

## A. General

### (A1) Approved plans

The development must be carried out substantially in accordance with the attached approved plans and reports as follows:

- (a) Drawings prepared by Peddle Thorp Furlong and Kain, Project No 3-20-0028 dated 27/05/2021:
  - Drawing No.A000 – Cover Sheet
  - Drawing No. A000.1 – Area Schedule
  - Drawing No. A100.2 – Site Plan
  - Drawing No. A101 – Ground level
  - Drawing No. A102 – Mezzanine level
  - Drawing No. A103 – Upper level
  - Drawing No. A104 – Roof Plan
  - Drawing No. A121 – RCP – Ground Level
  - Drawing No. A122 – RCP – Mezzanine level
  - Drawing No. A123 – RCP Upper Level
  - Drawing No. A201 – North Elevation
  - Drawing No. A202 – East Elevation
  - Drawing No. A203 – South Elevation
  - Drawing No. A204 – West Elevation
  - Drawing No. A301 – Section – North/South
  - Drawing No. A302 – Section – East/West
  - Drawing No. A801 – A808 Enlarged Plans
- (b) Landscape Plan prepared by T.C.L as updated 23/08/21
- (c) Planning Report and Statement of Environmental Effects prepared by Habitat Planning dated September 2021.
- (d) Traffic Impact Assessment prepared by Spotto Consulting dated August 2021, with specific reference to the Recommendations included on page 2.
- (e) Archaeological Assessment prepared by Dr Anna Raudino of Andrew long & Associates dated 23 December 2020, with specific reference to the Recommendations included on pages ii and iii.
- (f) Acoustic Report prepared by Northrop dated 1/09/2021 dated March 2011. with specific reference to the Recommendations included in Part 7.
- (g) Hazmat & Asbestos Audit prepared by Williams Asbestos Solutions dated 29 September 2020, with specific reference to the Recommendations included on pages 5 and 6.

The particulars and statements submitted with the Development Application receipted on 02/10/2021 and subject to the following conditions.

### (A2) Prior to works

Prior to commencing any building construction works, the following provisions of the *Environmental Planning and Assessment Act 1979* are to be complied with:

- (a) A Construction Certificate is to be obtained in accordance with Section 6.7 of the Act
- (b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act
- (c) Council is to be notified at least two (2) days in advance of the intention to commence building works in accordance with Section 6.6 of the Act
- (d) Submit to the Principal Certifying Authority a copy of the insurance certificate as required by the Home Building Act 1989.

**(A3) Occupation Certificate**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to use of the development.

**(A4) Compliance with Building Code of Australia (Class 2-9)**

All aspects of the building design are to comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) Complying with the deemed to satisfy provisions, or
- (b) Formulating an alternative solution which:
  - (i) Complies with the performance requirements, or
  - (ii) Is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) A combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times a copy of the latest fire safety schedule and fire safety certificate/statement for the building.

**(A5) Procedure for critical stage inspections**

While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.

**(A6) Essential Energy**

1. It is the responsibility of the Applicant/Developer to locate all Essential Energy's existing infrastructure prior to any works occurring.
2. Should the location of this existing infrastructure be affected by the proposed works, then it is the responsibility of the Applicant/Developer to satisfactorily re-locate this existing infrastructure as per Essential Energy's contestable works process. Refer Essential Energy's Contestable Works Team for requirements via email: [contestableworks@essentialenergy.com.au](mailto:contestableworks@essentialenergy.com.au)
3. Should the Applicant/Developer not re-locate Essential Energy's existing infrastructure, and in the future it is determined that the proposed works have encroached, then the Applicant/Developer or Council will be responsible to replace Essential Energy's infrastructure.

**(A7) Section 64 contributions – Water & Sewer**

The following monetary contributions are to be paid to Council, pursuant to Section 64 of the Local Government Act, for water and sewerage headworks.

