side and rear boundaries therefore complies with the control.

### **9.4.1 Building elements**

An alfresco is proposed to the eastern side of the dwelling that links internal and external living areas. Due to the location of the dwelling any ancillary components are not visible from the street.

### **9.4.2 Materials and finishes**

The materials chosen are typical to rural dwelling and will provide a reasonable quality appearance. There are no large expanses of material. The facades are articulated through the incorporation of windows/doors and veranda. Corrugated steel sheeting is proposed as the roofing material and is suitable for the rural setting.

### **9.4.3 Privacy**

There are no privacy issues with this development due to the rural setting and significant setbacks from the lot boundaries and distances between the dwellings.

### **9.4.6 Changing the landform - cut and fill**

There is no change to the landform with this development.

There are no applicable controls within sections 10, 11, 12, 13, 14, 15 or 16 of the WWDCP 2010.

**Section 4.15(1)(a)(iiia) - 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**

There is no draft or current planning agreement applicable to this application under Section 7.4 of the *Environmental Planning and Assessment Act 1979*.

**Section 4.15(1)(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.

**Section 4.15(1)(b) - likely impacts of the development**

**Context and setting**

As discussed above in the report the proposed development is generally consistent with the rural setting and the locality and does not conflict with the surrounding land uses. There are no adverse impacts to the locality or streetscape.

**Access, transport and traffic**

No changes are proposed to the existing vehicular access to and from the site to Gap Hall Downside Road however internal access all weather driveways will be established to service the new dwelling. The development is consistent with relevant standards for traffic and parking.

**Noise & vibration**

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

**Natural Hazards**

The development site is mapped as bush fire prone land. The primary vegetation in all direction is considered grassland. Standard conditions relating to construction standards, APZ and services have been included in the development consent.

The site is not impacted by flooding, no issues raised.

**Waste**

Conditions of consent will ensure that the site is kept in an appropriate state during construction.

**Services/Utilities**

A new on-site sewage management system will be installed as part of this development.

**Energy**

A current compliant BASIX certificate has been supplied. The development is not likely to have any adverse energy impacts.



## Flora and fauna

The proposal will not involve the removal of any vegetation.

## Site Design

The dwelling is set back from relevant boundaries and sited on clear ground. The design of the dwelling maximises solar access and has minimal impact on the surrounding landscape.

## Building Envelope

The proposal seeks approval to extinguish existing building envelope from the title of the land. Based on the previous approvals on the site, it appears that the building envelope was created for the purpose of restricting the ability of dwelling/buildings to be built away from agricultural productive land and to minimise any potential conflict between different land uses. For the following reasons it is considered that the proposed removal of existing building envelope from the land title can be supported:

- The subject has a total area of 200ha and therefore meets the minimum lot size required under clause 4.2A of the Wagga Wagga LEP 2010 for allowing a dwelling or dual occupancy on a land zoned RU1. So, the existing building envelope does not serve any purpose.
- Proposed new dwelling is in proximity of the cluster of existing buildings that has not been mainly used for agricultural purposes other than to support the agricultural activities therefore the proposed location for new dwelling does not interfere/conflict with the adjoining land uses.
- The existing building envelope was not created for the purpose of protecting environmental sensitive land.
- Removal of existing building envelope from the title will help minimise any potential conflict or confusion that may arise if left as is and will remain consistent with the current practice in rural land.

## 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 a new dwelling in a rural zone. The impacts assessed above have concluded that the development would be acceptable with minimal impact on the environment.

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

The site is zoned as RU1 -Primary Production, and the proposal is for a new dwelling. The dwelling is compatible with the surrounding landscape and other rural properties. There are no likely adverse impacts from this development occurring on the subject land or adjoining properties. As such, the site is considered suitable for the development.

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

#### **Referrals**

The application was referred to relevant internal departments and no objections received. Relevant conditions were recommended which have been included in the development consent.

## Notification

The application was notified to adjoining neighbouring properties between 27/06/2023 and 4/07/2023. No submissions were received during the notification period.

## Advertising

In accordance with the provisions of the WWDGP 2010 the application was not required to be advertised.

## Public Submissions and those from public authorities

Nil submissions have been received at the time of this report.

## Section 4.15(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 application is in the public interest.

## Other Legislative Requirements

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

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

There are a number of tests to determine whether the 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 provides that Councils will not incur liability for decisions or omissions concerning flood liable land or land subject to the risk of bushfire have been considered. A risk assessment has been completed and Council will be able to demonstrate that it has acted appropriately in its decision making when defending claims in liability or in circumstances where administrative decisions are challenged.

### **Flooding Risk Assessment**

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. A risk assessment is not required as the proposed development is outside the area identified as affected by flooding and the proposal does not affect the flood behaviour on adjoining properties or likely to pose risk to life and the property.

### **Bush Fire Risk Assessment**

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. The subject site is mapped as a bushfire prone land. The primary vegetation in all direction is considered grassland. Standard conditions relating to construction standards, APZ and services have been included in the development consent. No further risk assessment is required.

