

## DRAFT NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	10.2023.40336.1 PAN-352110
Applicant	Habitat Planning Pty Ltd 409 Kiewa Street SOUTH ALBURY NSW 2640
Description of Development	Seven (7) Storey Mixed Use, Shop Top Housing Development - Comprising of Thirty Two (32) Apartments, Two (2) Commercial Tenancies, Swimming Pool, Carpark, Demolition of Three (3) Residences (including Heritage Item I164 and I166) & Thirty Four (34) Lot Stratum Title Subdivision and Consolidation of Existing Titles
Property	LOT: 1 DP: 912511, LOT PT20 Sec 24 DP 780123, LOT PT20 DP 780123 487 Swift Street, 485 Swift Street, 481 Swift Street ALBURY NSW 2640
Determination	<b>TBA</b> Consent Authority: Southern Regional Planning Panel
Date of determination	9 April 2024
Date from which the consent operates	9 April 2024
Date from which the consent lapses	9 April 2029
Approval bodies that have given general terms of approval	Not applicable

Under Section 4.18(1) of the *Environmental Planning & Assessment Act 1979* (EP&A Act), notice is given that the above development application has been determined by the granting of consent using the power in Section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

### Reasons for approval

The following matters were taken into consideration in making this decision:

- The relevant matters listed in Section 4.15 of the Act and any additional relevant matters in a statutory context, including *Albury Local Environmental Plan 2010* and *Albury Development Control Plan 2010*;
- The prescribed matters under the *Environmental Planning and Assessment Regulation 2021*;
- The objects of the Act;
- All information submitted to Council during the assessment of the Development Application;

- The findings and recommendations in Council's Assessment Report; and
- The views of the community about the project.

**Right of appeal / request a review of determination**

If you are dissatisfied with this determination:

Request a Review

You may request a review of the consent authority's decision under Section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under Section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under Section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW Planning Portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.



**Matthew Wilson**

**Acting Service Leader City Development**

Person on behalf of the consent authority

For further information, please contact AlburyCity's Officer, Sharna Holland, contact phone number (02) 6023 8111.

### Terms and Reasons for Conditions

Under Section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions proscribed under Section 4.17(11) of the EP&A Act. The terms of conditions and reasons are set out below.

## GENERAL

### A. GENERAL CONDITIONS

#### (A1) Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
5.01	F	Existing Conditions & Survey	CohenLeigh	1/11/2023
5.02	F	Existing Conditions & Demolition Plan	CohenLeigh	1/11/2023
5.03	F	Site - Proposed	CohenLeigh	1/11/2023
5.10	E	Plan – Level Basement	CohenLeigh	5/7/2023
DA-11	P	Plan – Level Ground	CohenLeigh	21/11/2023
5.12	F	Plan – Level 1	CohenLeigh	1/11/2023
5.13	F	Plan – Levels 2-4	CohenLeigh	1/11/2023
5.14	F	Plan – Level 5	CohenLeigh	1/11/2023
5.15	F	Plan – Level 6	CohenLeigh	1/11/2023
5.16	F	Plan – Roof Terrace	CohenLeigh	1/11/2023
5.17	F	Plan - Roof	CohenLeigh	1/11/2023
5.22	E	Area Analysis – FSR Summary	CohenLeigh	5/7/2023
5.30	F	Elevation - North	CohenLeigh	1/11/2023
5.31	F	Elevation - East	CohenLeigh	1/11/2023
5.32	F	Elevation - South	CohenLeigh	1/11/2023
5.33	F	Elevation - West	CohenLeigh	1/11/2023
5.40	F	Section 1	CohenLeigh	1/11/2023
5.41	F	Section 2	CohenLeigh	1/11/2023
5.42	F	Section 3	CohenLeigh	1/11/2023
5.43	F	Section 4	CohenLeigh	1/11/2023
5.44	F	Section 5	CohenLeigh	1/11/2023
5.45	F	Section 6	CohenLeigh	1/11/2023
5.50	F	Site Section 7 – Sheet 1	CohenLeigh	1/11/2023
5.51	F	Site Section 8 – Sheet 2	CohenLeigh	1/11/2023
1	A	Level One Landscaping	Yonder	18/07/2023
2	A	Level Five Landscaping	Yonder	18/07/2023
3	A	Roof Level Landscaping	Yonder	18/07/2023
4	A	Plant selection 1	Yonder	18/07/2023
5	A	Plant selection 2	Yonder	18/07/2023
Sheet 1	3	Location Plan	Spiire	17/07/2023
Sheet 2	3	Floor Plan Basement Level	Spiire	17/07/2023

Sheet 3	3	Floor Plan Ground Level	Spiire	17/07/2023
Sheet 4	3	Floor Plan Level One	Spiire	17/07/2023
Sheet 5	3	Floor Plan Level Two	Spiire	17/07/2023
Sheet 6	3	Floor Plan Level Three	Spiire	17/07/2023
Sheet 7	3	Floor Plan Level Four	Spiire	17/07/2023
Sheet 8	3	Floor Plan Level Five	Spiire	17/07/2023
Sheet 9	3	Floor Plan Level Six	Spiire	17/07/2023
Sheet 10	3	Floor Plan Level Seven	Spiire	17/07/2023

Approved documents			
Document title	Version number	Prepared by	Date of document
BASIX Certificate	1398557M	Energysraters	6 July 2023

In the event of any inconsistency between the approved plans and documents, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development. (A001)

**(A2) Construction Certificate (Building Work) and Subdivision Works Certificate (Civil Work)**

This development proposes both the erection of buildings and the subdivision of land, the following are required prior to commencing any work:

Building Work

Prior to commencing any building/construction work, the following provisions of the *Environmental Planning and Assessment Act 1979* (the Act) 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 Council a copy of the insurance certificate as required by the *Home Building Act 1989*.

Subdivision Civil Work

Works on the subdivision and/or civil work construction are not to commence until:

- e) A Subdivision Works Certificate has been issued. Works are to be in accordance with Albury City Council's Engineering Guidelines for Subdivisions and Developments Standards and applicable conditions of this consent, a copy of which must accompany the Subdivision Works Certificate application.
- f) A Principal Certifying Authority has been employed for the project, and
- g) Any other matters prescribed in the Development Consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

Albury City Council is to be notified 48 hours prior to commencement of civil engineering works or clearing associated with the subdivision or civil construction works.

Condition reason: To ensure compliance with the terms of the *Environmental Planning and Assessment Act 1979*. (A060)

**(A3) Occupation Certificate**

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

Condition reason: To ensure the building is safe to occupy. (A080)

**(A4) National Construction Code of Australia**

All aspects of the building design are to comply with the applicable Performance Requirements of the National Construction Code of Australia 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 a Performance 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).

Condition reason: To ensure compliance with the National Construction Code. (A100)

**(A5) Protection of Public Infrastructure**

Council must be notified of any damage to the public infrastructure such as road pavement, kerb and gutter, concrete footpaths, drainage structures, utilities and landscaping fronting the development. Adequate protection must be provided for public infrastructure prior to work commencing and during building operations. Any damage to public infrastructure caused during construction shall be made good prior to the completion of the development.

Condition reason: To protect public assets. (A450)

**(A6) Development within allotment boundaries**

All buildings and structures shall be contained wholly within the confines of the allotment boundaries unless written consent from adjoining landowners has been obtained prior to works commencing on site.

Condition reason: To ensure the development is sited within the allotment boundaries. (A999)

**(A7) Exterior finishes**

The exterior materials used for the building works and any ancillary structures shall be a non-reflective material (e.g. non zincalume).