Purpose	Hot Key	Amount Payable
Sec 64 Water	227	\$34,590.40
Sec 64 Sewer	228	\$72,645.30
	TOTAL	\$107,235.70

The amounts payable under this condition are due prior to the release of the Construction Certificate, and will be indexed annually in accordance with Clause 3.17 of the City of Albury Infrastructure Contributions Plan 2014. Prior to payment of the above contributions, the applicant is advised to contact Council to verify the amounts due and payable. It is the responsibility of the Principal Certifying Authority to ensure that contributions have been paid to Council in accordance with this Consent.

This contribution has been imposed in accordance with City of Albury Infrastructure Contributions Plan 2014. Council's Contributions Plan can be viewed at [www.alburycity.nsw.gov.au/](http://www.alburycity.nsw.gov.au/) or a copy may be inspected or purchased at Council's Administration Centre.

## **B. Prior to the Issue of a Construction Certificate**

### **(B1) Archaeological Excavation**

1. Permission must be sought from the NSW Heritage Office prior to undertaking the archaeological excavations and monitoring required as recommended within the Archaeological Assessment prepared by Dr Anna Raudino of Andrew long & Associates dated 23 December 2020.
2. An application to act as an Excavation Director must also be completed by the archaeologist nominated to undertake the project and attached to the Permit Application.
3. A copy of the approval Permit should be kept on site at all times.

### **(B2) End-of-trip facilities**

Industry best-practice end-of-trip cycle facilities are to be provided for both staff and users of the facility to the satisfaction of Council. Bicycle hoops (separate to end-of-trip facilities) are to be located close to the main entrance to provide passive surveillance.

### **(B3) Transport Management Plan**

Prior to the issue of a Construction Certificate, a Transport Management Plan (TMP) for the site is to be submitted to AlburyCity Council for consideration and approval. The TMP is to be prepared by a suitably qualified consultant in consultation with Council and other relevant agencies, and may need to be amended to include the comments provided by Council and other agencies.

The TMP should include but is not limited to the following:

- i. Any relevant traffic management issues associated with the development's construction and operational phases
- ii. location and provision of at least six (6) accessible car parking spaces for people with a disability
- iii. options for convenient patron drop off / pick up
- iv. operational issues associated with loading and deliveries
- v. strategies to encourage alternative options for attending the AEC;
- vi. strategies that might allow longer term parking within time limited parking areas (both on-street or off-street) such as vouchers and Licence Plate Recognition (LPR);
- vii. opportunities for improved communication with patrons in relation to not only available parking options but generally informing people of the lack of on-site parking before they come;

Council will not withhold its consent to the TMP Plan provided the above-mentioned matters are reasonably addressed.

The relevant aspects of the approved TMP are to be implemented during the relevant phase(s) of the development.

## **C. Prior to any work commencing on the site area**

### **(C1) Prior to commencement of Construction Works**

Two days before any site works, building or demolition begins, the applicant must:

- (a) Provide *Notice of commencement of work and appointment of Principal Certifying Authority*; to the Council.
- (b) Notify the adjoining owners that work will commence.

- (c) Notify *the Council* of the name, address, phone number and licence number of the builder.
- (d) Erect a sign at the front of the property stating that unauthorised entry is prohibited and showing the builder's name or Owner builder details (as applicable), licence number, phone number and site address.
- (e) Protect and support any neighbouring buildings.
- (f) Protect any public place from damage, obstruction or inconvenience from the carrying out of the consent.
- (g) Prevent any substance from falling onto a public place.
- (h) Follow any other conditions prescribed in the *Environmental Planning and Assessment Regulation 2000*.

**(C2) Existing damage to Council property**

The applicant is required to notify Council in writing prior to commencing site operations, of any existing damage to kerbing and guttering and/or footpath paving, the absence of such notification shall signify that no damage exists and the applicant will be liable for the cost of the reinstatement of any damage to kerbing and guttering or footpath paving which may be necessary after completion of the building operation.