### **Development Contributions - Section 7.12 Environmental Planning and Assessment Act, 1979, Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000**

The proposed new dwelling will increase the GFA therefore a Section 7.12 contribution is payable, and the cost is calculated as follows:

#### Section 7.12

The cost of the development as per the Cost Summary Report supplied is \$900,000. As per the Wagga Wagga Local Infrastructure Contribution Plan 2019 - 2034, the Section 7.12 levy is 1% of the cost of the development.

$$\begin{aligned}\text{Section 7.12} &= \$900,000 \times 1\% \\ &= \$9,000\end{aligned}$$

The current CPI rate is 123.7.

Section 64 of the Local Government Act 1993, Section 306 of the Water Management Act 2000 as well as the City of Wagga Wagga's Development Servicing Plan for Stormwater 2007 / Development Servicing Plan for Sewerage 2013 enable Council to levy developer charges based on increased demands that new development may have on sewer and/or stormwater infrastructure.



A Section 64 contribution is not payable for this development as it is located outside of the DSP area.

### **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, the Building Code of Australia (Housing Provisions) and Councils Policies. No objections to the proposal were received.

---

## **RECOMMENDATION**

It is recommended that application number DA23/0255 for New dwelling with attached garage and removal of existing building envelope 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
Drawing No. 22042 Sheet 00	Cover sheet and Location Plan	Sewell Design	H_V3	28/06/2023
Drawing No. 22042 Sheet 01	Site Plan, Floor Plan, Elevations, Typical Section, Section Table and BASIX	Sewell Design	H_V3	28/06/2023
Certificate No. 1385288S	BASIX Certificate	Sewell Design Pty Ltd	-	18/05/2023
-	Statement of Environmental Effects	Sewell Design	-	17/05/2023

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 \$9,000 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 the Construction Certificate, the applicant shall:
- Provide to Council, for its review and endorsement, a Deed of Covenant pursuant

to s88 of the Conveyancing Act 1919 and appropriate plan of subdivision for the deletion of existing building envelope.

- ii) Submit the endorsed Deed of Covenant and plan to NSW Lands Registry Services for registration and provide a receipt of this lodgement to Council.

C.4 Prior to the release of the Construction Certificate a Notice of Modification shall be made to Council for the modification of consent DA07/1058 as per below to eliminate any inconsistency between the consents.

- i) Remove all reference to proposed rural dwelling, access to a dwelling, removal of vegetation in relation to the dwelling or the ability to submit a further Development Application to any further stages of the development.
- ii) Include a specific condition specifying no consent is granted under the consent for a dwelling (including concept approval).
- iii) Remove the building envelope from the consent.
- iv) Remove conditions relating to construction works.

The notice shall be made in accordance with Clause 67 of the Environmental Planning and Assessment Regulation 2021.

Prior to making of the Notice, a draft of the Notice shall be provided to Council for review by the Manager of City Development or delegate. Upon completion of this review, Council shall notify the applicant whether the draft Notice is acceptable or not and if so, shall provide details of any amendments required to be included in the final Notice. The applicant is to incorporate any required amendments to the final Notice in accordance with any directions issued by the Council prior to delivering the Notice.

C.5 Prior to the issue of a Construction Certificate, a geotechnical study must be submitted with the "Application to Install an On-Site Sewage Management System" to determine the suitability of the site with respect to the on-site disposal of waste water. An On-Site Sewage Management System Application together with the geotechnical report shall be assessed and approved by Council prior to carrying out any works on the site.

This study must be carried out by an appropriately qualified geotechnical Soil Consultant, with associated testing being conducted by a NATA registered laboratory. Matters such as geology, stratigraphy (in particular, soil profile and permeability) must be addressed.

The study must also state whether or not the proposed dwelling and the proposed waste water disposal area are located in a position and are of a design and capacity to ensure that all waste water generated from the activities carried out on site can be disposed of on the site without causing nuisance and/or pollution, both in the short and the long term.

NOTE 1: Alterations/modifications to the premise or replacement of disposal areas and or the On-site Sewage Management Systems require a geotechnical soil report to determine if the current system can manage additional loads and/or if the current disposal areas are adequately sized to effectively treat waste water generated by the activities on the premise.

NOTE 2: As a site investigation will need to be undertaken in order to determine the design of the floor slab and/or footings, it is suggested that the required geo-technical study with respect to on-site disposal of effluent be carried out at the same time. This should minimise investigation time and costs.

NOTE 3: The final location of the dwelling on the land may be determined by the findings and recommendations of the required geo-technical study. The location of the dwelling should therefore not be finalised until the results of the geo-technical study are known.

C.6 Prior to the issue of a Construction Certificate, it must be demonstrated that the On-Site Sewage Management System and its associated disposal area situated more than 40m away from drainage channels, 100m away from rivers, lakes, water body, etc and 250m away from domestic ground water wells.