Condition reason: To maintain the amenity of the surrounding area. (BW3-002)

**(A8) Infrastructure Contributions (Section 7.12 & Section 64)**

The following monetary contributions are required and payable to Council in accordance with Section 7.12 of the Environmental Planning and Assessment Act 1979, and Section 64 of the *Local Government Act 1993*, to provide for the increased demand for public amenities and services resulting from the development.

Purpose	Hot key	Total
Section 64 - Water	227	\$76,346.10
Section 64 - Sewer	228	\$139,109.32
Section 7.12	223	\$425,700.00
		<b>\$641,155.42</b>

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.

Condition reason: To ensure compliance with the *Albury Infrastructure Contributions Plan 2014*. (A303)

**(A9) Vegetation protection**

The two (2) retained street trees within Council's road reserve shall not be removed or damaged during construction.

Condition reason: To protect and retain vegetation. (A015)

**(A10) Provision of services**

The applicant must consult with the relevant electricity, gas, water, sewerage, and telecommunications carrier regarding their requirements for the provision of services to the building site and the location of existing services that may be affected by proposed works, either on-site or on the adjacent public roads. Services are to be located to minimise environmental damage.

Adjustments to public utilities necessitated by the development shall be completed at the applicant's cost, prior to occupation of the premises, and in accordance with the requirements of the relevant authority.

Condition reason: To ensure the development is connected to essential services and protect existing infrastructure. (E487 & B069)

**(A11) Street address**

Prior to the issue of the Construction Certificate, the developer/owner shall obtain a street address for each apartment and commercial tenancy from Council. These numbers should be shown on the final subdivision plan (administration sheet) and clearly displayed on the buildings or property in the interest of public safety.

Condition reason: To ensure the street address for the development is consistent with Council's numbering. (A999)

**(A12) Existing sewer main to be removed**

The existing sewer main located at the rear of the lots is to be removed and Works as Executed drawings shall be provided to Council prior to the issue of the Occupation Certificate. The easement may be removed following Council's approval of the Works as Executed drawings. Please liaise with AlburyCity's Water and Wastewater department prior to the application of a Construction Certificate regarding the requirements for this removal.

Condition reason: To protect Council's infrastructure.

**(A13) Lot consolidation**

LOT PT20 DP 780123, 481 Swift Street, LOT PT20 Sec 24 DP 780123, 485 Swift Street & LOT 1 DP 912511, 487 Swift Street, shall be consolidated into one title following completion of demolition works.

Condition reason: To ensure compliance with the National Construction Code.

**(A14) Works to Council Owned Assets**

Where works are required to Council owned water supply, sewerage or stormwater drainage infrastructure and subdivision is not proposed, application must be made through the NSW Planning Portal in accordance with the *Local Government Act 1993* and will be subject to such approvals as may be issued under the *Local Government Act 1993*.

Where works are required to Council owned water supply, sewerage, stormwater drainage or road infrastructure, or subdivision is proposed, application must be made through the NSW Planning Portal for a Subdivision Works Certificate in accordance with the *Environmental Planning and Assessment Act 1979* and will be subject to such approvals as may be issued under the *Environmental Planning and Assessment Act 1979*.

Condition reason: To ensure proper approval processes are followed for works involving public assets. (A031)

**(A15) Traffic and public safety during works**

No work which requires the use or occupation of any adjacent road (by way of scaffolding, cranes, parking of any vehicle or storage of materials and placement of equipment) is to be undertaken unless and until a Traffic Control Plan prepared by a suitably qualified person has been prepared, submitted,

and approved by Council. A separate approval will also be required if any equipment, scaffolding, or hoardings are required to be placed on the footpath or the roadway for any of the works.

Condition reason: To protect public interest, the environment and existing amenity of the locality. (A992 modified)

**(A16) BASIX certificate**

Under Section 75 of the *Environmental Planning and Assessment Regulation 2021*, it is a condition of this development consent that the commitments listed in the approved BASIX Certificate be complied with and maintained.

Condition reason: To ensure compliance with the required targets for energy, water, and thermal comfort. (A071)

**(A17) Single service connection**

All fire and general service flows must originate from a single service connection. No additional service connections will be provided to this lot.

Condition reason: To protect Council's infrastructure.

**(A18) Air gap required**

A physical, registered air gap will be required upstream of all firefighting, pump arrangements. No in-line booster pumps shall be permitted.

Condition reason: To protect Council's infrastructure.

**(A19) Individual water meters**

Each commercial tenancy and residential apartment within the site must be individually metered from a manifold which conforms with AlburyCity's Water Meter Installation Guidelines and provides a gap of 300mm between each meter. This manifold must be located on the ground floor of the complex. Separate water meters must be installed for common water usage areas (e.g., garden watering, swimming pool, site maintenance etc.) and a separate water meter must be installed for the hot water service if a centralized hot water service is to be installed.

AlburyCity (Water Metering Services) must be issued with it's own set of fobs, keys and/or access codes, to access and/or read any of the complex's water meters at any time.

Condition reason: To protect Council's infrastructure.

**(A20) Essential Energy**

Strictly based on the documents submitted, Essential Energy has the following comments to make as to potential safety risks arising from the proposed development:

- The plans provided do not show the distances from Essential Energy's infrastructure to the proposed development. A safe distance of 1 metre is required to the underground powerline(s).

Information relating to developments near electrical infrastructure is available on our website [Development Applications \(essentialenergy.com.au\)](https://essentialenergy.com.au). If the applicant believes the development complies with safe distances or would like to submit a request to encroach then they will need to complete a Network Encroachment Form via Essential Energy's website [Encroachments \(essentialenergy.com.au\)](https://essentialenergy.com.au) and provide supporting documentation. Applicants are advised that fees and charges will apply where Essential Energy provides this service.

Council's and the applicant's attention is also drawn to Section 49 of the Electricity Supply Act 1995 (NSW). Relevantly, Essential Energy may require structures or things that could destroy, damage or interfere with electricity works, or could make those works become a potential cause of bush fire or a risk to public safety, to be modified or removed.

Condition reason: To comply with the electricity authority requirements.

**(A21) Planning Agreement**

Prior to the issue of a Construction Certificate, a Planning Agreement must be entered into requiring a maximum financial contribution to Council the sum of \$255,000, in recognition of a shortfall in the provision of 17 onsite car parking spaces (\$15,000 per space). Should a detailed parking assessment, completed by a suitably qualified professional, be provided to Council for consideration, a lesser financial parking contribution may be considered.

The Planning Agreement is to apply to LOT PT20 DP 780123, 481 Swift Street, LOT PT20 Sec 24 DP 780123, 485 Swift Street & LOT 1 DP 912511, 487 Swift Street. The Draft Planning Agreement will be required to advertised in accordance with *AlburyCity Community Participation Plan 2020*.

Condition reason: The contribution is required to compensate for the shortfall of onsite car spaces and will assist to fund additional public parking in the CBD area.

**(A22) Encroachment over Council land**

As the proposed awning structure encroaches over Council's road reserve, the following matters must be completed prior to the issue of a Construction Certificate:

- a) The owner/s shall obtain consent for the awning structure encroachment from Council under Section 138 of the *Roads Act 1993* and Section 68 of the *Local Government Act 1993*.
- b) The owner/s shall also complete a Licence Agreement with Council in accordance with Council's Licence Agreement – Encroaching Structures.
- c) The owner shall supply plans and elevations of the proposed awning defining the extent of the proposed encroachment with the application for a Licence Agreement. An initial licence fee will be payable for the creation of the licence in accordance with Section 4.7 of Council's *Encroachment on Council Land Policy 2016*.

All costs associated with the required consents and licenses including, without limitation, the preparation of the Licence Agreement, Public liability Insurance, Council's legal costs and any costs associated with the ongoing management, repair and maintenance of the Encroachment shall be at the expense of the owner.

