

<b>JRPP No:</b>	2013STH006
<b>DA No:</b>	DA 13/0228
<b>PROPOSED DEVELOPMENT:</b>	Alterations & Additions to Courthouse including Access Ramp, Demolition of Former Cottage & Construction of 2 Storey Court Building & Associated Landscaping Court House, 57 Fitzmaurice St WAGGA WAGGA NSW 2650 Lot 1 Sec 39 DP 759031
<b>APPLICANT:</b>	Department of Attorney General and Justice Asset Management Branch Locked Bag 5111 PARRAMATTA NSW 2124 Martin Gordon
<b>REPORT BY:</b>	Camilla Rocks, Senior Planner, Wagga Wagga City Council

## Assessment Report and Recommendation

### Reason for consideration by Joint Regional Planning Panel

This Development Application has been referred to the Southern Region Joint Regional Planning Panel for determination in accordance with Clause 5 of Schedule 4A of the *Environmental Planning and Assessment Act 1979*, which requires the Panel to exercise planning functions of the Council as a consent authority under Part 2A of the *Environmental Planning and Assessment Act* for Crown development that has a capital investment value of more than \$5 million.

### DESCRIPTION OF DEVELOPMENT

This proposal is for the redevelopment of the Wagga Wagga Court House to upgrade facilities to the current required standards. The Wagga Wagga Court House was constructed in 1902/1903 and is the major court house in the region. The existing layout of the site does not allow for the current standards of secure access and separated circulation to be maintained.

The existing main court house building is to be retained, the existing former caretaker's residence (henceforth referred to as the Sheriff's Cottage) is proposed to be demolished and a new two storey building constructed along the southern boundary of the site. The former police station on the site does not form part of this development as it is owned by a different department of the State Government. The proposal is for substantial works, with those works requiring consent detailed below.

#### Works to existing Court House

- Existing paint surfaces repainted where alterations are proposed
- New timber doors
- New smoke detection system
- Demolition of eastern room, courtyard and former amenities
- Demolition of southern toilet attachments and adjacent courtyard
- New entry stairs and 1:20 ramp off Fitzmaurice Street, with encroachment into road reserve of tactile indicators

- New raised floor for extent of existing courtyard colonnade
- Removal of partition walls in agency offices and new internal wall
- Cut back existing copper roof on eastern side of agency offices
- Cut opening in eastern wall of waiting room for new courtroom entry door
- Internal walls and amenities removed, new partition wall and fitout of courtroom 3
- Remove later addition windows in eastern wall of judicial office, with brick in-fill then finished with rough cast render to match adjacent finishes
- Internal modification and fitout to remote witness office
- New door opening through the strong room to create safe room access
- Demolish openings in Fitzmaurice Street wall then re-construct with new door openings to new fire hydrant and sprinkler booster valves
- New glazed security screen around part of the main entrance courtyard

#### Works to Sheriff's Cottage

- Full demolition of 1903 building and 1980s extension

#### Works to Cell Complex

- Modifications to link to new and existing courtrooms

#### Works to Police Garages

- Full demolition

#### Works to 1865 Gaol Wall

- Partial demolition of 13m with retention of footings

#### Works to Courtyard and Landscaping

- Refurbishment of the existing Vernon courtyard (courtyard 1) - modify planter beds and re-plant
- Removal of 4 trees - 3 within the front setback of Sheriff's Cottage (1 on adjoining lot), 1 in existing rear courtyard
- Construction of 3 new courtyards - courtyard 2 at Fitzmaurice St, planted with a deciduous tree, courtyard 3, linear between old and new buildings, a shade garden and courtyard 4, between the cells and new building, planted with a deciduous tree and gravel mulch

#### New Building

- Construction of a long rectilinear two storey building with single storey section adjacent to the existing courthouse
- New building contains generous foyer, registry/sheriff office (including public foyer, counter, interview rooms and office space), new District Court, judicial area, jury facilities, amenities, space for agencies, witness area and corrective services, with a plant room on level 2.
- External finish of new building - pigmented, precast concrete (polished and acid etched), glazing, prefinished metal blades, face brickwork, prefinished metal cladding, metal roof sheeting and metal louvres.

The NSW Department of Attorney General and Justice (DAGJ) requires that the existing Court House and Cells Complex remain operational therefore a staged construction is proposed. The new building is proposed as stage 1 and then the existing Court House will be vacated to enable the alterations and additions as detailed above, forming stage 2. Temporary public access will be provided between the two stages.

Following submission of this development application, the proponent advised that a modification was required to increase the amount of the gaol wall along the southern

boundary that is to be demolished. As the application had not been determined and required re-notification and re-advertising, the amendment was accepted and included in the second exhibition.

A further amendment was made following the exhibition period. The amendment was mainly to the internal layout to allow for additional court room space however numerous external changes were also proposed.

The redevelopment is required for a number of reasons:

- Additional facilities required for other courts to sit in Wagga Wagga
- Integration of the registry office with the court complex (currently off-site)
- Provision of contemporary security protection
- Building services throughout the complex need upgrading

A number of options for the design were considered and these are detailed in the SEE supporting the application.

The new work is designed with large foyer areas to allow for spill over of patrons internally, rather than onto the street as is currently the situation. The works also improve the security on site, in particular, allowing for separation of parties such as prisoners, jury, judges, and witnesses. The 1902 Court House entrance is proposed to be upgraded to provide for secure and equitable access, with links to the new building along its southern elevation. The new building is designed as a neutral addition to the site architecturally, with a single storey section to the Fitzmaurice Street elevation rising to a two storey section containing courtrooms, with a third storey containing the plant room.

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## THE SITE & LOCALITY

The subject site is that land described as Lot 1, Section 39 in Deposited Plan 759031 and known as 10-20 Sturt Street or 57 Fitzmaurice Street, Wagga Wagga. It is located on the northern side of Fitzmaurice Street, on the north-eastern corner of Fitzmaurice and Sturt Streets and is bounded by Tarcutta Street to the rear.

The subject site is located in the Central Business District (CBD) of Wagga Wagga, within the heritage conservation area (HCA) and is listed in Schedule 5 of the Wagga Wagga Local Environmental Plan 2010 (WWLEP) as a heritage item.

With a total area of some 5,150m<sup>2</sup>, the site has frontage to Fitzmaurice Street and Tarcutta Street of approximately 51 metres, and to Sturt Street of approximately 101 metres.

The location is shown in the figure below:

*Figure 1. Aerial diagram of site*

## Wagga Wagga Court House



Situated on the site is the single storey 1902 court house building addressing Fitzmaurice and Sturt Streets, single storey brick cells complex addressing Sturt Street, single storey 1903 brick former residence addressing Fitzmaurice Street, single storey 1980s addition to former residence with no street presence, high brick gaol walls to Tarcutta and Fitzmaurice Streets and southern boundary, carports, courtyards and car parking all to the Tarcutta Street end of the site. A 2 storey 1920s brick building is located on the corner of Tarcutta and Sturt Streets but does not form part of this application as it is in the ownership of a separate government department. It is the former police station and is currently vacant.

The existing Court House is built in the Federation Free style and was designed by the then Government Architect Walter Liberty Vernon. It was constructed by Charles Hardy & Co of Wagga Wagga, local builders of note. The design is characterised by the arrangement of pavilions around courtyards, umbrella shaped roof domes and campanile (bell tower). Roof eaves are generous and bracketed by decorative ironwork. The building is constructed in face brickwork relieved by sandstone string courses and panels of rough cast render. The Sheriff's Cottage is built in a similar style with similar materials and complements the Court House proper.

The site has been in use as a court house and lock up since 1865, with the current Court House constructed in 1902.

An inspection of the site and locality was undertaken on 5 February 2013, prior to lodgement of the development application. This was a comprehensive tour of the site both externally and internally, accompanied by a representative of the Attorney-General's department and the architects. Photographs were not permitted to be taken internally however it was an important opportunity to observe the existing and proposed links between new and original fabric and to observe the operations occurring within the site, highlighting the difficulties of the existing layout.

## **SUMMARY OF MAIN ISSUES**

To be determined by the SJRPP

Crown Development

Impact on heritage significance:

- loss of former caretaker's cottage,
- loss of gaol wall
- changes to Fitzmaurice Street wall
- retention of site for its historic use
- links between old and new building/s
- demolition of former prisoner's yards & facilities

Views to the item

Bulk and scale

Minimal provision of car parking

Glassing in of courtyard

Site constraints created by retention of lock up and non-inclusion of former police station

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## **Environmental Planning and Assessment Act, 1979**

### **Part 4, Division 4 - Crown Developments**

In assessing the proposed development the following matters pursuant to the provisions of Section 89 of the *Environmental Planning and Assessment Act 1979*, have been taken into consideration.

Section 89 of the Act states that:

- 1) *A consent authority (other than the Minister) must not:*
  - a. *refuse its consent to a Crown development application, except with the approval of the Minister, or*
  - b. *impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.*

Section 88 of the *Environmental Planning and Assessment Act 1979* states that:

**"Crown development application"** means a development application made by or on behalf of the Crown.

- 2) *A reference in this Division to the Crown:*
  - a. *includes a reference to a person who is prescribed by the regulations to be the Crown for the purposes of this Division, and*
  - b. *does not include a reference to:*
    - i. *a capacity of the Crown that is prescribed by the regulations not to be the Crown for the purposes of this Division, or*
    - ii. *a person who is prescribed by the regulations not to be the Crown for the purposes of this Division.*

Section 226(1)(c) of the *Environmental Planning and Assessment Regulations 2000* states:

1. The following persons are prescribed for the purposes of Division 4 of Part 4 of the Act (as referred to in section 88 (2) (a) of the Act):
  - a) a public authority (not being a council),
  - b) a public utility,
  - c) an Australian university within the meaning of the *Higher Education Act 2001*,
  - d) a TAFE establishment within the meaning of the *Technical and Further Education Commission Act 1990*.

Part 1, Clause 4 of the *Environmental Planning and Assessment Act 1979* states that *public authority* means:

- a) a public or local authority constituted by or under an Act, or
- b) a government Department, or
- c) a statutory body representing the Crown, or
- d) a chief executive officer within the meaning of the Public Sector Employment and Management Act 2002 (including the Director-General), or
- e) a statutory State owned corporation (and its subsidiaries) within the meaning of the State Owned Corporations Act 1989, or
- f) a chief executive officer of a corporation or subsidiary referred to in paragraph (e), or
- g) a person prescribed by the regulations for the purposes of this definition.

The application was lodged by the NSW Department of Attorney General & Justice and the land is owned by this department. The application is therefore Crown Development.