**(C3) Water/Sewer & Drainage Approval**

- a) All plumbing or drainage works will require an approval under Section 68(1) (Table Part B Water supply, sewerage and stormwater drainage work) of the *Local Government Act 1993*. The approval is to be obtained prior to commencement of work.
- a) The Plumbing application is to include plans of the following:
  - a. Sanitary plumbing and drainage
  - b. fire services, incorporating appropriate backflow prevention devices in accordance with AS/NZS 3500.1:2018
  - c. The plans are to be prepared by a suitably qualified hydraulics consultant.
- c) All plumbing/drainage work and civil stormwater drainage is to be carried out by a NSW Licensed Plumber and Drainer to the requirements of the Plumbing and Drainage Act and to the Local Government Act of NSW.
- d) The Licensed Plumber's details are to be forwarded to Council prior to commencement of any plumbing work.

**(C4) Demolition - asbestos**

Prior to undertaking demolition works the applicant is to undertake an investigation with regard to the presence of asbestos containing materials within the building. If necessary the applicant is to consult with the Environment Protection Agency (the EPA) if unsure of the presence of asbestos. The removal of asbestos is to be done by persons holding a current removalist's licence issued by WorkCover NSW and disposed of at a facility approved by the EPA.

Works on site are to comply with the WorkCover "Guide to Working with Asbestos" and the National Code of Practice for the Safe Removal of Asbestos. Further information can be obtained from the WorkCover web site at [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) and the National Occupational Health and Safety Commission web site at [www.nohsc.gov.au](http://www.nohsc.gov.au).

**(C5) Demolition - compliance and disposal to approved landfill site**

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "*The Demolition of Structures*". Prior to demolition, all services are to be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements. All demolition and excavated material is to be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site is to be provided to Albury City Council prior to commencement of demolition.

**(C6) Trade Waste**

- 1. This premises is proposing to discharge into Council's sewerage system, waste water other than domestic sewerage. The Applicant must submit to Council a completed application

for a Trade Waste Licence. This application is to be approved by Council's Trade Waste Officer prior to Occupation Certificate being issued.

2. Detailed hydraulic plans shall be submitted with all trade waste applications which indicate size, type and location of pre-treatment devices. All plumbing and drainage installations to these devices shall comply with AS/NZS3500.
3. Pursuant to Section 68 of the Local Government Act 1993, to ensure there is no unacceptable discharge to Council's sewerage system an approved pre-treatment device (eg. Oil/grease traps, separators, etc) must be installed, or modified, to details approved. This development will be required to meet discharge standards in accordance with Council's Trade Waste Policy.

**(C7) Site Induction**

1. All personnel, contractors and subcontractors involved in the proposed works at 525 Swift Street, Albury, New South Wales should be informed during their site induction about the Archaeology Assessment (Dec 2020), its findings and recommendations.
2. A copy of the assessment must be kept on site at all times and referred to frequently to ensure compliance with the recommendations.

**(C8) On-site waste storage**

An adequate waste receptacle area shall be provided on-site to store all waste pending disposal. Such area shall be screened, regularly cleaned and accessible to collection vehicles in the interest of amenity, safety and public convenience.

**D. During Construction or Works**

**(D1) Construction Inspections**

Inspections are to be conducted in accordance with section 6.5 (1)(b) for building work and/or section 6.5 (2)(b) for subdivision work of the *Environmental Planning & Assessment Act 1979* and Section 162A of the *Environmental Planning & Assessment Regulation 2000* and as required by the Principal Certifier.

**(D2) Stormwater drainage**

All stormwater runoff from the proposed development is to be collected on-site and conveyed to a lawful point of adequate capacity in a manner that is consistent with the latest version of *Australian Standard 3500.3.2018*, and does not impede or direct natural surface water runoff so as to cause nuisance to adjoining properties. The works are to be carried out in accordance with the approved stormwater design prepared by a suitably qualified hydraulic consultant/engineer.