Condition reason: To ensure proper approval processes are followed for works encroaching public land.

**(A23) Structural adequacy of awning**

The awning overhanging the public footpath shall be maintained in good condition and continually remain structurally adequate for the term of the development. Council recommends that a registered and suitably qualified Structural Engineer carry out an inspection and provide an inspection report to the owner at five year intervals. Any rectification work and/or cost associated in maintaining the awning in a safe condition shall be at the owner's expense.

Condition reason: To ensure public safety.

**(A24) Plant, equipment or features on roof**

No plant, equipment, services or architectural features other than those shown on the approved plans are permitted above the roof level of the building, without the written consent of Council.

Condition reason: To protect public interest, the environment and existing amenity of the locality.

**(A25) Heritage conservation**

The demolition of two heritage items is approved under this consent providing the following matters are satisfactorily addressed prior to any works occurring on site:

- a) A photographic archival record of all three cottages is undertaken and submitted and approved to/by Council prior to demolition.
- b) The verandah columns and finials of the central cottage (No 485) are to be salvaged and made available to the second hand building market.
- c) The joinery items of the two brickwork cottages (Nos. 481 and 485), such as doors and windows, both internally and externally should be salvaged and made available to the second hand building market where other building owners in the town can assess them for incorporation into their properties for conservation or restoration works.
- d) A permanent interpretation panel displaying an image of each of the three cottages along with a brief history of the cottages and their association with the Abikhair family is to be included and



located in a publicly accessible part of the new building. The design and location of the panel is to be subject to Council approval.

Condition reason: To protect public interest, the environment and existing amenity of the locality.

**(A26) Albury Police requirements**

Albury Police require the following safety and security measures to be addressed:

- a) CCTV footage for this area covering the main entries and exits.
- b) CCTV cameras to be of high quality and replaced if damaged.
- c) Exposed brick to be covered and/or lackeyed with anti-graffiti paint.
- d) Rescue climb points throughout lower levels.
- e) Identify private parking and public parking through signage.
- f) All traffic management plans are to be reviewed and approved by TMC and the Local Traffic Committee and MRPD Highway Sergeants.

Condition reason: To protect public interest and amenity of the locality.

**(A27) Resuscitation notice**

A warning and resuscitation notice, pursuant to Part 3 of the Swimming Pool Regulation 2018, shall be displayed in a prominent location within the Swimming pool enclosure.

The notice must contain the following-

- (i) "Young children should be actively supervised when using this swimming pool", and
- (ii) "Pool gates must be kept closed at all times", and
- (iii) "Keep articles, objects and structures clear of the pool fence at all times", and
- (iv) A simple flow chart (which may be the flow chart depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques.

The notice shall be legible from a distance of at least 3 metres and maintained in a clearly legible condition.

Condition reason: To ensure public safety and to enforce compliance with the *Swimming Pools Act 1992* and *Swimming Pools Regulations 2018*. (A904)

**(A28) Swimming pool fencing**

The swimming pool isolation barrier and any entry gates to the swimming pool shall be located and constructed to comply fully with AS1926.1 2012, AS1926.2 2007 and the *Swimming Pools Act 1992* and *Swimming Pool Regulation 2018*. The child resistant barrier is to be maintained in accordance with the Act by the owner of the property and is to remain in place for the life of the development.

Condition reason: To ensure public safety and to enforce compliance with the *Swimming Pools Act 1992* and *Swimming Pools Regulations 2018*. (A905 & BW3-911)

**(A29) Upgrade to existing water main**

The existing lots are serviced from a 100mm water main located on Swift Street. The developer shall upsize the water supply main to 150DN from the connection point on Arnolds Lane (approx. 50 metres).

Condition reason: To protect Council's infrastructure.

## **BUILDING WORK**

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### **B. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

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**(B1) Long Service Levy**

Prior to the issue of a Construction Certificate, the Building Industry Long Service Levy is to be paid in accordance with the provisions of Section 34 of the *Building and Construction Industry Payments Act 1986*. This fee is payable on all projects valued at \$250,000 and over and is calculated at the rate of 0.25% of the current value of works.

Condition reason: To ensure the long service levy is paid. (BW1-105)

**(B2) Disabled access and facilities**

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

Condition reason: To ensure access and sanitary facilities are designed to comply with the BCA and relevant standards. (B110)

**(B3) Vehicle manoeuvring and car parking areas**

Prior to the issue of a Construction Certificate, a revised car parking plan is to be prepared that identifies the allocation of each car space to residential apartments, a minimum of fifty-one (51) spaces in the basement car park, inclusive of one (1) accessible space, and six (6) spaces in the ground level car park, inclusive of one (1) accessible space. All car spaces provided within the site shall be designed to comply with AS2890 series. The minimum dimensions for a two-way internal roadway are to be 5.8m and landscaped areas are to be protected from vehicle activity by a minimum height 100mm kerb or similar barrier.

All parking spaces and manoeuvring areas must be designed to allow cars to drive in a forward direction, both when entering and leaving the site.

All car parking and circulation areas are to be finished with a fully sealed surface, drained and line marked, to prevent nuisance from dust, mud, drainage, sediment loss and the like. Such areas shall at a minimum be provided with a bitumen seal, asphalt, or concrete.

All basement car parking spaces shall be equipped with the necessary infrastructure to be adapted to provide electric vehicle charging.

Plans are to be submitted to Albury City Council for approval prior to application for a relevant Construction Certificate.

Condition Reason: To ensure appropriate vehicle access, pavement sealing, and drainage is provided. (B414 & E484 modified)

**(B4) Stormwater drainage design**

A stormwater drainage design is to be prepared showing stormwater from the site area and development being collected and disposed of to a lawful point of adequate capacity so as to prevent contamination of receiving waters. The design shall:

- a) Be in accordance with *Australian Standard 3500.3*
- b) Provide for drainage discharge to an existing Council drainage system.
- c) Maintain where relevant existing stormwater overland flow paths.
- d) Ensure that the development either during construction or upon completion, does not impede or direct natural surface water runoff so as to cause a nuisance to adjoining properties.

Details including easements to be created are to be included with the plans and specifications to accompany any Construction Certificate or Subdivision Works Certificate.

Condition reason: To ensure stormwater drainage is managed in accordance with the relevant standards. (BW1-538)

**(B5) Construction Management Plan**

A Construction Management Plan (CMP) is to be prepared, submitted, and approved by Council prior to the issue of a Construction Certificate. The Plan shall address, as a minimum, the following matters:

- a) Location and extent of any proposed builder's hoarding and work zones
- b) Provisions for public safety;
- c) Pedestrian and vehicular site access points and construction activity zones;
- d) Details of construction traffic management including:
  - i. Proposed truck movements to and from the site;
  - ii. Estimated frequency of truck movements;
  - iii. Location of parking for construction vehicles; and
  - iv. Measures to ensure pedestrian safety near the site;

- e) Details of bulk earthworks to be carried out;
- f) Locations of site office, site facilities, temporary sanitary facilities and any storage areas for materials related to the project;
- g) The equipment used to carry out works;
- h) Detail the methods of implementation and communication to all contractors of the requirements of the Waste Management Plan for the site
- i) Outline the means to minimise and manage dust generation from the construction works;
- j) Noise management measures to be provided for plant and equipment; and
- k) Protection measures for adjoining properties, pedestrians, vehicles and public assets;
- l) The protective measures for the preservation of trees in adjoining public areas including measures in accordance with:
  - i. AS 4970 – Protection of trees on development sites;
  - ii. An arborist's report approved as part of this consent.

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

Condition Reason: To protect public interest, the environment and amenity of the locality.