Matters in relation to the assessment of and the imposition of conditions will be followed in accordance with Section 89 of the *Environmental Planning and Assessment Act 1979*.

Prior to the final report being presented to the Southern Joint Regional Planning Panel a copy of the draft conditions was sent to the applicant for their approval. A copy of the applicant's agreement to the conditions proposed is attached.

## MATTERS FOR CONSIDERATION PURSUANT TO SECTION 79C(1)

*For the purpose of determining this development application, the following matters that are of relevance to the development have been taken into consideration pursuant to the provisions of Section 79C(1) of the Environmental Planning and Assessment Act, 1979.*

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

#### **Local Environmental Plan**

##### Wagga Wagga Local Environmental Plan 2010

Clause 1.2 states the aims of the WWLEP, which are to:

- a) *optimise the management and use of resources and ensure that choices and opportunities in relation to those resources remain for future generations,*
- b) *promote development that is consistent with the principles of ecologically sustainable development and the management of climate change,*
- c) *promote the sustainability of the natural attributes of Wagga Wagga, avoid or minimise impacts on environmental values and protect environmentally sensitive areas,*
- d) *to co-ordinate development with the provision of public infrastructure and services.*

The proposal is assessed as being consistent with these aims.

Under the provisions of the WWLEP, the subject site is within the B3 Commercial Core zone. The relevant objectives of the zone are:

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*

- *To ensure the maintenance and improvement of the historic, architectural and aesthetic character of the commercial core area.*

The proposal is consistent with the objectives, being a redevelopment of an existing public building that provides employment opportunities and addresses the historic, architectural and aesthetic character of the area. Under the provisions of the WWLEP, the use is defined as a public administration building and is permitted within the zone with consent. A **public administration building** means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station.

Clause 2.7 requires that the demolition of a building or work may be carried out only with development consent. Submission of this application satisfies this provision.

**Clause 4.3 Height of buildings** The Height of Buildings Map shows the subject property within the Brown "O" zone, with a maximum height permitted of 16 metres. The existing building has a clock tower of approximately 26 metres in height however the new building on site is proposed at approximately 13 metres in height and is therefore compliant with this provision.

**Clause 4.4 Floor space ratio** This provision requires that a building on any land is not to exceed the floor space ratio shown on the Floor Space Ratio Map. The map shows that the site is within the pink "T" zone, therefore maximum FSR for the site is 2:1. The proposed FSR for the site is approximately 0.7:1 (excluding the former police station), well below the permitted maximum.

**Clause 5.9 Preservation of trees or vegetation** The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation. The proposed development application does propose the removal of 4 trees. The Council cannot allow the ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:

- (a) that is or forms part of a heritage item or that is within a heritage conservation area, or
- (b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance, unless the Council is satisfied that the proposed activity:
- (c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and
- (d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

The tree at the rear (tree 1) that is proposed to be removed is an *Acer negundo* (Box Elder Maple), which is situated within the proposed building footprint. This species is exempt from the tree preservation order and no concerns are raised in relation to its removal.

There are 3 trees situated in the front courtyard of the Sheriff's Cottage that are proposed for removal. These are mature trees that almost obstruct views to the cottage when in full leaf. A lillypilly (Tree 4) on the adjacent property is proposed to be removed however approval from the owners of that property has not been attached to the application. Although no concerns were raised about the removal of this tree, a formal tree preservation order application signed by the owners of 59 Fitzmaurice Street will be required.

The trees at the front are eucalyptus and lemon that are also within the proposed building footprint. The *Celtis australis*, (Nettle Tree - Tree 2) is covered with ivy. The lemon tree is exempt from requiring approval for removal and the *Eucalyptus spathulata*, (Swamp Mallet - Tree 3) is of no significance. The SEE states that the trees are not considered to be significant species or of heritage value therefore their removal has no significant impact. The supporting Heritage Impact Statement concurs that the plantings and general landscaping in the courtyard have no heritage value but does not address the tree at the rear.

The conclusion drawn is that the existing trees and vegetation make little contribution to the heritage significance of the site therefore their removal is consistent with this provision. Council officers concur with this conclusion.

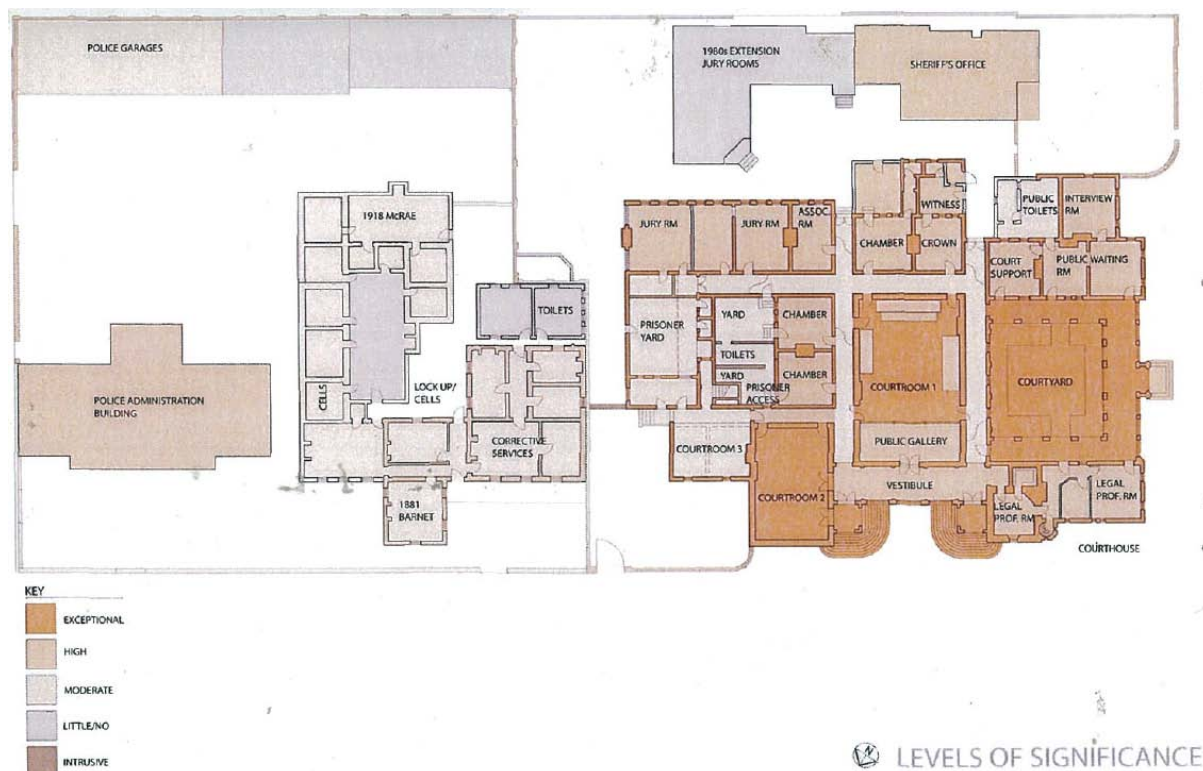
#### **5.10 Heritage Conservation**

- (1) *Objectives:*  
*The objectives of this clause are:*
  - (a) *to conserve the environmental heritage of Wagga Wagga*
  - (b) *to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views*
- (2) *Requirement for consent:*  
*Development consent is required for any of the following:*
  - (a) *demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,*
  - (b) *altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior*
  - (c) *altering a heritage item that is a building by making structural changes to its interior*
- (3) *Effect on heritage significance*  
*The consent authority must before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted.*

**Clause 5.10(1)** The site is listed as a heritage item in Schedule 5 of the WWLEP. It is not listed on the State Heritage Register, although its state significance has been recognised in the supporting documents to the development application and in the 2013 Wagga Wagga Heritage Study. The Court House is listed on the Heritage and Conservation Register in accordance with Section 170 of the *Heritage Act*, 1977. As the site has been in use for court functions since 1856, there is a likelihood of archaeological remains. Disturbing or excavating the land requires an application to the Heritage Council under Section 140 of the *Heritage Act*, 1977. The Court House is also listed on the Register of the National Trust, which has no statutory implications.

A Conservation Management Plan (CMP) for the site was prepared for the Court house Precinct by the Heritage Group of the NSW Government Architect's Office, in 2012. The CMP graded aspects of the precinct in terms of heritage significance. Features are of exceptional, high/moderate, little and neutral or intrusive significance and are best explained through illustration:





The definitions of the various levels of significance are detailed in the HIS but can briefly be explained thus:

- Exceptional - makes greatest contribution to significance and should be retained and conserved in situ
- High/moderate - important contribution but may not be in good condition and minor intervention may be permissible
- Little/neutral - were originally of higher significance but have been compromised and may be retained or removed
- Intrusive - adversely affects the significance of the complex and removal would increase the overall heritage value.

Much of the precinct is of high to exceptional significance, including some elements to be removed.

The proposal to retain the oldest building in the development is considered to be consistent with the objectives. The retention of the use of the Court House is considered a positive outcome and conserves both the environmental heritage of Wagga Wagga and the heritage significance of the item. The demolition of the Sheriff's Cottage and portion of the gaol wall is not consistent with this provision however the supporting documents demonstrate that this aspect is necessary in order to retain the use of the site and develop it to current standards. Consideration of the effect of the proposed development on the heritage significance of the heritage conservation area has been undertaken, and it is considered that the proposal will have some negative impact on the heritage significance of the heritage item; the proposal is assessed as being not entirely consistent with the WWLEP2010 heritage objectives.

**Clause 5.10(2)** This proposal is for the demolition of a heritage item and tree within the conservation area and alteration of a heritage item within the heritage conservation area and therefore requires consent from Council. The proposed demolition is as follows:

- Sheriff's Cottage (1903) and 1980s extension

- Magistrate's and Judge's Yards and outbuildings
- Prisoner's Yard
- Garages (1920s)
- Portion of the gaol wall
- Trees in front courtyard
- Internal wall (1903) in existing jury rooms
- Internal fittings and partitions (20<sup>th</sup> century)
- Portion of the Fitzmaurice Street wall to be demolished and reconstructed
- Tree in rear court

The alterations to the heritage item are as follows:

- New access ramps, stairs and platforms to Court House
- Remove window (1980s) to Court House and brick in
- New internal walls
- New painting and floor coverings
- New smoke detection system and fire service plant
- New communications systems, in-court technologies and security services
- New mechanical services
- New lighting
- New staff courtyard
- New 2 storey building on site
- New linkage points to new building

**Clause 5.10(3)** The effect of the development on heritage significance must be considered and the development proposes substantial change to the site as existing. Overall, it is considered a positive by all stakeholders that the continued use of the site for court functions continue. Were the court functions to be moved off site, the heritage significance of the site would be significantly reduced and the difficulty of adaptive re-use of such a site is considerable.