**(D3) Stormwater - surface water**

The land surrounding any structure must be graded to divert surface water to the legal point of adequate discharge, and clear any structures and adjoining premises.

**(D4) Construction - Hours of work**

Demolition, subdivision or construction works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- (a) Mondays to Fridays, 7.00am to 6.00pm
- (b) Saturdays, 8.00am to 1.00pm
- (c) No work is permitted on Sundays and Public Holidays.

Construction works that are carried out in the open that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties is to be restricted to the above hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines.

Note: The provisions of the *Protection of the Environment Operations Act, 1997* in regulating offensive noise also apply to all construction works.

**(D5) Construction - mode of work**

During construction work must be conducted in a manner so as not to be injurious to health and amenity by reason of noise, vibrations, smells, dust, stormwater runoff, sediment loss, placement of building materials and wastes, rubbish, footway interference, traffic generated, hours of operation and the like.

**(D6) Signs on site**

A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

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

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

**(D7) Environmental - dust suppression**

Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.

**(D8) Archaeological Monitoring of Ground Disturbing Works**

1. An archaeologist must monitor ground disturbing works within the project area. An excavator may be used to remove the upper sediments to expose any features or footings that may be present in these areas. If archaeological features are exposed during the works, an archaeologist must inspect and record the archaeological remains prior to proceeding further with machine excavation.
2. If any Aboriginal artefacts are discovered on the subject land during the disturbance of the land work is to cease immediately and no further work shall be undertaken until further directed by NSW Office of Environment & Heritage in relation to the protection of such artefact.

**(D9) Targeted Archaeological Excavations**

1. If archaeological features are exposed during the works, targeted archaeological excavation of significant features and deposits that become exposed may be necessary. An archaeologist must monitor the archaeological excavation.
2. Any significant features/deposits that are uncovered during monitoring and that will be destroyed by the development must be excavated and recorded.
3. The archaeologist must be allowed the time to complete adequate excavation and recording of significant features and deposits exposed by the works.
4. All significant features and deposit will be drawn to scale and photographed.
5. If archaeological excavation is required, ground works may progress elsewhere on the site while the archaeological excavations are being completed. Ground disturbance may be allowed in areas of low archaeological potential with an assisting archaeologist present.

**(D10) Artefact Management**

Any significant artefacts uncovered are to be collected, cleaned, analysed, catalogued and managed as recommended within the Archaeological Assessment prepared by Dr Anna Raudino of Andrew Long & Associates dated 23 December 2020.

**E. Prior to the issue of an Occupation Certificate**

**(E1) Car Parking Provision**

1. Before the issue of the first occupation certificate in respect of any building to which this consent relates, 53 additional public car spaces are to be provided on site or alternatively within 400m of the site.

2. If at the time of the issue of the first occupation certificate no additional public car parking has been provided as required by subclause (1), a cash contribution in lieu of provision of 53 car spaces, calculated in accordance with subclause (3) must be paid into the Council Car Parking fund where the money can be held in abeyance until an appropriate infrastructure response has been formulated.
3. Subject to subclause 1, the applicant must pay the following contribution as required by subclause (2) to Council in recognition of a shortfall in the provision of public car parking considered necessary to offset the impacts that a development of this size and intensity will have on the surrounding area.:

Purpose	Rate	Amount Payable
Car parking (53 spaces)	\$15,000 / space	\$795,000

**(E2) Fire safety certificate**

On completion of the erection of the building, the owner is required to provide Council with a Fire Safety Certificate certifying that all essential services installed in the building have been inspected and tested by a competent person and were found to have been designed and installed to be capable of operating to the minimum standard required by the *Building Code of Australia*.

**(E3) Footpath - no disturbance**

The footpath or nature strip shall not be disturbed by any construction activities other than those essential for access to the site or installation of services.