**(B6) Silver level design**

The Construction Certificate plans shall demonstrate that at least 20% of all apartments are designed to incorporate the Liveable Housing Australia (LHA) Silver Level requirements in accordance with the Liveable Housing Design Guidelines.

Condition Reason: To reduce or avoid costs associated with retrofitting a home to improve access in the future, should it be required, and to satisfy the requirements of the NSW Apartment Design Guide (ADG).

**(B7) Soil and Water Management Plan**

Prior to issue of a Construction Certificate, an Erosion and Sediment Control Plan (ESCP) prepared in accordance with Albury City Council's Soil and Water Management Policy is to be submitted to Council for approval. This plan is to confirm the capacity of drainage infrastructure to service the development, treat and retard stormwater, and reduce any impacts on soil and water downstream of the proposed development.

The erosion and sediment control measures must address and incorporate general site management material handling practices, soil stabilisation, wind erosion, access measures and shall provide for (as a minimum):

- a) Prevent site vehicles tracking sediment and other pollutants from the site area.
- b) Protect retained vegetation by a suitable barrier.
- c) Divert in an approved manner upslope water around cleared and/or disturbed areas.
- d) Prevent debris escaping off-site by use of on-site sediment barriers.
- e) Provide for stockpiles and building material that don't create nuisance or pollution.
- f) Prevent dust nuisance.
- g) Ensure maintenance of all erosion control measures at operational capacity until the site is effectively rehabilitated.

A copy of the ESCP must be kept on-site at all times and made available to Council's Officer on request.

Condition reason: To ensure no substance other than rainwater enters the stormwater system and waterways. (BW1-053)

**(B8) Retaining wall design**

An appropriately qualified person shall design retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated stormwater drainage measures. Details are to be included with the plans and specifications to accompany any Construction Certificate.

Condition reason: To ensure the engineering design considers relevant legislative requirements. (BW1-498)

**(B9) Materials and samples board**

A physical material sample board which specifies all proposed materials, finishes, colours, (including visible rainwater goods and services) keyed to each building elevation must be submitted to and approved by Council prior to the issue of a Construction Certificate. The materials and samples board must not include generic material or colour descriptions or use terminology such as 'or similar'.

Condition reason: To ensure the materials are suitable in the locality.

**(B10) Structures near existing assets**

No structure shall encroach onto, or exert any load on, the utilities within easements without approval from AlburyCity. Structures located within an easement, or adjacent to existing infrastructure, must extend to a minimum of 300mm below the invert of the existing asset, in accordance with Albury City Guidelines.

Condition reason: To protect Councils infrastructure. (BW1-458)

**(B11) Location of existing assets**

Any existing sewer, stormwater or water mains on the property must be accurately located. All designs for structures or footings within the vicinity of these assets must adhere to, and be approved, in accordance with Albury City Guidelines.

Condition reason: To protect Councils infrastructure. (BW1-456)

**(B12) Driveway drain**

A grated strip drain is to be provided across the driveways within the allotment boundary connected to an approved drainage system. Details are to be included with the plans and specifications to accompany any Construction Certificate.

Condition reason: To ensure adequate management of the drainage system and surface water. (BW2-401)

**(B13) Stormwater management**

Stormwater shall be detained onsite through onsite storage to maintain pre-development flows. Engineering details shall be submitted to Council for approval, prior to the application of a Construction Certificate. Only a single discharge point into Council's drainage system is acceptable.

Condition reason: To ensure the development does not alter existing stormwater beyond pre-development flows to protect the function of Council's drainage network. (A997)

**(B14) Trade waste**

Pursuant to Section 68 of the *Local Government Act 1993*, If the use of the commercial tenancies proposes to discharge wastewater other than domestic sewerage into Council's sewerage system, the applicant must apply to Council for a Trade Waste Agreement. The application will be determined by Council's Trade Waste Department prior to a Construction Certificate being issued and may require an approved pre-treatment device (eg. oil/grease arrestor, separators, etc) to be installed.

The application must:

- a) Include detailed hydraulic plans indicating the size, type, and location of pre-treatment devices. All plumbing and drainage installations to these devices shall comply with AS/NZS3500.
- b) Be lodged via the NSW Planning Portal.

This development will be required to meet discharge standards in accordance with Council's Trade Waste Policy.

Note: A Trade Waste Application form can be downloaded from AlburyCity's website

Condition reason: To protect public health and the environment and to ensure there is no unacceptable discharge to Council's sewerage system. (BW1-049)

**(B15) Detailed Site Investigation**

As per the recommendations of the submitted Preliminary Site Investigation, a Detailed Site Investigation is required following the demolition of the existing buildings and prior to any building works or excavation of soil to determine the extent of elevated metal and benzo(a)pyrene concentrations within the fill material on site. The findings of the investigation shall be submitted to Council for review and approval prior to the issue of the Construction Certificate.

Condition reason: To protect public interest, the environment and amenity of the locality.

**(B16) Amended plans**

Amended elevation plans shall be prepared for the east and west facing facades of the building to demonstrate the inclusion of operable screen louvres to ensure residents have the opportunity to control solar access and privacy to their apartment.

Amended plans are required to include the following architectural details:

- a) Nomination of materials and finishes
- b) Details of parapets
- c) Balustrades, screens, and awnings
- d) Slab edges – finish and colour

Plans shall be submitted to Council for review and approval prior to the issue of the Construction Certificate.

Condition reason: To protect the amenity of residents and the locality.

**(B17) Bin storage room**

An adequate waste receptacle area shall be provided on-site to store all waste pending disposal. The waste receptacle area shall be enclosed, constructed of impervious coated/treated walls, floor, and ceiling surface. The floor of such area shall be smooth, graded and drained to a floor waste connected to the sewer. The waste receptacle area is to be equipped with a suitably located tap and hose (hose cock must be protected from the waste bins).

Condition reason: To protect public interest, the environment and amenity of the locality. (D656)

**(B18) Tree Management Plan**

The applicant is required to submit a tree management plan (TMP) before any works can commence on site. The TMP shall include;

- a) the identification on site of a tree protection zone (TPZ),
- b) methods of construction to minimise damage to the root zone of the tree and crown reduction to Australian Standards.

Where possible, no excavation or soil level changes should take place within the TPZ as specified in the Australian Standard – *Protection of trees on development sites* (AS 4970-09).

The tree management plan is to be submitted to Albury City Council for approval prior to application for a relevant Construction Certificate.

The approved TMP is to be submitted to the Principal Certifying Authority, a minimum of 2 days prior to the commencement of site works. All tree protection measures are to be carried out and comply with the submitted TMP before the commencement of any works on site and shall remain on site until the end of construction.

Condition reason: To protect public interest, the environment and amenity of the locality.

**(B19) Waste Management Plan**

A Waste Management Plan to address waste removal once the site is operational is to be prepared and submitted to Council prior to the application of a Construction Certificate. The plan shall address at a minimum the following information:

- a) Identify how regularly waste will be collected from the site.

- b) To maximise recycling, the waste receptacle area must be equipped with separate waste bins to allow for the sorting and separation of waste into the following waste streams – organic, recyclables and general waste. Each waste stream must be separated and clearly labelled.
- c) Any waste storage bins shall be fitted with closing lids and shall be collected by licensed contractors between the hours of 9:00am and 5:00pm, Monday to Friday.
- d) Any approved waste storage area must be appropriately maintained to prevent litter, odour, and the entry of pests.
- e) All liquid trade waste discharged to the sewerage system, must comply with the trade waste approval issued by the relevant authority.
- f) All liquid trade waste pre-treatment devices must be regularly maintained to remain effective in accordance with the conditions of the liquid trade waste approval issued by the relevant authority.

Condition reason: To protect public interest, the environment and amenity of the locality.