#### Works to existing Court House

The **Fitzmaurice Street entrance** is proposed to be altered to provide equitable access by demolishing steps and part of the footpath to allow construction of an access ramp. The existing slate steps are proposed to be recorded, removed and stored on site. The handrails, believed to be a later addition to the building, are proposed to be removed. The steps are part of the original 1902 construction and are rated as having high heritage significance. Their removal has a detrimental impact on the heritage significance as the entrance is a primary feature of the development.

The Court House **courtyard** is of exceptional significance. Its colonnade is currently tiled with terracotta tiles, an apparent later addition. The floor of this area is required to be raised to allow for equitable access. This will partially obscure the brick skirting. As the layout is retained and the flooring is not original, the effect of this work on heritage significance is considered acceptable.

The existing original door to the western colonnade is to be removed and replaced with a secure automatic glazed door. Whilst the original door is not exceptionally significant, the loss of the detailing is regrettable, introducing a stark modern element to the historic colonnade.

Glass security screens are proposed along the southern and western colonnades. These are proposed to be located within the colonnade, thus screening off the brick pillars. The northern colonnade will be made accessible with a security door. The impact on heritage significance of this proposal is detrimental to the spatial arrangement. The open nature of the

courtyard is a defining feature of the building and this will be destroyed. The HIS states this is acceptable, provided the interventions are carefully detailed to minimise heritage impacts.

The plantings in the courtyard have not been assessed as having any heritage significance therefore the proposed upgrade to landscaping with architecturally appropriate planting is a positive in terms of heritage significance.

The **former forestry office** is located in the south-eastern section of the Court House building and was originally used as the forestry offices and separate areas for male and female witnesses. The internal dividing walls are proposed for demolition as well as the external south-eastern walls. These walls are assessed as having exceptional significance so their removal has significant negative heritage impact. The former wall alignments will be interpreted in the design, ceilings will be retained and the area will form the security area. The walls are removed in order to facilitate a better flow through the area as visitors are scanned and undertake bag checks. The HIS supports the proposal as it is well interpreted and essential to the new security and entrance requirements. There is demolition of insignificant fabric in the existing toilet area as part of the works to this area and no concern is raised over this element.

The south-west **courtyard wall** forms the boundary wall to Fitzmaurice Street and is of high significance. The original proposal as submitted had this wall demolished and rebuilt however, revised plans indicate that the wall will be demolished partially along the southern elevation but retained on the Fitzmaurice Street elevation. The wall is proposed to have new openings made into the Fitzmaurice Street elevation to provide access to fire hydrant and sprinkler booster valves. The HIS states this is acceptable given the constraints of the site but recommends that skilled tradespeople undertake the work.

The former **Chambers** are retained in layout with the southern-most room having 2 doors knocked through. The **former prisoners'/jury yards** and toilets are demolished with the majority of the northern walls retained. 2 northern doors are bricked up. The walls of this area are graded as exceptionally significant and the internals of moderate significance - the toilets graded as intrusive. The yards have been heavily modified and the area houses a collection of odd roof forms and an underutilised area. The new work here is single storey, with a pyramidal roof to complement the original roof style. Prisoner access will also be upgraded. The HIS concludes the works to this area of the site area acceptable given the modifications undertaken in the past. It is recommended that the area be recorded, that care be taken to protect the 1902 fabric and that all 1902 joinery, hardware, thresholds and other original fixtures be re-used wherever possible or labelled and stored on site.

The **south-east wing** of the Court House was originally in use as the jury dormitory and jury rooms. The walls are graded as exceptionally significant and internal areas highly significant. Some modifications have been undertaken but the area retains the original ceilings, joinery and one of the original fire surrounds. The internal walls are proposed to be removed, leaving a wall nib to allow for interpretation. Later addition timber windows in the eastern wall are proposed to be removed and the wall infilled. 2 new openings in the northern wall are proposed and 2 original openings are to be infilled, with the doors to be retained and protected. A new opening is proposed in the western wall. The works in this area are proposed in order to create a new courtroom. There is a proposed courtyard immediately south of this area linking the older building to the proposed new building. The courtyard provides light and ventilation for this court and allows for retention of the external wall and eaves details. The HIS states the works to this section are acceptable as they retain the functional use and allow for interpretation and recommends archival recording, use of skilled trades, retention of wall nibs and ceiling linings and chimneys above the walls and re-use of all 1902 joinery, hardware, thresholds and other original fixtures where possible or labelled and stored on site if not.

The **former Police Office and Store** is currently in use as a courtroom. The room has been heavily modified although some 1902 ceiling, wall and joinery details remain. It is proposed to create a corridor along the south-eastern wall and construct a dividing wall to create 2 protected witness rooms. The heritage impact is assessed as being acceptable provided an archival recording is taken, retention of original fabric is undertaken where possible and items not able to be re-used are stored.

A Safe Room is to be created from the **former Court of Petty Session Office** in the north-western corner of the Court House. It is currently in use by legal professionals and divided by a later partition wall, which is to be demolished. The fabric, apart from the partitions, is rated as exceptional. The adjoining strong room is to have 2 doors broken through for secure access. The HIS concludes this work is acceptable and will have a positive impact by allowing for more appreciation of the strong room. The HIS recommends archival recording, reinstatement of damaged detailing from the previous partitions, make new fitout as reversible as possible, retain and conserve the two original ducts under the clock tower, re-use or store all 1902 joinery, hardware, thresholds and other original fixtures.

Demolition of the former judges' and magistrates' yards is proposed to create a foyer and public toilet facilities. These are located south-west of the former jury rooms and attached to the south wall of the Court House. The area is surrounded by brick walls, which the CMP for the site rated as of exceptional significance but the HIS finds are modified and difficult to read as former yard walls. An intrusive roof was constructed to create a witness room and this obscures the original line of the Court House fenestration and eaves. The removal of these works will have a positive heritage impact by allowing for the reveal of at least three 1902 windows by a new corridor between the old and new buildings. The walls of the eastern yard are modern and have little or no significance. It is considered likely that the surfaces of the courtyards would have been paved therefore there is little likelihood of archaeological deposits. There is a loss of significant fabric with the removal of the 1902 walls however, the HIS notes that heritage significance had been compromised by the extent of alterations. The HIS recommends archival recording, use of skilled trades and retention or re-use of 1902 joinery, hardware, thresholds and other original fixtures.

#### Works to Sheriff's Cottage

The **Sheriff's Office** (also known as the former caretaker's cottage) is proposed to be fully demolished as part of the development. The building is noted as having high significance and was constructed in 1903. The building was extended in the 1980s and these works are rated as of neutral significance. The architecture of the cottage complements the Court House in style and materials. The HIS speculates that there may be evidence of the second and third courthouses under the front part of the cottage. No heritage concerns are raised about the demolition of the 1980s extension.

The HIS notes that the Sheriff's Office is located behind the high brick boundary wall to Fitzmaurice Street therefore makes no contribution to the conservation area value of the precinct. It also notes that these caretaker buildings are relatively rare in NSW and none remain in use as a residence.

The HIS concludes that the demolition of the Sheriff's Office is justified to enable a better relationship between the retained and conserved Court House and new building. Recommendations are for archival recording of the building, interpretation of the building and archaeological monitoring to identify and record any evidence of the second and third court houses.

The assessing planner and Council's Heritage Advisor concur that the loss of the Sheriff's Cottage is unfortunate but acceptable in terms of the retention of the other significant development on site.

#### Works to Cell Complex

Modifications to link to new and existing courtrooms are the only works to this building, due to operational and budget constraints.

#### Works to Police Garages

Full demolition of the **police garages** is proposed. The garages to the east have been assessed as having moderate significance as they have been heavily altered. Their loss to the site is acceptable, subject to archival recording and minimisation of archaeological impacts.

#### Works to 1865 Gaol Wall

This structure is a high brick wall that extends the length of the southern and most of the eastern boundary of the site. The wall has undergone much change during its existence, with length added, new openings added and filled in and a variety of height, thickness and finish. The north wall of the original gaol wall is rated as highly significant. The 1865 wall is retained along the Tarcutta Street elevation and along the southern elevation for a length of approximately 12 metres. In the middle of the site, a further 10 metres of wall is retained between the lock up and the extension to the Court House. In the parts of the wall that are proposed to be demolished, the footings can remain in order to preserve some of the alignment and historical significance. The HIS is supportive of the proposed demolition, stating that over half the wall is retained and where it is removed, the footings will remain and that overall, it is a justifiable loss to retain the Court House function on the site. Recommended is archival recording, archaeological monitoring and the use of skilled trades.

#### Works to Courtyard and Landscaping

The proposal involves the following works:

- Refurbishment of the existing Vernon courtyard (courtyard 1) - modify planter beds and re-plant
- Removal of 4 trees - 3 within the front setback of Sheriff's Cottage (1 on adjoining lot), 1 in existing rear courtyard
- Construction of 3 new courtyards - courtyard 2 at Fitzmaurice St, planted with a deciduous tree, courtyard 3, linear between old and new buildings, a shade garden and courtyard 4, between the cells and new building, planted with a deciduous tree and gravel mulch

Courtyard 1, the **original Vernon courtyard** central to the Court House is retained under the proposal and refurbished. It is currently in a somewhat neglected state and the new plantings have been selected to complement the architecture. Modifications to the colonnade are addressed earlier in this report. It is considered that the proposed works to the main courtyard will have a positive impact on its heritage significance.

The **south-west courtyard**, Courtyard 2, in the front setback of the Sheriff's Cottage contains plantings and landscaping that have no heritage significance. Under the proposal, the size of this courtyard is reduced significantly. Currently, the presence of a lemon tree hints at the former residential use of the site. The introduction of the fire hydrant and sprinkler valves adjacent to the Fitzmaurice Street wall will have a detrimental impact on the heritage significance of the courtyard, reducing the front portion to little more than a passage, however the majority of the wall will be retained. A new tree is proposed, as well as planting along the northern wall and the courtyard appears to become an egress area for Court House and agency staff. The excavation and tree removal required in this area may have

significance for the discovery of archaeological evidence of the previous courthouses on the site therefore care should be taken during removal.

### New Building

The construction of a long rectilinear **two storey building** with single storey section adjacent to the existing courthouse is designed to leave the main heritage building and courtyard intact.

The new building contains generous foyer, registry/sheriff office (including public foyer, counter, interview rooms and office space), new District Court, judicial area, jury facilities, amenities, space for agencies, witness area and corrective services, with a plant room on level 2.