**(E4) Completion of landscape works**

Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape works have been completed in accordance with the approved plans and any relevant conditions of this consent.

## **F. Use of Site Area**

**(F1) Fire safety - annual fire safety statement-essential fire safety (Class 2–9)**

The owner of a building, to which an essential fire safety measure is applicable, is to provide AlburyCity Council with an Annual Fire Safety Statement for the building. The Annual Fire Safety Statement for a building must:

- (i) Deal with each essential fire safety measure in the building premises, and
- (ii) Be given:
  - Within 12 months after the last such statement was given, or
  - If no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the Annual Fire Safety Statement is issued, the owner of the building to which the statement relates:

- (a) Must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- (b) Prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

**(F2) Maximum Capacity Signage**

A sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in relevant legislation, that are permitted in the building at any given time.

**(F3) Food Premises – operational food safety compliance**

As per the *Food Act 2003* and *Food Regulation 2010*, the proprietor of any food business is to ensure that the requirements of the current version of the *Australia New Zealand Food Standards Code* are met at all times with particular reference to Standard 3.2.2 and 3.2.3. (Standards can be downloaded from [www.foodstandards.gov.au](http://www.foodstandards.gov.au))

**(F4) Food premises - registration with NSW Food Authority and inspection by Environmental Health Officer**

Prior to the commencement of food handling operations, and in addition to any construction inspections, approvals etc., the premises must:

- "Be notified" with the NSW Food Authority (this can be done by the proprietor of the business free of charge at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au)) and
- Have a satisfactory inspection by an AlburyCity Environmental Health Officer prior to selling any food. To arrange an inspection call Customer Service on (02) 60238111.

**G. Reasons for Conditions**

**(G1) The above conditions have been imposed: -**

- (a) To ensure compliance with the terms of the *Environmental Planning and Assessment Act 1979*
- (b) To ensure compliance with the terms of the *Environmental Planning and Assessment Regulation 2021*.
- (c) Having regard to Council's duties of consideration under Section 4.13 and 4.17 of the Act
- (d) Having regard to the requirements of Section 139 of the *NSW Heritage Act 1977*
- (e) To ensure an appropriate level of provision of amenities and services occurs within the City and to occupants of sites
- (f) To improve the amenity, safety and environmental quality of the locality
- (g) Having regard to environmental quality, the circumstances of the case and the public interest
- (h) Having regard to the *Albury Development Control Plan 2010*
- (i) To help retain and enhance streetscape quality
- (j) Ensure compatibility with adjoining and neighbouring land uses and built form
- (k) To protect public interest, the environment and existing amenity of the locality
- (l) To minimise health risk to neighbouring residents and workers.

**H. Advisory and Ancillary Matters**

**(H1) Compliance**

It is the responsibility of the applicant to check, understand and seek assistance where needed so as to ensure full compliance with the conditions of this Development Consent. Please contact the AlburyCity Planning & Environment Group on 02 6023 8285 if there is any difficulty in understanding or complying with any of the above conditions.

**(H2) Underground assets – Dial Before you Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

**(H3) Telstra assets**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

**(H4) Alterations after consent**

Any alterations to the proposed development shall be submitted to AlburyCity Council for further assessment and approval prior to the issue of Development Consent. If such alterations are contemplated after the consent is issued, then details shall be subject to a development application for the modification of the Development Consent.



(H5) **Disability Discrimination Act, 1992**

It is the Applicants responsibility to ensure compliance with the requirements of the *Disability Discrimination Act, 1992* (DDA). Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA. You are advised to seek advice from the Human Rights and Equal Opportunity Commission (phone 02-9284 9600) in respect of your application.

(H6) **Essential Energy**

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.

2. Any existing encumbrances/easements in favour of Essential Energy (or its predecessors) noted on the title of the above properties should be complied with.

3. In addition, Essential Energy's records indicate there is electricity infrastructure located within the properties and within close proximity of the properties. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.

4. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).

5. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

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