**(B20) Acoustic Assessment Report**

A detailed Acoustic Assessment Report is required to be submitted to Council prior to the issue of a Construction Certificate. At a minimum, the acoustic assessment shall address:

- a) the name and qualifications or experience of the person(s) preparing the report
- b) the project description, including proposed or approved hours of operation
- c) assessment is to be guided by the NSW EPA *Noise Policy for Industry (2017)* and/or other applicable legislation for the development
- d) results of background and any other noise measurements
- e) meteorological conditions and other relevant details at the time of the measurements
- f) details of instruments and methodology used for noise measurements (including reasons for settings and descriptors used, calibration details)
- g) a site map showing noise sources, measurement locations and potential noise receivers
- h) noise criteria applied to the project
- i) noise predictions for the proposed development, at a minimum to include traffic noise including deliveries and waste collection, loading dock noise, supermarket carpark noise and mechanical plant and equipment noise, use of the rooftop swimming pool and other recreation facilities within the building and other noise associated with the development.
- j) a comparison of noise predictions against noise criteria
- k) a discussion of proposed design mitigation measures, the noise reduction likely following inclusion of these measures, and the feasibility and reasonableness of these measures
- l) how compliance can be determined practically.

Acoustic treatment measures recommended by the report shall be incorporated into the building design. If changes to the building design are required, amended plans shall be submitted to Council for approval prior to application for a relevant Construction Certificate.

Condition reason: To protect the amenity of residents and the locality.

**(B21) Alterations to pedestrian refuge island and Swift Street car parking**

Detailed engineering plans are to be submitted to Council identifying the proposed pedestrian refuge island alteration to enable vehicle access from Swift Street into the development. The plans should also identify the relocation of Swift Street car parking spaces adjacent to the subject site. The plans will be subject to Council's approval prior to the issue of the Construction Certificate.

Condition Reason: To protect public interest.

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**C. BEFORE BUILDING WORK COMMENCES**

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

Two days before any site works or building 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, trees, structures or works on adjoining land from possible damage from the excavation and if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation, at the person's with the benefit of the consents own expense.
- 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 2021
- i) The vegetation/tree protection measures are to be certified by the relevant Council officer prior to the commencement of works

Condition reason: To ensure construction works are appropriately notified. (BW2-426)

**(C2) Water/Sewer & Drainage Approval**

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* prior to commencement of work.

The Plumbing application shall include plans of the following:

- a) Sanitary plumbing and drainage
- b) Fire services, incorporating appropriate backflow prevention devices in accordance with AS/NZS3500.1:2021 and the Plumbing Code of Australia
- c) Stormwater with pipe sizes, grades and invert levels, catchment areas for pits and point of discharge.
- d) The plans are to be prepared by a suitably qualified hydraulics consultant.

All plumbing and drainage work is to be carried out by a NSW Licensed Plumber and Drainer and to the requirements of the Plumbing and Drainage Act and to the Local Government Act of NSW. The Licensed Plumber's details are to be forwarded to Council prior to commencement of any plumbing work.

Condition reason: To ensure all plumbing and drainage work meets the relevant legislative requirements. (BW2-045)

**(C3) Sewage disposal**

The applicant carrying out all necessary investigations to ensure that it is possible to discharge sewerage to Council's sewer main by gravity. The alternative being a sewer pump with installation and maintenance at the owner's cost.

Condition reason: To ensure sewage can be discharged appropriately. (BW2-433)

**(C4) Water meter location**

The water meter shall be located so as not to be subject to damage and shall be easily and readily accessible by Council. The meter must have a clearance of 300mm from adjacent objects and finished ground level. All corner allotments must be supplied by water services located square off the water main which terminate at a meter situated not more than 2m from the allotment boundary. Where necessary, appropriate barriers, bollards and/or caging must be installed to ensure protection of the water meters.

Condition reason: To protect public infrastructure. (BW2-428 modified)

**(C5) Swimming pool under construction**

The occupier of any premises in or on which a swimming pool (not including a spa pool) is being constructed must ensure that a notice is erected in a prominent position in the immediate vicinity of the swimming pool. The notice must contain the following words –

"This Swimming pool is not to be occupied or used."

The sign is to be maintained until a relevant Occupation Certificate has been issued for the swimming pool.

Condition reason: To ensure relevant legislative standards are maintained. (BW2-901)

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**D. DURING BUILDING WORK**

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(D1) **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 as required by the Principal Certifier.

Condition Reason: To ensure inspections are carried out in an appropriate manner. (BW3-027)

(D2) **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.

Condition Reason: To ensure development is carried out in a safe and inoffensive manner. (BW3-033)

(D3) **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.

Condition reason: To ensure construction work is carried out at appropriate times. (BW3-422)

(D4) **Termite protection**

The structural members of the building, which are subject to attack by subterranean termites, shall be protected in accordance with AS3660.1-2014 – *Termite management Part 1: New building work*. A durable notice must be permanently fixed to the building in a prominent location, such as a meter box or the like, indicating the following:

- a) Method of protection
- b) The date of installation of the system
- c) Where a chemical barrier is used, its life expectancy as listed on the National Registration Authority for Agricultural and Veterinary Chemicals Label
- d) The need to maintain and inspect the system on a regular basis.

Condition Reason: To ensure termite management is carried out with new building work. (BW3-036)

(D5) **Driveway across nature strip**

A full width heavy industrial (STD-R-39) type driveway shall be constructed across the footway clear of the property side boundary in accordance with a permit obtained from Council's Planning and Engineering Unit.

Redundant vehicle crossing(s) shall be removed and replaced with Council's standard kerb and gutter and foot paving.



Condition reason: To ensure that access to the property is in accordance with Council requirements.  
(BW3-405)

(D6) **Stormwater and surface water drainage**

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. 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*.

Condition reason: To ensure surface water and stormwater is appropriately managed in accordance with the relevant standards. (BW3-478 modified)

(D7) **Service supply**

During construction, each apartment shall be provided with independent services i.e. electricity, gas, telecommunications, sewer, and water, all in accordance with the requirements of the relevant authority.

Condition reason: To ensure the development is provided with essential services during construction. (D546 modified)

(D8) **No disturbance of nature strip and footpath**

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

Condition reason: To provide safe pedestrian movement during works. (BW4-466)

(D9) **Regular waste removal**

All waste materials stored on-site must be contained in a designated area, such as a waste bay or bin, to ensure that no waste material enters the stormwater system or neighbouring properties during demolition and construction works on site. The waste storage area shall be fully enclosed when the site is unattended, particularly at night and over the weekend.

All waste material not required for further on-site processing or for re-use on the site, must be regularly removed from the site to be recycled or disposed of at a Council approved waste facility. All vehicles removing waste must have fully secured and contained loads so that no waste is spilled, or dust or odour created, to the satisfaction of Council.

Condition Reason: To protect public interest, the environment and existing amenity of the locality. (BW3-066 modified)

(D10) **Stabilisation of excavations and/or filled areas**

All areas of excavated and/or filled land on the subject allotment are to be retained, battered, and contained wholly within the allotment boundary confines. Any such method that may be utilised to suitably stabilise the site shall ensure that adequate drainage is provided so as to prevent any subsidence of the area and constructed so as to deny any flow of water into or around the building or neighbouring buildings or onto neighbouring lands.

Consent shall be obtained from the appropriate authority for any earthworks or retaining walls not forming part of this development consent and approved plans if it is:

- a) Within 900mm of a property allotment boundary or,
- b) Results in a cut or fill greater than 600mm
- c) If the retaining wall height is greater than 600mm (including the height of any earth batters) or,
- d) Is located within 1.0 metre of any registered easement, and/or other service pipe such as a sewer main, stormwater main, or water main

Condition reason: To ensure areas of excavation and/or filling are safely constructed and stabilised.  
(BW3-454)

(D11) **Stamped plans and erection of site notice**

Stamped plans, specifications, a copy of the development consent, the Construction Certificate, and any other Certificates to be relied upon, are to be always available on site during construction.