Construction of the new building requires the removal of significant fabric and this is addressed individually above in this report. Currently, the 1902 Court House can be appreciated in the round, albeit with limited public access. The new building has its main impact along the southern elevation of the Court House and in the views to the area. It is considered the most substantial impact is from the Tarcutta Street elevation as the building is set well back from the Fitzmaurice and Sturt Street elevations of the site.

The new section of the building in the south-west corner is kept single storey with pyramidal roofs in order to have less impact on the Fitzmaurice Street streetscape and the main Court House building. This approach is assessed as making a positive heritage impact on the conservation area and the site in general. As this section is flanked by 2 significant heritage items, careful design was required. The single storey aspect and roof forms are assessed as having a positive heritage impact and this part of the new building is complementary to surrounding development and the conservation area in general. The Fitzmaurice Street wall remains in place under the proposal, thus obscuring most of the built element below the roofline.

To the east and behind the above mentioned single storey section, the building rises to two storeys with a third storey plant floor. This building was originally proposed as three storeys however was revised to two, a better heritage result. The higher part of the building was placed as far from the Court House Clock Tower as possible. The building is proposed at 13 metres in height, whilst the WWLEP permits a height of 16 metres. The building immediately south of the subject site is a c1970s public building that is an intrusive element in the conservation area and has a height of approximately 16 metres therefore the new court building will sit below its neighbour in height.

The external finish of new building is proposed using pigmented, precast concrete (polished and acid etched), glazing, fins and blades. Architecturally, the building forms a neutral backdrop to the 1902 Court House building but it is considered it does not display its judicial function. It presents as a generic administrative building. Nonetheless, the new building does not compete architecturally with the 1902 fabric, retains the use of the site and limits streetscape impacts. The HIS notes that construction of the new building has the potential to impact on any archaeological remains of the earlier development on the site (all court related), commenting that there are no large areas of excavation and that excavation will be localised for footings and services. Recommendations from the HIS are to retain the design team to oversee construction, seek expert archaeological and heritage advice through the project and undertake archaeological monitoring of excavation works.

In conclusion, the proposed development does make significant impact on the heritage significance of the site and the conservation area in general. There are many positive impacts, in particular, the retention of court functions on the site and there are many negative impacts which occur as a result of the constraints placed on the site through the very action of retaining as much significant fabric as possible.

### **5.12 Infrastructure development and use of existing buildings of the Crown**

The WWLEP does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under *State Environmental Planning Policy (Infrastructure) 2007*.

The WWLEP does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

### **7.2 Flood planning**

At the 1:100 year flood level, Council's flood modelling software shows that the Court House site is not inundated however it is isolated in such a flood event. It is considered that the proposed development is compatible with the flood hazard of the land and will have no impact on flood behaviour. See further discussion under the DCP section of the report, below.

### **7.5 Riparian lands and waterways**

The objectives of this clause are to protect or improve:

- i. water quality within waterways, and*
- ii. stability of the bed and banks of waterways, and*
- iii. aquatic and riparian habitats, and*
- iv. ecological processes within waterways and riparian areas, and*
- v. threatened aquatic species, communities, populations and their habitats, and*
- vi. scenic and cultural heritage values of waterways and riparian areas, and*
- vii. catchment protection to prevent increased sediment loads and stream bank erosion from entering lakes, rivers and waterways.*

(2) This clause applies to all of the following:

- a) land identified as "Water" on the Water Resource Map,*
- b) land identified as "Waterway" on that map,*
- c) all land that is within 40 metres of the bank or shore (measured horizontally from the top of the bank or shore) of each waterway on land identified as "Waterway" on that map.*

The land is identified as Water on the Water Resource Map.

Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

- a) any potential adverse impact on any of the following:*
  - a. water quality within the waterway,*
  - b. aquatic and riparian habitats and ecosystems,*
  - c. stability of the bed, shore and banks of the waterway,*
  - d. the free passage of fish and other aquatic organisms within or along the waterway,*
  - e. habitat of any threatened species, population or ecological community,*
- b) whether or not it is likely that the development will increase water extraction from the waterway for domestic or stock use and the potential impact of any extraction on the waterway,*
- c) proposed measures to ameliorate any potential adverse impact.*

The site is removed from the banks, shore and bed of the Murrumbidgee River and the Wollundry Lagoon therefore it is considered that no adverse impacts on the waterways are likely as a result of the development. The site is already developed and is not a habitat area for fish or aquatic organisms.

## **7.6 Groundwater vulnerability**

The objective of this clause is to protect and preserve groundwater sources. This clause applies to land identified as "Groundwater" on the Water Resource Map. The subject development is not development specified for the purposes of this clause therefore this clause does not apply.

**Schedule 5** of the WWLEP has the Wagga Wagga Court House at 57 Fitzmaurice Street, Wagga Wagga listed as a local heritage item. See discussion of heritage impacts under Clause 5 above and in the DCP section below.

## **State Environmental Planning Policies**

### **State Environmental Planning Policy (State and Regional Development) 2011**

This Development Application will be referred to the Southern Joint Regional Planning Panel for determination in accordance with Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011, which requires the Panel to exercise planning functions of the Council as a consent JRPP (Southern Region) Business Paper - Item 1 - 2013STH005 Page 7 authority under Part 2A of the Environmental Planning and Assessment Act for developments relating to the following:-

- (5) *Crown development with a capital investment value of more than \$5 million.*

The proposed development has a capital investment value of \$17 million.

### **State Environmental Planning Policy (Infrastructure) 2007**

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State.

## **Division 14 Public administration buildings and buildings of the Crown**

B3 Commercial Core is a prescribed zone for the purposes of this Division and public administration building has the same meaning as it has in the Standard Instrument (see earlier in this report under WWLEP).

This Policy does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

Development for the purpose of public administration buildings may be carried out by or on behalf of a public authority with consent on land in a B3 Commercial Core zone. As a development application was submitted, this provision is deemed to be satisfied.

### **(a)(ii) - The provisions of any draft environmental planning instrument**

#### **Draft local environmental plans**

There is no draft LEP applicable to the subject land.

#### **Draft state environmental planning instruments**

There is no draft SEPP applicable to the subject development proposal.

### **(a)(iii) - Any development control plan**

The Wagga Wagga Development Control Plan 2010 (WWDCP) came into effect upon the making of the Wagga Wagga Local Environmental Plan 2010 (16 July 2010).

Clause 1.10 - pursuant to this provision, advertisement and notification of the application is required. Notification was conducted to properties surrounding the development. The



proposal is also advertised development pursuant to the provisions and the application was placed on exhibition in accordance with these provisions. See later in this report for further information.

## Section 2 - Controls that Apply to All Development:

Clause 2.1 - pursuant to this provision, a site analysis plan is required for any development application. A site analysis plan was submitted with this application, addressing orientation, access, land use and heritage context.

### Clause 2.2 - Vehicle Access and Movements

The objectives of this provision, to ensure the safety and efficiency of urban and rural roads and limit new access points, have been fully met by the developer. The proposed works are expected to increase vehicle movements.

The vehicle access points to the development are from Sturt Street and Tarcutta Street and these are proposed to be retained. Adverse local traffic impacts from the development are not expected therefore a Traffic Impact Study is not warranted.

### Clause 2.3 - Off-street Parking

The WWDCP does not supply a parking rate for a court house. Business and office premises in the B3 zone are listed as requiring 1 space per 45m<sup>2</sup> GFA. The GFA for the site is calculated at approximately 3657m<sup>2</sup>, although the existing development is calculated at 1368m<sup>2</sup>. The provisions do not provide a guide for redevelopment in the B3 zone that increases GFA however the increased GFA generates a requirement for the provision of 51 car spaces on the basis of business/office land use. Site constraints are such that this amount of car parking cannot be provided on site without significant excavation or increase in building height, neither of which are desirable on the site.

Given the central location of the development with good access to public transport, it is considered appropriate to accept the developer's proposal to provide 13 car spaces in total on the site. This is an increase on the 10 spaces currently supplied on site.

To ensure the design and layout of parking is in accordance with the Australian Standards, a condition of consent shall reinforce this requirement.

### Clause 2.4 - Landscaping

The proposal generally satisfies the objectives of this section and a landscape plan was provided. The development requires the removal of 5 trees but proposes the renewed landscaping of the existing courtyard plus the addition of 3 courtyards. More than 5 trees are proposed to be planted to offset the removal of the 5 trees.

The original courtyard (the Vernon courtyard) is proposed to be refurbished and planted with species consistent with those used at the time of construction (1903).

The removal of trees is inconsistent with control 2, requiring the retention of natural features of the site. Due to their location at the Fitzmaurice Street elevation close to the site access point, the existing trees are at risk of damage through the construction phase. See the assessment under CI 5.9 of WWLEP for a detailed assessment of tree/vegetation removal.

### Clause 2.5 - Signage

The proposal includes a building identification sign on the ramp leading to the Fitzmaurice Street entrance. Under the provisions of the WWLEP, this sign requires consent. The sign appears to be indicative, as it is not shown in detail. Council's heritage advisor does not support this sign (see submission later in this report) and the HIS recommends a signage strategy be developed for the site. The senior planner concurs with this recommendation, which should be secured by way of a condition of consent.

#### Clause 2.6 - Safety and Security

This issue is not addressed in the SEE. The proposed development is generally consistent with the objectives of this section. Many of the controls are not relevant due to the public and secure nature of a Court House.

#### Clause 2.7 - Changing the landform - cut and fill

Minimal earthworks are proposed as part of this development.

#### Clause 2.8 Erosion and sediment control principles

Standard conditions of consent shall be attached to ensure protection against degradation of drainage systems.

### Section 3 Heritage Conservation

#### Clause 3.2.1 Alterations and additions to heritage items

The objectives of this section are to protect heritage significance by minimising impacts on the significant elements of heritage items, to encourage alterations and additions that are sympathetic to the buildings significant features and which will not compromise heritage significance and to ensure that alterations and addition respect the scale, form and massing of the existing building. The development is largely consistent with these objectives and this issue has been addressed under the LEP section of this report.

The proposal is also largely consistent with the controls, limiting work to the front elevation, designing new work to not visually dominate the original building, retaining chimneys and ensuring new work is recognisable as new. Other controls are not relevant to this development. More detailed discussion of heritage impacts is contained in the LEP section of this report, under Clause 5.

### Section 4 - Environmental Hazards & Management

#### Clause 4.1 Bushfire

A corner of the site is mapped as bushfire prone, due to the proximity of the site to the Murrumbidgee River and its riverine vegetation. The Bushfire Attack Level (BAL) is assessed as low therefore there is insufficient risk to warrant specific construction requirements.