C.7 Prior to release of the Construction Certificate, an application to install an On-Site Sewage Management System must be submitted to and approved by Council. The On-site Sewage Management System tank must be installed on the land and the premises connected thereto, in accordance with the provisions of the Local Government Act 1993 Part 1 Approvals and the Local Government (General) Regulation 2005.

NOTE: A Section 68 approval for sanitary plumbing and drainage works must be obtained in conjunction with the On-site Sewage Management System application.

### **Requirements before the commencement of any works**

C.8 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.9 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.10 An approval pursuant to Section 68 (Part F4) of the Local Government Act 1993 shall be obtained from Council prior to installation of the domestic oil or solid fuel heating appliance depicted on the approved plans. The appliance shall be installed in accordance with the provisions of the Building Code of Australia (as defined by the Environmental Planning and Assessment Act 1979) and shall conform with the Australian Standard for pollution emissions (AS/NZS 4013:2014) and efficiency (AS/NZS 4012:2014).
- C.11 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.12 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.13 Prior to undertaking 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).
- C.14 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.15 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.16 New construction shall comply with section 5 (BAL 12.5) Australian Standard AS3959-2018 "Construction of buildings in bush fire-prone areas" and section 7.5 of "Planning for Bush fire Protection 2019".
- C.17 At the commencement of building works and in perpetuity, an asset protection zones (APZ) of a minimum of 21m from the external wall of the dwelling in all direction shall be maintained.  
  
APZs associated with the development shall be managed as outlined within Appendix 4 of Planning for Bush Fire Protection 2019 and the NSW Rural Fire Service's document Standards for asset protection zones.
- C.18 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.
- C.19 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.20 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.21 Works shall be undertaken in accordance with the comments provided by Essential Energy which include:
- Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.
  - It is the responsibility of the person/s completing any works around power lines to understand their safety responsibilities. SafeWork NSW has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice - Work near Overhead Power Lines and Code of Practice - Work near Underground Assets.
  - Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property shall be complied with.

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

- C.22 Prior to the issue of Occupation Certificate an all weather driveway from the property entrance of the development site to the edge of the carriageway must be provided and maintained, having a minimum clear width of 3 metres.
- C.23 Prior to the issue of an Occupation Certificate, the proposed development shall demonstrate compliance with the acceptable solutions relating to water supply for the purpose of bushfire protection required under table 7.4(a) of Planning for Bush Fire Protection 2019.
- C.24 Prior to the release of the Occupation Certificate all gas services are to comply with the acceptable solutions under table 7.4(a) of Planning for Bush Fire Protection 2019.
- C.25 Prior to the release of the Occupation Certificate all electricity services are to comply with the acceptable solutions under table 7.4(a) of Planning for Bush Fire Protection 2019.
- C.26 Prior to issue of an occupation certificate the building number must be displayed in a position clearly visible from the street in letters having a height of not less than 75 mm. The number must be visible against the background on which it is placed.
- C.27 Prior to the release of the Occupation Certificate, the applicant shall provide evidence to Council from NSW Lands Registry Services showing the registration of the Deed of Covenant and amended survey plan confirming deletion of existing building envelope.
- C.28 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.29 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.30 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.31 Landscaping shall be established and maintained to comply with the acceptable solutions under table 7.4(a) of Planning for Bush Fire Protection 2019 and the principles of Appendix 4 of Planning for Bush Fire Protection 2019.
- C.32 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.33 The demolition must be carried out in accordance with the provisions of Australian Standard AS2601-2001: The Demolition of Structures.

Within fourteen (14) days of completion of demolition, the following information shall be submitted to Council for assessment and approval:

- a) an asbestos clearance certificate prepared by a competent person; and

- b) a signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with any Waste Management Plan approved with this consent. In reviewing such documentation Council will require the provision of actual weighbridge receipts for the recycling/disposal of all materials.

NOTE 1: Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.

NOTE 2: Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".

NOTE 3: Competent Person (as defined under Safe Removal of asbestos 2nd Edition [NOHSC: 2002 (2005)]) means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill, for the safe performance of the specific work.

NOTE 4: A licence may be required for some of the tasks described in the document entitled Safe Removal of Asbestos 2nd Edition as requiring a competent person.

- C.34 The existing partially demolished/damaged dwelling that is located within the existing building envelope shall be removed from the site within 3 months from the date of issue of the occupation certificate for the new 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.

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

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

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

- (1) For development that involves any building work, the work must be carried out in accordance with the requirements of the Building Code of Australia.
- (2) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance shall be in force before any building work authorised to be carried out by the consent commences.



- (3) For a temporary structure that is used as an entertainment venue, the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.

NOTE 1: This condition does not apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

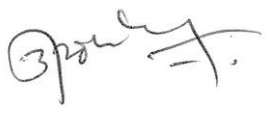

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

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

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

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

N/A

<p><b>Report Prepared &amp; Approved by:</b></p>  <p>Bikash Pokharel Town Planner</p> <p>Date: 25/08/2023</p>	<p><b>Report Reviewed by:</b></p>  <p>Steven Cook Senior Town Planner</p> <p>Date: 25/08/23</p>
--	---