The following details are to be placed on signs to be erected on the site:

- a) The name of the Principal Certifying Authority, their address and telephone number,
- b) The name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- c) That unauthorised entry to the work site is prohibited,
- d) The designated waste storage area must be covered when the site is unattended, and
- e) All sediment and erosion control measures is to be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- (i) At the commencement of, and for the full length of the construction works onsite, and
- (ii) In a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development, **or** all construction signage is to be removed on completion of earthworks or construction works and when a Compliance Certificate has been issued by the Principal Certifying Authority certifying that the development has complied fully with the development consent and, where required, been constructed in accordance with the Construction Certificate.

Condition Reason: To ensure construction work is carried out in accordance with approved plans and appropriate details are exhibited. (BW3-015)

**(D12) Noise control**

Work complying with the latest version of Australian Standard 2436 *"Guide to Noise Control on Construction, Maintenance and Demolition Sites"*.

Condition Reason: To protect public interest, the environment and existing amenity of the locality. (BW3-048)

**(D13) Tree removal at developer's expense**

Council accepts the proposed removal of one (1) street tree, as identified on the submitted plans, provided that the cost of tree removal being at the developer's expense and work being carried out in accordance with the WorkCover publication *Code of Practice – Amenity Tree Industry*.

Condition Reason: To protect public interest, the environment and existing amenity of the locality. (BW3-037)

**(D14) Protection of trees**

Two (2) street trees within the nature strip are to be retained and protected whilst works are occurring on site. Each street tree shall have a tree protection zone (TPZ) identified and protective measures installed in accordance with Australian Standards AS 4970-09 *Tree Protection on Development Sites*.

Condition Reason: To protect public interest, the environment and existing amenity of the locality. (BW3-040 modified)

**(D15) Maintenance of soil erosion and pollution controls**

All measures specified in the approved Erosion and Sediment Control Plan (ESCP) are to be implemented whilst works are occurring on site, then maintained until disturbed areas are rehabilitated and landscaped. Council may issue infringement notices incurring a monetary penalty where measures are not provided or maintained.

Condition reason: To protect public interest, the environment and existing amenity of the locality. (BW3-522 modified)

**(D16) Separate water and sewer services**

Each individual apartment and commercial tenancy shall:

- a) Be provided with a separate metered water service. The water meters are to be located within in accordance with Council's Water Metering Guide.
- b) Have only one connection to the main line of sanitary house drain with a property vertical shaft provided at the point of connection to Council's sewer main.

The development is to be provided with its own:

- i. Inspection shaft immediately upstream of the junction with the main line of the sanitary house drain.
- ii. An Overflow Relief Gully
- iii. An open upstream vent.

Condition reason: To meet relevant legislative standards. (BW3-462 & BW3-473 modified)

**(D17) Surcharge gully trap**

The surcharge gully trap is to be located so as to comply with provisions of the National Construction Code of Australia.

Condition reason: To meet relevant legislative standards.

**(D18) Drainage of overflow water**

Adequate surface water and stormwater measures must be installed surrounding the proposed development. This is required to cater for the potential of swimming pool overflow and surface water runoff from hardstand pavement surfaces entering and causing nuisance to adjoining properties.

Any such method utilised to collect and direct pool overflow water and/or surface water to a lawful point of discharge shall be consistent with the latest version of Australian Standard 3500.3.2015.

Condition reason: To meet relevant legislative standards. (BW3-901)

**(D19) Backwash/discharge water**

All backwash water or water discharged from the pool during emptying shall be discharged into:

- a) The sewer where the reticulated sewerage system is available; or
- b) Where no sewer is available, backwash and pool water being suitably disposed of on-site so as not to adversely affect neighbouring properties or the onsite sewerage management system.

Condition reason: To meet relevant legislative standards. (BW3-902)

**(D20) Fencing when water in pool**

When the swimming pool construction has reached a stage where the pool is capable of holding water, the pool area is to be restricted from access in accordance with AS1926.1 2012. This will be considered satisfactory if;

- a) A permanent child restraint barrier is installed in accordance with AS1926.1 2012 and the approved plans, or
- b) A temporary child resistant barrier is installed to the satisfaction of the Principal Certifier. i.e. "The Certifier"

Any temporary child resistant barrier is to be maintained until such time as a compliant, permanent child resistant barrier is in place.

Condition reason: To meet relevant legislative standards. (BW3-903)

**(D21) Pump noise**

The swimming pool/spa filter and pump being installed in such a manner that reflects the Environmental Protection Authority (EPA) neighbourhood noise restrictions and does not affect dwellings on adjoining allotments.

Condition reason: To meet relevant legislative standards. (BW3-915)

**(D22) Resuscitation notice**

A warning and resuscitation notice, pursuant to Part 3 of the *Swimming Pool Regulations 2018*, shall be installed in a prominent location within the pool enclosure.

Condition reason: To meet relevant legislative standards. (BW3-921)

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**E. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

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(E1) **Irrigation installation**

The site being landscaped in accordance with the approved Landscape Plan, prior to occupying the development. The applicant shall install a watering system (e.g. micro irrigation, sprays, under-ground pop-up sprinklers) to ensure the health and minimise maintenance of landscaped areas. Installation must be undertaken by an appropriately licensed person in accordance with an approved plan complying with the provisions of the *Local Government (Water, Sewerage and Drainage) Regulation 1993*.

Condition reason: To protect public interest, the environment and existing amenity of the locality. (BW4-035)

(E2) **Fire safety certificate**

On completion of the development, 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*.

Condition Reason: To ensure building construction is compliant with the National Construction Code and Australian Standards. (BW4-600)

(E3) **Street number**

A street number shall be displayed in a prominent location at the front of the property in the interest of public safety and the delivery of goods, parcels, and emergency services.

Condition reason: To ensure the property is identifiable for emergency purposes. (BW4-424)

(E4) **Stormwater and sewerage plan**

A plan showing full details of stormwater and sewerage drainage lines and inlets is to be submitted to Council, prior to the issue of the Occupation Certificate.

Condition Reason: To record the location of the internal site drainage. (BW4-439)

(E5) **Plumbing/drainage certificate**

Prior to occupation, the responsible plumbing contractor is to submit to Council a Certificate of Compliance. All plumbing work is to comply with the relevant legislation.

Condition Reason: To ensure plumbing and drainage works are certified. (BW4-433)

(E6) **Bicycle parking**

The bicycle parking storage room shall be designed in accordance with AS2890.3 and shall accommodate a minimum of ten (10) bicycles.

Condition Reason: To encourage alternate transport modes.

(E7) **Alterations to pedestrian refuge island and Swift Street car parking**

The alterations to the pedestrian refuge island to facilitate vehicle access to the development, and the line marking of Swift Street car parking spaces adjacent to the subject site, shall be completed prior to the issue of the Occupation Certificate.

Condition Reason: To protect public interest.

(E8) **Car parking contribution – Planning Agreement**

Prior to the issue of an Occupation Certificate, parking contributions as set out in the Planning Agreement must be paid to AlburyCity Council.

Condition Reason: To protect public interest.

(E9) **Certification of acoustic measures**

Prior to the issue of an Occupation Certificate, a suitably qualified person must provide details demonstrating compliance to the Principal Certifier that the acoustic design mitigation measures

have been installed in accordance with the Acoustic Assessment Report, approved under this consent.

Condition Reason: To protect resident amenity.