#### Clause 4.2 Flooding

The site is located within the CBD protected by a levee bank around the Murrumbidgee River. Council's flood modelling software shows the site being inundated some 3 metres at Probably Maximum Flood (PMF) level, whilst at 1:100 flood level, the site is not inundated but is isolated. Table 4.2.1 requires that commercial development be built with minimum floor height 225mm above ground level within the building footprint. Developers should also consider local drainage and ponding of stormwater within the levee. The site is already fully paved therefore no additional impact on Council's stormwater system is anticipated. A condition of consent should secure the required minimum floor level.

### Section 10 Business Development

The proposed development is consistent with the objectives and controls for this section.

**(a)(iia) - any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and**

There is no planning agreement that has been entered into with regard to this development.

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

The application involves demolition and as such the provisions of AS 2601-2001: The Demolition of Structures applies to the development. A condition will be attached to the consent to ensure compliance with the standards.

A report addressing Clause 94 of the Regulations was submitted. Council's Construction Section raised no concerns in this regard and recommended conditions of consent with regard to BCA compliance.

#### **(b) - The likely impacts of the development**

##### **Context and setting**

The Wagga Wagga Court House is located within an established commercial precinct. Surrounding development is generally 2 storeys and the majority of development in the vicinity has some heritage significance.

The works to the 1902 Court House are considered likely to preserve the streetscape and conservation area generally, despite considerable loss and alteration to original fabric.

The most positive aspect of the development proposal is the retention of the site for court functions as they site has had continual use as a court house since the mid nineteenth century.

The proposed new building is architecturally modern and two storeys in height, albeit with a third storey plant room. It is not considered that this height would be detrimental to the setting; indeed, it is some 3 metres lower than the allowable height for the area. Overshadowing is minimised due to the nature and location of adjoining buildings to the south.

Views to the Court House are protected under the proposal by setting the new building back into the block and keeping the height lower. A third floor was deleted from the preliminary plans.

##### **Access, transport and traffic**

With the addition of court and agency facilities, it is anticipated that there will be some increase in traffic generation, however this is not considered to be detrimental to the area and the local road network is capable of handling the expected increase.

Under the proposal, minimal on-site car parking is provided, as is the current situation. A submission has been received from the public objecting to the non-provision of public car parking.

As the Court House does not currently provide car parking and there are no provisions guiding the provision of car parking for this type of development, it places a challenge. The provision of car parking would have to be made within another floor of the new building, which would increase its height and subsequently the impact on adjoining properties and the conservation area generally.

The site is currently serviced by the private bus company that provides transport in the city and there is a taxi rank in Gurwood Street nearby. There are also a number of public and private car parks in the vicinity of the site. The majority of Tarcutta Street is marked out for all day parking therefore it is considered that the provision of secure parking only for Court officials is acceptable.

##### **Services**

The existing 25mm diameter water supply from Fitzmaurice Street will need to be upgraded for the proposed development.

New street hydrants are required to service the development and these will be located at the front of the site in Fitzmaurice Street. This creates an impact on the historic brick wall but retains the majority of the structure.

## **Heritage**

Heritage impacts are discussed in detail under Section 5 of the WWLEP section of this report.

## **Natural Hazards**

The site is situated in a flood prone area. Council's flood modelling software indicates the site would not be inundated during a 1:100 year flood event therefore no flood management works or requirements are necessary.

A small portion of the site is mapped as bushfire prone. The development was not required to be referred to the Rural Fire Service and is not likely to increase the likelihood of bushfires occurring.

## **Man-Made Hazards**

The site has been in continual use as a court and gaol since the 1860s therefore it is not expected that the site would be contaminated. It is not listed on Councils' Contaminated Land Register.

A hazardous materials survey was submitted with the development application, the brief of which was to:

- conduct an inspection of the premises to identify typical locations and application in which Hazardous Building Materials have been used
- conduct a qualitative assessment of the risk that the identified Hazardous Building Materials pose to the users of the site
- Recommend hazard control strategies for management of the Hazardous Building Materials identified
- provide recommendations where remediation works are identified
- prepare a report with a Hazardous Building Materials Register and recommendations and from which a Hazardous Building Materials Risk Management Programme can be developed.

Asbestos materials, synthetic mineral fibre materials and lead based paint were identified on the site and the report makes recommendations as to the action to be taken with regard to the materials. The recommendations should be incorporated in a condition of consent to ensure workplace safety.

## **Economic Impact in the Locality**

The works are not expected to increase employment at the site, although the construction phase will see the employment of trades for a period of time.

The addition of court rooms will enable a wider range of cases to be heard in the city, which is likely to provide economic benefit to the city in the hospitality and transport industries and the legal profession. The SEE also notes that the development will provide job security for existing businesses and services that serve the court system, creating opportunities for new businesses to establish themselves.

## **Social Impact in the Locality**

By creating the ability for the Court to hear more cases in Wagga Wagga, patrons will not be required to travel as much as currently, which will have a positive social impact on those affected.

The retention of the court functions on the traditional site of the Court House contributes to the sense of community and the sense of place around the magnificent Vernon designed building.

The improvements in equitable access to the building will make it more accessible to a wider section of the community, which reduces the sense of social displacement that can be experienced when physical access is an issue.

The SEE also notes that the development will provide job security for existing businesses and services that serve the court system, creating opportunities for new businesses to establish themselves. This has positive social impacts within the community, as well as economic impacts.

#### **Pollution and off-site environmental effects**

Conditions will be attached to any consent to secure management of sediment and erosion during construction.

Stormwater will drain to Council's stormwater system. On-site detention is not required.

#### **Flora and fauna**

The site has not been identified as habitat and is not considered likely to impact on flora and fauna in the vicinity.

#### **Noise and Vibration**

Ambient noise levels in the vicinity are consistent with the CBD location of the site. The proposed development is not considered likely to significantly impact on noise levels. Noise levels from the roof plant will be managed so as not to exceed noise control provisions established by relevant legislation.

Demolition and construction will increase noise and vibration levels in the vicinity in the short term. Conditions of consent will limit the days and hours of construction.

#### **Energy Impacts**

The proposed new building has been designed to reduce water and energy usage. Air conditioning is mixed mode, enabling fresh external air to be circulated when conditions are appropriate. Thermal mass, high levels of insulation and sealing are employed to reduce heat loss and gains. Glazed areas utilise high performance glass with vertical sun shades to improve comfort levels. The atrium void in the new building can naturally ventilate the foyer when conditions permit and these areas are heated with slab heating. Energy efficient lighting is proposed and natural light is maximised through the atrium and large window areas. All new fitting and fixtures were selected for energy and water use efficiency, according to the SEE.

#### **Site Design and internal design**

It could be argued that the design is not sensitive to the site conditions in that it removes fabric and does not utilise one of the buildings on site due to ownership limitation.

The SEE outlines the various options available for development on the site and comments on the pros and cons of each option.

The final design preserves the main 1902 building, keeps the new building away from the front of the site and along the southern boundary and therefore it is assessed that the site design is as appropriate as it can be whilst still satisfying the security, operational and heritage requirements for the site and its vicinity.

#### **Construction**

Construction of the development is likely to be disruptive in the vicinity of the subject site. The development is proposed to be staged in order to maintain continual occupation of the site and minimal disruption to court functions.

No Construction Certificate is required, as the development is Crown Development therefore impacts of construction are not able to be secured by way of conditions of consent.

Any impacts will be temporary and short term and there are no long term impacts from construction that raise concern.

### **Cumulative Impacts**

The cumulative impact of the development on the site, in the locality and in the local area is not of concern as the use of the site is retained, albeit at a somewhat intensified concentration due to the additional court and agency facilities.

### **The Principles of Ecologically Sustainable Development**

The project was designed in accordance with ESD principles.

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

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

The site is assessed as being suitable for the development. See the discussion of impacts above as well as the detailed discussion in part 5 of the LEP section of this report.

#### **Site Attributes in relation to the proposed development**

It is considered that the site can adequately accommodate the development as proposed.

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

##### **Referrals**

###### **Internal**

The application was referred to the Mayor, General Manager and the Manager of Economic Development as the cost was over \$1million.

###### **External**

The application was referred to Council's Heritage Advisor and the Heritage Council.

##### **Notification**

Adjoining owners were notified of the development proposal on 10 May 2013 for a period of 14 days. It was later noted that the incorrect property address was notified therefore re-notification was conducted on 12 June 2013, again for a period of 14 days. The applicant made amendments to the development and the application was again notified on 16 August 2013.

##### **Advertising**

The application was placed on exhibition in accordance with the DCP provisions from 14 May 2013 until 28 May 2013. The incorrect property address, as made on the development application form, was printed on the notice therefore the application was re-exhibited from 14 June 2013 until 28 June 2013. Following the submission of amended plans, the application was placed on exhibition again from 20 August 2013 until 3 September 2013.

##### **Public Submissions and those from public authorities**

One submission was received from a member of the public raising concern that the provision of car parking is inadequate, given the number of residential properties in the vicinity and likelihood of people using the court house to require all day parking.

Comment: Concern has been raised about this issue in the assessment of this application. Public parking has not traditionally been provided on site. The redevelopment does provide the opportunity to address this however, due to site constraints, the options are to excavate for parking, or build a level of car parking in the new building. The proximity of the site to the river and to other heritage items makes excavation difficult. The site is groundwater sensitive and the massive excavation required could threaten the stability of the site and destroy potential archaeological deposits. The construction of a level of car parking in the new building would add 3-4 metres to the height of the building, which would have an undesirable effect on the setting. The site is already subject to significant budget constraints and it is considered that it is in the public interest that the project go ahead, despite the non-provision of public parking.

One submission was received from the Heritage Council. This is summarised below:

- Although the Wagga Wagga Courthouse building is not listed on the SHR, the precinct is considered to be of state heritage significance. Continued use of the courthouse building and site as a justice and corrective services facility is considered essential to ensure the social significance of the precinct is sustained.
- The scale and setback of the proposed development is considered to be sympathetic to the existing courthouse building and the adjacent local heritage items.
- The contemporary materiality and massing of the new building would establish clear delineation between significant fabric and new built elements.
- The proposed detailing of the junction between the new building and the southern wall of the original courthouse and the proposed courtyard space would establish a sufficient level of separation to ensure that the new building does not compromise the integrity of the original roofscape.
- Significant views from the public sphere to the courthouse would be retained by the proposed development. Significant views to the adjacent heritage item at 53 Fitzmaurice Street would be retained.
- The proposed alterations to the steps at the entrance from Fitzmaurice Street would facilitate disabled access via the primary public entrance to the courthouse building. Although the alterations would conceal the significant fabric of the stairs, the existing stairs would be retained below new construction, making this a reversible change.
- The perimeter walls of the compound are highly significant landscape elements. To facilitate site access it is proposed to disassemble the 1904 wall at Fitzmaurice Street and reconstruct upon completion of construction. The 1904 wall has distinctive masonry bonds and patterns and is associated with the work of Walter Liberty Vernon. Disassembly of this wall is considered to have a negative impact to highly significant fabric. The 1863 wall at Tarcutta Street, has previously been subject to alteration, particularly at the perimeter of the 1920s garages. The 1920s portion of the perimeter wall at Tarcutta Street may be disassembled and reconstructed with lesser negative impact to significant fabric.
- The existing toilets, courtyard and 1980s extension jury rooms are considered to be of little heritage significance. Demolition of these elements would have no negative impact to the significance of Wagga Wagga Courthouse.
- The existing 1920s police garages are considered to be of moderate heritage significance. However, demolition of this structure is considered necessary to facilitate continue viable use of the courthouse building.
- The existing 1903 sheriff's cottage is considered to be of high heritage significance. Demolition of this building would have a negative impact to the aesthetic and social significance of the courthouse precinct. However, demolition

of this structure would facilitate continued use of the exceptionally significant courthouse building.

- The existing walls of the prisoner's yard are considered to be exceptionally significant fabric. However, demolition of this fabric would facilitate continued use of the exceptionally significant courthouse building.
- The proposed interior alterations to the courthouse building involve the demolition of some significant fabric. Demolition of this fabric, as documented, is considered to have a minor impact to the aesthetic significance of the interiors.
- The proposed removal of two 'late addition windows' at the end of the existing western wing jury room, as detailed, would reinstate an original building design element without negative impact to significant fabric.

To ensure the proposed development does not adversely affect the heritage significance of Wagga Wagga Courthouse it is recommended that any Development Application approval include the following conditions:

- 1) *The 1904 perimeter wall, at the Fitzmaurice Street boundary, is not to be removed or disassembled. It is recommended that alternative site access options be explored.*

*Should site access options require removal of or alteration to significant fabric, revised site plans must be reviewed by the Heritage Council of NSW and submitted to The City of Wagga Wagga for approval.*

- 2) *The existing Fitzmaurice Street entrance steps are to be retained and protected below the new works. Any fragile fabric, that cannot be adequately protected, should be removed prior to construction, labelled and stored onsite to facilitate future reinstatement.*
- 3) *To mitigate negative impact to heritage significance, caused by the proposed demolition of the exceptionally significant prisoner's yard walls and highly significant Sheriffs cottage, interpretation of these structures should be integrated into the detailed design of the new building. If possible interpretation should include retention of some significant wall fabric for reconstruction as part of the new building. The interpretation plan should be prepared by a suitably qualified and experienced consultant, reviewed by the Heritage Council of NSW or its delegate and then submitted to The City of Wagga Wagga for approval.*
- 4) *A photographic and archival recording of the Sheriffs Cottage, Prisoner's Yard, Police Garages, Fitzmaurice Street entrance steps (in the context of the Fitzmaurice Street facade) and all significant interiors effected by the works, is to be undertaken prior to the commencement of any construction activity. Recording is to be completed in accordance with the Guidelines issued by the Heritage Council of NSW. Copies of these photographic recordings should be made available to the Heritage Council of NSW, and also to the Local Studies Library and the Local Historical Society in Wagga Wagga.*
- 5) *Significant built elements are to be adequately protected during the works from potential damage. Protection systems must ensure significant historic fabric is not damaged or removed.*
- 6) *New services shall be concealed appropriately to minimise visual impacts.*

*The installation of new services and fit-outs shall be carried out in such a manner as to minimise damage to or removal of historic fabric and shall not obscure historic features. Any penetrations through heritage fabric for supply and waste pipes and mechanical ducts should be prevented.*

- 7) *All new internal and external finishes and works of making good shall match the existing original work adjacent in respect of materials used, detailed execution and finished appearance.*



- 8) *Prior to the commencement of any excavation works, the applicant, or any other party acting upon the consent, shall obtain an excavation permit under Section 140 of the Heritage Act 1977 from the Heritage Council of NSW. The Excavation Director nominated in the s140 Permit must meet the Heritage Council's Criteria for Excavation Directors and must be able to demonstrate completion of large scale excavation works and final reports on State significant archaeological sites.*
- 9) *The Applicant, or another party acting upon the consent, shall comply with the conditions and requirements of any excavation permit or other approval issued by the Heritage Council, and must ensure that the development programme complies with those conditions and requirements.*

Comment: the issues raised in this submission are generally concurred with and there is no objection to attaching the recommended conditions to any consent.

Council's Heritage Advisor made a submission in response to the referral of the application to him. The submission is summarised below:

- The upgrade is a strong positive in heritage terms as it allows the building to maintain its historic use
- The lowering of the new building by a whole storey has considerably reduced the impact of the works and is a strong positive in heritage terms
- Concerns about constraints put on the site by limiting the area for new buildings
- Concern about loss of significant elements - caretakers cottage, garden, large portion of early wall
- Option of a long narrow building places too great a restriction on the design - can't express its judicial function architecturally
- Parking area of site unranked so ideal for development
- Part of heavily modified lock-up is moderately significant so could be partially demolished to allow greater footprint for development
- Exclusion of police station add an unnecessary constraint to the site
- New building does not complement original court building - could be an elegant backdrop but is generic in design
- Overall, this is not an acceptable outcome for this significant site and design should be reconsidered however the following comments relate to the design as submitted:
  - Proposed height is appropriate, rooflights intrusive
  - New building not heavily articulated so could dominate the site - exacerbated by 2 storey glazed elements & large blank walls
  - Design limits junctions to original court house, allow it to be readable but consideration could be given to reducing the contact points
  - Long form of building results in long circulation spaces
  - Removal of some eaves brackets acceptable but should be retained on site or even re-fixed at other points
  - Proposal sensibly limits changes to areas that have been previously altered. HIS is clear & through and he concurs with assessment
  - Demolition of sherrif's cottage inevitable but unfortunate - acceptable if it allows better planning for new works
  - Reconsideration of enclosure of main court yard with screens is a positive
  - Better to retain entrance & open court as they are

#### **(e) - the public interest**

##### **Federal, state and local government interests and general community interests**

There are a number of stakeholders with interests in this development. Overwhelmingly, it is considered to be in the public interest to upgrade the Wagga Wagga court facilities to

improve access, consolidate operations, provide more courts for flexible use and retain the historic use of the present site. It is also in the public interest to preserve the 1902 Court House in its setting. These objectives result in conflicts which can be challenging to resolve. It is considered that there is a considerable loss of important and historic fabric as a result of this development however this can be justified by the retention of the use of the site, the preservation of the main building with its courtyard, clock tower and distinctive architecture and sensitivity in the treatment of the original fabric. In this circumstance, the public interest takes precedence over a number of the objectives and controls listed in Council's planning documents. Taking into account the full range of matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, as discussed within this report, it is considered that approval of the application is in the public interest.

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## **Other Legislative Requirements**

### **Section 5A ("Seven Part Test" - Threatened Species)**

The site is not noted as containing threatened species, endangered populations, endangered ecological communities or habitat therefore the proposed development is assessed as being unlikely to have an adverse effect on critical habitat and is not a threatening process.

### **Section 79B(3)**

Concurrence of the Director General, National Parks and Wildlife Service is not required.

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## **Council Policies**

No policies relevant to this application.

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## **Comments by Council's Officers and/or Development Assessment Team**

Council's other relevant officers have reviewed the application in accordance with Council's processing procedures.

Council's Infrastructure Planning section reviewed the application and raised objection to the encroachment of the tactile indicators into the road reserve. A review of the design was requested to ensure the encroachment was absolutely necessary and that there is no other solution available. The applicant was provided with this advice. It is acknowledged that the tactile indicators are necessary to alert vision impaired pedestrians of the location of potential trip hazards.

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

Section 94A of the Environmental Planning and Assessment Act 1979 and the City of Wagga Wagga's Levy Contributions Plan 2006 enables Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. The Plan does not exempt Crown development from the contribution of funds however, the applicant must agree to any conditions imposed on Crown development. The cost of works is put at \$13,487,001. The levy is 1% of development cost.  $13,487,001 \times 1\% = \$134,870.01$ .

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A Section 94A contribution of \$134,870.01 applies to this development that will be put towards the provision of high quality and diverse public facilities to meet the expectations of the residents of the city.

Section 64 of the Environmental Planning and Assessment Act 1979, Section 306 of the Water Management Act 2000 as well as the City of Wagga Wagga's Development Servicing Plan for Stormwater 2007 and City of Wagga Wagga Development Servicing Plan for Sewerage 2006 enable Council to levy developer charges based on the increased demands that new development will have on sewer and/or stormwater. The Plan does not exempt Crown development from the contribution of funds however, the applicant must agree to any conditions imposed on Crown development.

The subject site is located within the Urban West of Willans Hill development servicing area. The increase in impervious area is calculated at nil therefore there is no charge payable for stormwater contributions.

The additional floorspace is stated as 2,289m<sup>2</sup>. Under the Water Directorate Guidelines, the use is 0.1 ET/m<sup>2</sup> floor space.

$2289 \times 0.01 \times 1910$  (charge at date of DA submission)  $\times 100.4/87.7$  (CPI) = \$50,051.  
The charge for increased impact on the sewer system is therefore \$50,051.

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#### **Other Approvals**

No other approvals were sought with this application.

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#### **Conclusion**

This proposal, for Alterations and Additions to Court House including Access Ramp, Demolition of Former Cottage & Construction of 2 Storey Court Building & Associated Landscaping at 57 Fitzmaurice Street, Wagga Wagga, is generally consistent with the objectives and controls for buildings in the heritage conservation area. This application has been assessed having regard to the Heads of Consideration under Section 79C(1) of the *Environmental Planning and Assessment Act 1979*, the provisions of Wagga Wagga Local Environmental Plan 2010 and all relevant Council DCPs, Codes and Policies. Where there are inconsistencies, adequate justification has been provided. Having regard for the information contained in this report it is recommended DA13/0228 be approved subject to suitable conditions of development consent, as agreed to by the applicant, in accordance with the provisions for Crown Development.