**(E10) Swimming Pool Registration**

The completed swimming pool/spa must be registered on the NSW Governments swimming pool register prior to use. The swimming pool register can be found on-line at the following link [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au)

Condition reason: To meet legislative requirements. (BW4-902)

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**F. OCCUPATION AND ONGOING USE**

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**(F1) BASIX Certificate**

The commitments listed in the BASIX Certificate forms part of the development consent and, are to be maintained in perpetuity. Where the commitments require replacement, the replacement must be identical to or is at a higher star rating to that listed in the BASIX Certificate.

Where there is any proposed change in the BASIX commitments the applicant must submit a new BASIX Certificate to the Certifying Authority and Council. If any proposed change in the approved BASIX commitments are inconsistent with development consent (See: Clause 75 of the Regulation) the applicant will be required to submit an amended development application to Council pursuant to Section 4.55 of the Act.

Condition reason: To ensure compliance with BASIX requirements is maintained. (BW5-129)

**(F2) External lighting**

Any external lights must be designed in accordance with AS4282 – *Control of the Obtrusive Effects of Outdoor Lighting* and directed away from the adjoining/nearby properties to prevent light spill and glare.

Condition reason: To protect public interest, the environment and existing amenity of the locality. (BW5-018)

**(F3) Landscaped areas**

Landscaping is to be maintained:

- a) In accordance with the approved plan,
- b) In a healthy state, and
- c) In perpetuity by the existing or future owners and occupiers of the development.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity, as the vegetation that died or was removed.

Condition Reason: To protect public interest and amenity of the locality. (BW3-012)

**(F4) Carpark and vehicle manoeuvring**

All car spaces, access lanes and driveways must be always kept available for these purposes and maintained thereafter to prevent nuisance from dust, mud, drainage, sediment loss and the like.

Condition Reason: To protect public interest, the environment and existing amenity of the locality. (BW4-006 modified)

**(F5) Waste removal**

The waste receptacle area shall be screened, regularly cleaned and accessible to collection vehicles in the interest of amenity, safety, and public convenience.

The waste receptacle area must be equipped with separate waste bins to allow for the sorting and separation of waste into the following waste streams – organic, recyclables and general waste. Each waste stream must be separated and clearly labelled.

Waste shall be collected by licensed contractors in accordance with the approved Waste Management Plan, between the hours of 9am and 5pm, Monday to Friday.

Condition reason: To protect the amenity of the local area.

**(F6) Trade waste**

Trade waste material is not to be discharged into the sewer drainage pipelines or stormwater drainage systems, without first obtaining written approval from Council.

Condition reason: To protect the amenity of the local area. (F039)

**(F7) Signage**

No sign that requires Council's approval being displayed until Development Consent is issued. All signs shall be designed and sited to complement the development and be maintained at all times in good order and condition.

All signs shall be located wholly within the allotment boundaries and shall not project over the street alignment, unless written consent from the adjoining landowner has been obtained.

Condition reason: To protect the amenity of the local area. (BW5-800)

**(F8) Hours of operation**

The hours of operation for the ground floor commercial tenancies shall be limited to the following: Monday to Sunday, 8am to 9pm.

All service vehicles and deliveries to the site shall be limited to these hours.

Condition reason: To protect the amenity of the local area.

**(F9) Security alarms**

All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia and be connected to a security service. (F012)

Condition reason: To protect the amenity of the local area.

**(F10) Deliveries and service vehicles**

During ongoing use of the commercial premises, all delivery and service vehicles generated by the development,

- a) are limited to the approved days and times of operation
- b) must be loaded and unloaded within the confines of the allotment boundary
- c) must not obstruct vehicle access within Arnolds Lane
- d) shall minimise disruption to residents and public spaces

Condition reason: To ensure deliveries to the premises are carried out safely and protect the amenity of the local area. (CU1-014 modified)

**(F11) Use of ground floor tenancies**

The ground floor tenancies are permitted to be used for the purpose of a 'shop', as defined under the Standard Instrument. Any changes to this land use will be subject to meeting the requirements of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or the lodgement of a Development Application to Council.

Condition reason: To protect the amenity of the local area.

**(F12) Removal of graffiti**

The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repared.

Condition reason: To protect the amenity of the local area.

**(F13) Storage of goods and signage**

All goods and signage must be located wholly within the premises and must not be stored or displayed outside the premises, including any public place, without Council's approval.

Condition reason: To protect the amenity of the local area.

**(F14) Air conditioning noise**

In accordance with the *Protection of the Environment Operations (Noise Control) Regulation 2017*, an air conditioner must not be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- a) before 8:00am or after 10:00pm on any Saturday, Sunday, or public holiday, or
- b) before 7:00am or after 10:00pm on any other day.

Condition Reason: To maintain the amenity of the locality. (BW5-029)

**(F15) Plant and equipment noise**

The operating noise level of plant and equipment is to not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise. Should noise complaints be received, all external plant and equipment shall be required to be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to Council.

Condition reason: To protect the amenity of the local area. (BW5-033 & BW5-427 modified)

**(F16) Noise control**

Noise levels at the boundary of the site area shall not be offensive, as defined by the *Protection of the Environment Operations Act 1997*, at any time so as to ensure that noise levels associated with the development do not disturb people in surrounding areas.

Condition reason: To protect the amenity of the local area. (BW5-665)

## **DEMOLITION WORK**

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### **G. BEFORE DEMOLITION WORK COMMENCES**

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**(G1) Prior to commencement of demolition works**

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

- a) Notify the adjoining owners that work will commence
- b) Erect a sign at the front of the property stating that unauthorised entry is prohibited and showing the demolition contractor's name, licence number, phone number and site address.
- c) Provide a temporary on-site toilet.
- d) Protect and support any neighbouring buildings.
- e) Protect any public place from damage, obstruction, or inconvenience from the carrying out of the consent.
- f) Prevent any substance from falling onto a public place.
- g) Protect Council's stormwater system, natural water courses and neighbouring properties from uncontrolled stormwater.
- h) Implement erosion and sediment control measures.
- i) Provide temporary safety fencing to restrict access to the site during works and until satisfactory inspection by Albury City Council.
- j) Follow any other conditions prescribed in the *Environmental Planning and Assessment Regulation 2021*.

Condition reason: To ensure demolition work is carried out in accordance with Australian Standards and to protect the public and the environment. (DW1-427)

**(G2) Demolition works**

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.

Condition reason: To ensure demolition work is carried out in accordance with Australian Standards and relevant service authority's requirements. (DW1-420)

**(G3) Asbestos removal and demolition**

Prior to undertaking demolition works, the applicant is to undertake an investigation with regard to the presence of asbestos containing materials within the building. Removal and disposal of the asbestos containing material must be in accordance with the *Protection of the Environment Operations Act 1997*, *Protection of the Environment Operations (General) Regulation 2009*, *Protection of the Environment Operations (Waste) Regulation 2014* and the *Contaminated Land Management Act 1997*.

Condition reason: To protect public health and the environment. (DW1-424)

**(G4) Disconnection of water and sewer**

All services are to be disconnected in accordance with the requirements of the relevant authority. Where water and wastewater services exist to the property and the services will be reused after demolition;

- a) Sewer shall be disconnected and capped by a licensed Plumber. Protection of the service shall be provided to prevent damage.
- b) Water shall be disconnected and capped by a licensed Plumber on the property side of the water meter. The water meter assembly and water meter shall be protected to prevent damage.

Condition reason: To ensure relevant legislative standards are maintained. (BW2-429)

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**H. DURING DEMOLITION WORK**

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**(H1) Mode of work**

Demolition work must be conducted in a manner so as not to be injurious to health and amenity by reason of, lack of environmental controls, lack of security fence or builders' hoardings, noise, vibrations, smells, asbestos and lead contamination, dust, stormwater runoff, sediment loss, placement of building materials and wastes, rubbish, footway and laneway interference, traffic movement, hours of operation, and the like.