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#### **RECOMMENDATION**

It is recommended that the Wagga Wagga City Council approve Development Application DA13/0228 for Alterations & Additions to Courthouse including Access Ramp, Demolition of Former Cottage & Construction of 2 Storey Court Building & Associated Landscaping, 57 Fitzmaurice St WAGGA WAGGA NSW 2650 , Lot 1 Sec 39 DP 759031, in accordance with the following conditions:-

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#### **CONDITIONS**

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## Approved Plans and Documentation

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

Plan/Doc. No.	Plan/Doc. Title	Prepared by	Issue	Date
17081_topo.dwg	Feature & Detail Survey	Esler & Associates		15.11.2012
MMD-313703-P-DR-00-XX-001 to 005	Hydraulic Services	Mott MacDonald		03.05.2013-
AR:DA:1001	Existing Site Plan	TKD Architects	A	06.05.2013
AR:DA:1002	Site Analysis Plan	TKD Architects	A	06.05.2013
AR:DA:1003	Proposed Site Plan	TKD Architects	B	7.08.2013
AR:DA:1004	Site Control Plan - Stage 1	TKD Architects	A	06.05.2013
AR:DA:1005	Site Control Plan - Stage 2	TKD Architects	A	06.05.2013
AR:DA:1102	Existing Ground Floor Plan	TKD Architects	A	06.05.2013
AR:DA:1201	Demolition Plan	TKD Architects	C	7.08.2013
AR:DA:1202	Demolition Elevations	TKD Architects	B	7.08.2013
AR:DA:2101	Ground Floor Plan	TKD Architects	D	7.08.2013
AR:DA:2102	Level 1 Floor Plan	TKD Architects	D	7.08.2013
AR:DA:2103	Roof Plant Floor Plan	TKD Architects	C	7.08.2013
AR:DA:2104	Roof Plan	TKD Architects	C	7.08.2013
AR:DA:3001	Elevations 1	TKD Architects	B	7.08.2013
AR:DA:3002	Elevations 2	TKD Architects	B	7.08.2013
AR:DA:3003	Elevations 3	TKD Architects	B	7.08.2013
AR:DA:3100	External Materials & Colours	TKD Architects	A	06.05.2013
AR:DA:4001	Sections 1	TKD Architects	B	7.08.2013
AR:DA:4002	Sections 2	TKD Architects	B	7.08.2013
AR:DA:5001	Connections to Existing Court House	TKD Architects	B	7.08.2013
AR:DA:5002	Upgrade to Existing Building Entry	TKD Architects	B	7.08.2013
AR:DA:9001	Street View 1	TKD Architects	B	7.08.2013

AR:DA:9002	Street View 2	TKD Architects	A	06.05.2013
AR:DA:9003	Street View 3	TKD Architects	A	06.05.2013
AR:DA:9004	Street View 4	TKD Architects	A	06.05.2013
AR:DA:9005	Aerial View 1	TKD Architects	B	7.08.2013
AR:DA:9006	Aerial View 2	TKD Architects	B	7.08.2013
AR:DA:9007	Interior Views 1	TKD Architects	B	7.08.2013
	Demolition Plan	TKD Architects		May 2013
	Hazardous Building Materials Survey	Hibbs & Associates		June 2009
	Statement of Environmental Effects	TKD Architects		May 2013
	Heritage Impact Statement	The Heritage Group, NSW Government Architect's Office		August 2013
3937 Rev 01	Clause 94 of EP&A Regulation 2000 Review	AE&D		03.05.2013
	Cost Summary Report	Altus Page Kirkland		02.05.2013

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 96 of the *Environmental Planning and Assessment Act, 1979*.

REASON: It is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

## Prior to Commencement of Works

### 2. If the work involved in the erection or demolition of a building or structure:

- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- b) building involves the enclosure of a public place,
- c) a hoarding or fence must be erected between the work and the public place prior to works commencing on site.
- d) If necessary, an awning must be erected, sufficient to prevent any substance, from or in connection with the work, falling into the public place. Further the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- e) **NOTE 1:** Any such hoarding, fence or awning must be removed when the work has been completed.

- f) **NOTE 2:** Any external lighting required by this condition must be designed and positioned so that, at no time, will any light be cast upon any adjoining property.
- g) **NOTE 3:** Prior to any hoarding being erected, the applicant must ensure that application for a Hoarding Permit is made with Council's Development Services business unit.

REASON: It is in the public interest that adequate safety measures are provided. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

3. **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 Council's 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:** The applicant must retain weighbridge certificates, receipts or dockets that clearly identify where waste has been deposited. Documentation must include quantities and nature of the waste. This documentation must be provided to Council prior to occupation of the development.

**NOTE 3:** The suitable container for the storage of rubbish must be retained on site until completion of the development.

REASON: To ensure that the building site and adjoining public places are maintained in a clean and tidy condition so as not to interfere with the amenity of the area. Section 79C (1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

4. **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 2.8 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.

REASON: To ensure the impact of the work on the environment in terms of soil erosion and sedimentation is minimised. Section 79C (1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

5. **Interpretation of the exceptionally significant prisoners' yard walls and highly significant Sheriff's Cottage should be integrated into the detailed design of the new building. If possible interpretation should include retention of some significant wall fabric for reconstruction as part of the new building. The interpretation plan shall be prepared by a suitably qualified and experienced**

consultant, reviewed by the Heritage Council of NSW or its delegate and then submitted to Wagga Wagga City Council for approval by the Director of Planning or their delegate, prior to the commencement of works.

REASON: To mitigate negative impact to heritage significance. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

6. Prior to the commencement of works, an archival photographic recording of the Sheriff's Cottage, Prisoner's Yard, Police Garages, Fitzmaurice Street entrance steps (in the context of the Fitzmaurice Street facade) and all significant interiors effected by the works, is to be undertaken, in accordance with the Heritage Office document Photographic Recording of Heritage Items Using Film or Digital Capture. This document is available from [heritage.nsw.gov.au/docs/info\\_photographicrecording2006.pdf](http://heritage.nsw.gov.au/docs/info_photographicrecording2006.pdf).

7. The archival record of the site shall be submitted to the Wagga Wagga City Council Director of Planning or their delegate for approval.

REASON: It is in the public interest that an accurate historical record of the building is kept. Section 79C (1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

8. Prior to the commencement of works the developer must lodge a bond with Council of \$2000 for security deposit on the kerb and gutter and footpath.

**NOTE 1:** All monetary conditions are reviewed annually, and may change on 1 July each year.

**NOTE 2:** Works in the form of driveways, kerb and gutter and footpath may require you to obtain a Section 138 Roads Act 1993 approval. Please contact Councils Road Reserve Officer on 1300 292 442 prior to undertaking such works.

**NOTE 3:** Council will accept a once off security deposit for the kerb and gutter and footpath for applicants who lodge multiple DA's with council. If the applicant has security deposits held by Council for kerb and gutter and footpath at the time of Construction Certificate application, then Council may waive the need for an additional bond to be paid.

**NOTE 4:** Applicants will be required to reference the kerb and gutter bond number (BKG Number) when lodging bond monies. Please reference BKG number on application form which is available from customer service and on council's website under the Planning tab > document quick links > applications / or alternatively reference BKG number when making electronic payment.

**NOTE 5:** The bond held on the kerb and gutter and footpath is fully refundable upon completion of all works and upon inspection by Council to ensure that any damage to Council infrastructure has been repaired. The bond will not be refunded in the event that damage done to Council's infrastructure is not repaired to the satisfaction of Council. All damage is to be repaired at the full cost of the applicant.

REASON: It is in the public interest that such fees are paid in accordance with Council's Management Plan. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

9. Prior to the commencement of works, the applicant shall submit to Council for approval a revised site plan that indicates finished paving levels demonstrating that the stormwater overland flow path is directed towards the street.

REASON: It is in the public interest that plumbing and drainage work is carried out in accordance with AS/NZS 3500 and the relevant provisions of the New South Wales Code of Plumbing Practice, Plumbing and Drainage. Section 79C(1)(e) of the *Environmental*

*Planning and Assessment Act 1979, as amended.*

- 10. Pursuant to s94A of the *Environmental Planning and Assessment Act 1979* and City of Wagga Wagga Section 94A Levy Contributions Plan 2006, prior to the commencement of works, the applicant must pay to Council a levy in the amount of \$134,870.01 towards the cost of one or more of the public facilities specified in the Works Schedule to that Plan. This amount must be indexed in accordance with clause 25J(4) of the Environmental Planning and Assessment Regulation 2000 and clause 11 of the City of Wagga Wagga Section 94A Levy Contributions Plan 2006. A copy of the City of Wagga Wagga Section 94A Levy Contributions Plan 2006, is available for inspection at Council Chambers, corner Baylis and Morrow Streets, Wagga Wagga.**

REASON: Having considered the development in accordance with Section 94 A of the *Environmental Planning and Assessment Act 1979*, as amended, Council is satisfied that the development will require the provision of, or increase the demand for, public infrastructure, public amenities or services within the area. Section 80A(1)(h) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 11. Prior to the commencement of works, the applicant is to obtain a compliance certificate under s306 of the Water Management Act 2000 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 - please contact Riverina Water to ascertain compliance certificate water supply related requirements. A copy of such a compliance certificate is required prior to works commencing.**

**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 contribution required is \$50,051**

**NOTE 6: The Section 64 Stormwater contribution required is NIL**

REASON: It is in the public interest that Council maintain the ability to provide adequate water and sewer reticulation services. Section 79C(1)(c) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended).

- 12. Prior to the commencement of works, a signage strategy shall be prepared for the site containing provisions for the control of all internal and external signage. The strategy should consider the design and method of fixing of all signs, particularly those attached to significant heritage fabric. The signage strategy shall be submitted to Wagga Wagga City Council for the approval of the Director of Planning or delegate.**

REASON: To mitigate negative impact to heritage significance. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.



- 13. Approval is not granted under this consent for the removal of the lillypilly tree (Tree 4 as noted on plans) as it is located on the adjacent property and owner's consent has not been received. Prior to works commencing, a Preservation of Trees application should be submitted and approved.**

REASON: To prevent the development having a detrimental effect on the development existing on adjoining land. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 14. Prior to the commencement of works, an application may be lodged for an Activity Approval under Section 68, Part B - 4, 5 and 6, of the Local Government Act 1993 for any public infrastructure sewer / stormwater works.**

REASON: To ensure that the activity is carried out with the relevant approvals required under the Local Government Act 1993.

- 15. 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.**

REASON: To ensure compliance with the relevant provisions of the *Plumbing and Drainage Act 2011* and Regulations.

- 16. Prior to works commencing, a sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:**

- a) stating that unauthorised entry to the site is prohibited, and
- b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside work hours
- c) the development consent or complying development consent number, the name and contact details of the Principal Certifying Authority.

**Any sign must be removed when the work has been completed.**

**NOTE: This condition does not apply to:**

- a) building work carried out inside an existing building, or
- b) building work carried out on premises that must be occupied continuously (both during and outside work hours) while the work is being carried out.