Condition reason: To protect the amenity of the area, the environment and public health. (DW2-032)

**(H2) Dust suppression**

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

Condition reason: To protect the amenity of the area, the environment and public health.

**(H3) Asbestos management**

Asbestos that is removed from the site must be taken to a waste management facility that is approved to accept asbestos. The asbestos must be declared to the waste management facility prior to disposal.

Condition reason: To protect the amenity of the area, the environment and public health. (DW2-425)

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**I. ON COMPLETION OF DEMOLITION WORK**

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**(I1) Clearing site**

The site is to be cleared of all building refuse and spoil immediately after completion of the demolition works.



Condition reason: To ensure waste material is appropriately disposed or stored. (BW4-001 modified)

(I2) **Site maintenance upon completion**

The site area being maintained so as to control and prevent dust, the transport of soil, sediments and pollutants off the site. Should the site remain vacant for longer than six months such area shall be grass planted and adequately maintained to prevent unsightly conditions.

Condition reason: To protect public interest, the environment and amenity of the locality. (DW3-030)

(I3) **Surface water drainage**

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

Condition reason: To ensure surface water drainage is appropriately managed. (BW3-478 modified)

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**J. BEFORE ISSUE OF AN SUBDIVISION CERTIFICATE**

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(J1) **Maintenance bond**

Prior to issue of a Subdivision Certificate, the applicant is to lodge with Council a maintenance bond equivalent to five percent (5%) of the contract price of the subdivision works but not less than Five Thousand Dollars (\$5000). Such bond monies will be held for a minimum period of twelve (12) months at which time an assessment will be made as to the extent of outstanding or substandard works. Those works deemed to be outstanding or of a substandard nature at that time by Council, might be repaired by Council at the applicant's expense by drawing on the bond monies held by Council.

Note: Maintenance Bonds are only applicable for projects with a value greater than \$50,000. **(For office use only, Hot Key 64)**

Condition reason: To guarantee works undertaken by land developers prior to handing asset ownership to Council. (SW4-316)

(J2) **Evidence of service supply**

Prior to the release of the Subdivision Certificate the following documentary evidence is to be obtained and forwarded to the Principal Certifying Authority: -

- a) A Notification of Arrangement issued by the relevant electricity supplier;
- b) A letter of compliance from the relevant telecommunications carrier.
- c) A letter of compliance from the relevant gas supplier.

Condition reason: To ensure essential service provision to individual lots. (SW4-408)

(J3) **Easement creation**

Drainage, water, sewer, and service easements not less than three (3) metres must be created where required by AlburyCity to ensure ongoing access and protection of assets located within the easement.

Condition reason: To protect Council infrastructure. (SW4-414)

(J4) **Final plan of subdivision**

A final plan of subdivision shall be submitted with the application for a Subdivision Certificate. The issue of a Subdivision Certificate is not to occur until all conditions of this consent have been satisfactorily addressed.

Condition reason: To ensure all conditions of consent have been implemented and/or satisfied. (SW4-012)

(J5) **Release of Subdivision Certificate**

Prior to Council endorsing the subdivision linen plan the development is to be fully completed in accordance with the plans and conditions of this development consent, and the building fully compliant with the National Construction Code of Australia. A letter outlining relevant conditions of consent and

how each of the conditions has been satisfied or addressed satisfactorily shall be submitted to Council to confirm compliance.

Condition reason: To ensure all development approved for the site is completed in accordance with the conditions of consent and approved plans. (SW4-037)

(J6) **Body corporate letter box**

The provision of an identifiable receptacle for the receipt of mail addressed to the body corporate. This condition is not applicable if the body corporate's address is off-site and shown on the formal plan.

Condition reason: To ensure correspondence for the association can be received. (SW4-049)

(J7) **Location of services**

A registered surveyor certifying that all services (e.g. inter-allotment drainage, water, gas, electricity, and telephone) are contained separately within each new lot or alternatively within easements created to accommodate such services.

Condition reason: To ensure provision of independent services for each lot. (SW4-410)

## NOTES

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### K. ADVISORY AND ANCILLARY MATTERS

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(K1) **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's City Development Cluster on 02 6023 8111 if there is any difficulty in understanding or complying with any of the above conditions. (I010)

(K2) **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 refer to [www.byda.com.au](http://www.byda.com.au) before excavating or erecting structures (this is the law in NSW). (I130)

(K3) **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. (I131)

(K4) **Alterations after consent**

Any alterations or works contemplated after the consent is issued, shall be subject to a development application for the modification of the Development Consent. (I005)

(K5) **Road and Public Domain Works – Council approval required**

This development consent does not give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

Details plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths, and storm water drainage) within existing roads, must be submitted to and approved by Council under the *Roads Act 1993*, prior to any works occurring on site.

All public domain works must comply with Council's "*Engineering Guidelines for Subdivisions and Development Standards*". (I051)

(K6) **Disability Discrimination Act, 1992 & Building Code of Australia**

The person with the benefit of this consent is responsible for ensuring that the development will satisfy the requirements of the Disability Discrimination Act 1992 and Disability (Access to Premises – Buildings) Standards 2010. (I025 modified)

(K7) **Disposal of asbestos at Albury Waste Management Centre**

The costs associated with the disposal of asbestos at the Albury Waste Management Centre site must be determined by contacting the officer on duty at the Albury Waste Management Centre. The contractor involved with the disposal of the asbestos at the Albury Waste Management Centre site is to advise the weigh bridge office at least 24 hours prior to entry to enable specific burial of the waste. The weighbridge office may be contacted on (02) 6043 5860 during office hours. (I125)

(K8) **Public Safety**

All approved works undertaken in a public place are to be maintained in a safe condition at all times in accordance with AS17423. (I027)

(K9) **Resident safety and security**

To enhance resident safety and security, the following measures are recommended to be implemented onsite:

- a) Promptly repair broken lights, locks, and other security features.
- b) Implement effective property management practices to address security concerns and respond to residents' needs.
- c) Installation of CCTV 1080 HD cameras that cover the ground level carparking area, basement carpark, entrances and exits of the building.
- d) Installation of security lighting around the building.
- e) Entrances and exits of commercial tenancies and the residential apartments to be easily recognisable to guide residents and customers along the desired pathways.

(K10) **Arnolds Lane loading zone**

The portion of Arnolds Lane adjoining the subject land is designated as a loading zone. This may impact access to the proposed ground level parking associated with the proposed development. In proceeding with this development, the applicant and future owners must acknowledge the risks and limitations associated with the loading zone.

(K11) **Parking permit**

Parking permits will not be provided to residents as per the recommendations of *Albury CBD Parking Strategy*.

(K12) **Essential Energy**

Essential Energy makes the following general comments as to potential safety risks arising from the proposed development:

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
- Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure;
- Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW); and
- It is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

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## **General advisory notes**

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation, and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

## Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

**Construction certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

**Council** means Albury City Council.

**Court** means the Land and Environment Court of NSW.

**EPA** means the NSW Environmental Protection Authority

**EP&A Act** means the *Environmental Planning and Assessment Act 1979*.

**EP&A Regulation** means the *Environmental Planning and Assessment Regulation 2021*.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by Section 2.7 of the EP&A Act.

**Local planning panel** means – not applicable, Albury has no local planning panel.

**Occupation certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under Section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage** systems means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

**Strata certificate** means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion

**Subdivision certificate** means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

**Subdivision works certificate** means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirement of the EP&A Regulation.

**Sydney district or regional planning panel** means Southern Regional Planning Panel