REASON: It is in the public interest that adequate safety measures are provided. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 17. Prior to works or activities commencing within the road reserve approval under Section 138 of the *Roads Act 1993* is required from Council.**

**The applicant is required to submit and have approved a written application for *Consent to Work on a Road Reserve*. All works shall be carried out in accordance with the approved details. Please contact Council's Activities in Road Reserves Officer on 1300 292 442.**

REASON: It is in the public interest that proposed works being carried out within the road reserve, in association with the subject development, are assessed for compliance against relevant traffic management standards and the terms and conditions of the

*Roads Act 1993. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.*

#### **During works**

- 18. The Builder must at all times maintain, on the job, a legible copy of the plan approved with the Development Application.**

REASON: It is in the public interest that a copy of the Development Application plans are available, and Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 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.**

**Excavations must be undertaken in accordance with the terms and conditions of Section 2.7 of the Wagga Wagga Development Control Plan 2010.**

REASON: It is in the public interest that all building elements are able to withstand the combination of loads and other actions to which it may be subjected. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 20. 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 applicant shall submit to Council:**

- 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 the 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.**

REASON: It is in the public interest that the demolition be carried out in a safe manner and that the utilities be protected from damage. Section 79C(1)(a) & (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 21. The permitted construction hours are Monday to Friday 7.00am to 6.00pm and Saturday 7.00am to 5.00pm, excepting public holidays. The applicant must take all**

**reasonable steps 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.**

REASON: To ensure building works do not have adverse effects on the amenity of the area. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 22. During on site works, adequate fire precautions must be undertaken ensuring the provision of at least one fire extinguisher to suit Class A, B and C fires and electrical fires at all times in the construction area.**

REASON: To ensure that adequate fire protection services are provided in the building to restrict fire growth, to facilitate the fighting of fire to minimise damage to the building and its contents and to prevent the spread of fire to adjoining properties. Section 79C (1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 23. All earthworks, filling, building, driveways or other works, must be designed and constructed (including stormwater drainage if necessary) so that at no time, will any ponding of stormwater occur on adjoining land as a result of this development.**

REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 24. All storm water runoff from the proposed development must be collected on site and conveyed to Councils stormwater system, in a manner consistent with AS 3500 and Council's Engineering Guidelines for Subdivision and Development.**

REASON: To provide for the drainage of storm water and minimise the risk of flood damage to adjoining properties. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 25. Stormwater drainage must be constructed and maintained so as to provide a 1 in 10 year pipe system, satisfactory overland flow path and not adversely affect adjacent properties.**

REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 26. Floor levels must be 225mm above existing ground level.**

**NOTE 1: The applicant may undertake actions to ensure that approved residential development is built at 500mm above the 1:100 year flood event, subject to a separate development application approval.**

REASON: To reduce the likelihood of damage from floodwaters. Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 27. In the event that any Aboriginal site is found in an area affected by works, work will immediately cease and the applicant will contact the Department of Environment Climate Change and Water. Any works which may result in destruction or damage to known Aboriginal sites will require a Consent to Destroy from the Department of Environment Climate Change and Water in accordance with Section 90 of the National Parks & Wildlife Act 1974.**

REASON: To ensure that Aboriginal sites are protected. Section 79C (1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 28. Trees indicated on the submitted plans for removal, plan AR.DA.1002, dated 06.05.2013, shall be removed from the site in accordance with the proposed**

development. Consent under Council's Tree Preservation Order is not required for removal of the subject trees.

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

Tree stumps should be removed below ground level and surface area reinstated to prevent potential injury.

All waste material from the subject tree/s shall be removed from site in conjunction with clearing. Consideration should be given to mulching the canopy material of the subject trees and should be utilised in conjunction with the proposed landscape areas of the development.

REASON: Because it is considered that the subject trees are prejudicial the successful implementation of the development. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 29. The applicant must obtain a Compliance Certificate from Council for the plumbing and drainage work identified in Column 1 at the times specified in Column 2.**

<b>COLUMN 1</b>	<b>COLUMN 2</b>
<b>Internal Sewer Drainage</b>	<b>When all internal plumbing work is installed and prior to concealment.</b>
<b>External Sewer Drainage</b>	<b>When all external plumbing work is installed and prior to concealment.</b>
<b>Stormwater Drainage</b>	<b>When all external stormwater drainage work is installed and prior to concealment.</b>
<b>Stack Work</b>	<b>When all work is installed and prior to concealment.</b>
<b>Final</b>	<b>Prior to occupation of the building.</b>

REASON: It is in the public interest that plumbing work is certifying as complying with AS/NZS 3500.2003 and Plumbing Code of Australia.

- 30. All building work must be carried out in accordance with the requirements of the Building Code of Australia.**

REASON: To ensure the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulations 2000, as amended, and Section 80A(11) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 31. The existing Fitzmaurice Street entrance steps are to be retained and protected below the new works. Any fragile fabric, that cannot be adequately protected, should be removed prior to construction, labelled and stored onsite to facilitate future reinstatement.**

REASON: To ensure that original fabric is retained where possible. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 32. Significant built elements are to be adequately protected during the works from potential damage. Protection systems must ensure significant historic fabric is not damaged or removed.**

REASON: To ensure that original fabric is retained and protected where possible. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

#### **Prior to Occupation**

- 33. Prior to Occupation, the paving of all vehicular movement areas must be either hotmix sealed or 150mm of reinforced concrete as a minimum.**

REASON: To provide all weather vehicular movement and to minimise nuisances to adjoining development from noise and dust. Section 79C(1)(b) and (c) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 34. A final inspection must be carried out upon completion of plumbing and drainage work and prior to occupation of the development, prior to issuing final plumbing certificate Council must be in possession of Notice of Works, Certificate of Compliance and Works as Executed Diagrams for the works.**

**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.**

REASON: To ensure compliance with the relevant provisions of the *Plumbing and Drainage Act 2011* and Regulations.

- 35. A Certificate of Compliance and Works as Executed Diagram shall be submitted to and approved by Council prior to the issue of a Final Plumbing Certificate.**

**The Works as Executed Diagram must be submitted in electronic format in either AutoCAD or PDF File in accordance with Council Requirements.**

REASON: To ensure compliance with the relevant provisions of the *Plumbing and Drainage Act 2011* and Regulations.

- 36. Prior to Occupation 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.**

REASON: To ensure that the water servicing requirements of the development have been approved by the relevant authority. Section 79C (1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended

- 37. Prior to occupation the applicant shall ensure that any existing earthenware drainage lines beneath the proposed development must be replaced with PVC to comply with the relevant provisions of AS3500.**

REASON: It is in the public interest that plumbing and drainage work is carried out in accordance with AS/NZS 3500 and the relevant provisions of the Plumbing Code of Australia. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

## **General**

- 38. All exterior lighting associated with the development must be designed and installed so that no obtrusive light will be cast onto any adjoining property.**

**NOTE: Compliance with Australian Standard AS4282.1997 "Control of the Obtrusive Effects of Outdoor Lighting" will satisfy this condition.**

REASON: To prevent the proposed development having a detrimental effect on the developments existing on adjoining land. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 39. The Applicant is to ensure that should asbestos material be found, that it is handled, transported and disposed of in accordance with the legislative requirements and standards determined by NSW WorkCover.**

**NOTE:** All asbestos material needs to be double wrapped in 200µm thick plastic and disposed of at an EPA licensed facility. In this regard it should be noted that Wagga Wagga City Council's Gregadoo Waste Facility is the only EPA licensed facility within the Local Government Area to accept asbestos material. Council's Waste Management Supervisor requires 24 hours notice prior to disposal of this material

REASON: It is in the public interest that water quality be to appropriate standards. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 40. Approval is not granted under this consent for the removal of the lillypilly tree (Tree 4 as noted on plans) as it is located on the adjacent property and owner's consent has not been received. A Preservation of Trees application should be submitted.**

REASON: To prevent the development having a detrimental effect on the development existing on adjoining land. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 41. The existing Fitzmaurice Street entrance steps are to be retained and protected below the new works. Any fragile fabric, that cannot be adequately protected, should be removed prior to construction, labelled and stored onsite to facilitate future reinstatement.**

REASON: To ensure that original fabric is retained where possible. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 42. Significant built elements are to be adequately protected during the works from potential damage. Protection systems must ensure significant historic fabric is not damaged or removed.**

REASON: To ensure that original fabric is retained and protected where possible. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 43. New services shall be concealed appropriately to minimise visual impacts. The installation of new services and fit-outs shall be carried out in such a manner as to minimise damage to or removal of historic fabric and shall not obscure historic features. Any penetrations through heritage fabric for supply and waste pipes and mechanical ducts should be prevented.**

REASON: To ensure that original fabric is retained and protected where possible. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 44. All new internal and external finishes and works of making good shall match the existing original work adjacent in respect of materials used, detailed execution and finished appearance.**

REASON: To ensure a positive impact on the existing development. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 45. The recommendations of the Wagga Wagga Courthouse Heritage Impact Statement 2013, prepared by The Heritage Group, NSW Government Architect's Office, dated August 2013, as detailed in Clause 4.2, pages 64-66 shall be implemented within the development.**

REASON: To ensure that original fabric is retained and protected where possible and to ensure a positive impact on the existing development. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

**46. 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.**

REASON: To ensure that all plumbing and drainage work is carried out in accordance with the requirements of the Local Government (Approvals) Regulation, 1999. Section 78A(4) of the *Environmental Planning and Assessment Act 1979*, as amended.

**47. (1) For the purposes of Section 80A (11) of the Environmental Planning and Assessment Act 1979, it is a prescribed condition of the development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:**

- (a) protect and support the adjoining premises from possible damage from the excavation, and**
- (b) where necessary, underpin the adjoining premises to prevent any such damage.**

**(2) The condition referred to in subclause (1) 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.**

REASON: To ensure the development complies with the requirements imposed under Clause 98E of the Environmental Planning and Assessment Regulations 2000, as amended, and Section 80A (11) of the *Environmental Planning and Assessment Act 1979*, as amended.

**48. 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.**

REASON: To adequately provide for the parking of vehicles within the development. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

**49. Illumination of the car park must be in accordance with AS 1158.3.1.2005, as amended, lighting for roads and public spaces.**

REASON: To provide opportunities for natural surveillance and reduce the likelihood of crime on the subject land. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*.

**50. Wagga Wagga City Councils Engineering Guidelines for Subdivisions and Development shall be referred to for the design of engineering requirements. Any aspect of the design which is not covered in Councils document should reference relevant specifications selected from other sources. Any aspect of the design that is not in accordance or not covered in council's document shall be listed and submitted with the plans for separate approval.**

REASON: So that Council may ensure that the design and construction is in accordance with Councils requirements and for the information of the emergency services. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.