

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH - 33
DA Number	DA20/0080
LGA	Wagga Wagga
Proposed Development	Change of Use to Educational Establishment (Riverina Conservatorium of Music) with internal and external alterations and signage.
Street Address	1 Simmons Street, Wagga Wagga, NSW 2650
Applicant/Owner	Applicant: NSW Public Works Owner: Government Property NSW
Date of DA lodgement	17 February 2020
Number of Submissions	3
Recommendation	Approve with deferred commencement conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	4. Crown development over \$5 million Development carried out by or on behalf of the Crown (within the meaning of Division 4.6 of the Act) that has a capital investment value of more than \$5 million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> Wagga Wagga Local Environmental Plan 2010 Wagga Wagga Development Control Plan 2010 SEPP 55 – Remediation of Land
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> Plans Statement of Environmental Effects Traffic impact assessment Noise impact assessment Preliminary Site Investigation
Clause 4.6 requests	Nil
Summary of key submissions	<ul style="list-style-type: none"> Loss of parking Noise assessment and disturbance Remediation Works
Report prepared by	Amanda Gray
Report date	September 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? *e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Not Applicable

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Executive Summary

- The proposed development is for the change of use of a vacant former public administration building into an educational establishment. The building is to be occupied and used by the Riverina Conservatorium of Music. The site is at the edge of the commercial core and is within an area of predominantly residential properties but also includes a public school, medical and commercial premises.
- The change of use requires alterations and additions to the building including minor demolition works and internal alterations to establish teaching studios, rehearsal spaces and administration areas. An addition in the form of a raised roof will create a large rehearsal space with increased volume to enhance acoustics.
- The building will be upgraded to be fully accessible including the installation of a lift and replacement ramp and handrails to the main entry. The external facades of the building will be modernised with cladding and panels as well as new signage to be fitted upon a perforated metal screen.
- The site is within the heritage conservation area. The existing building does not contribute to the character of the conservation area and has no heritage significance. The proposed works improve the streetscape presentation by the inclusion of contemporary functional materials.
- Thirty-eight parking spaces are provided on site as well as a loading area. Parking spaces will be available for staff, students and parents and the lay-out includes six spaces for picking up and dropping off students. The parking numbers have been assessed as suitable.
- The application sought an amendment to the on-street parking arrangements to create a restricted area for drop-off and pick-up only at the front of the building between 3pm and 7.30pm each day. Due to the loss of parking this proposal is not supported by Council's traffic officers. Subject to the determination of the DA a recommendation will be put to traffic committee that allows for a drop-off and pick up zone in place of the existing loading and delivery zone only at the front of the building.
- The works to the building include acoustic walls to minimise sound between different studios and rehearsal spaces. A noise impact assessment has found that any noise emission from the building is acceptable when assessed against existing background noise levels and industry standards.
- A preliminary site investigation has identified underground fuel tanks on site that are deemed to be a hazard and their removal is recommended. The removal of the tanks is category 1 remediation works for which approval is required and it is proposed that this be addressed by the inclusion of deferred commencement conditions.
- The subject land is zoned as B3 Commercial Core under the Wagga Wagga Local Environmental Plan and is currently a vacant building. The proposed use is permitted with consent in this zone.
- Three submissions have been received from local and neighbouring properties in objection to the development. The objections generally relate to noise disturbance and parking. Both issues are addressed in the assessment report and found to be acceptable. As there are less than ten submissions there is no need for a public meeting.
- The capital investment value of the project is \$7,209,977.
- The development is recommended for approval, subject to deferred commencement conditions as detailed in the report.



Report of Development Application Pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979

APPLICATION DETAILS

Application No.:	DA20/0080
Modification No.:	N/A
Council File No.:	D/2020/0080
Date of Lodgement:	17/02/2020
Applicant:	NSW Public Works - Wagga 2 Coleman St TURVEY PARK NSW 2650 Amelia Parkins
Proposal:	Change of Use to Educational Establishment (Riverina Conservatorium of Music) with internal and external alterations and signage.
Description of Modification:	N/A
Development Cost:	\$7,209,977
Assessment Officer:	Amanda Gray
Determination Body:	Officer Delegation 7.39
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal Referral Groups
Adjoining Owners Notification:	18 June - 2 July 2020
Advertising:	18 June - 2 July 2020
Owner's Consent Provided:	yes
Location:	On the south-eastern corner of the junction of Simmons Street and Johnston Street.

SITE DETAILS

Subject Land:	1 Simmons St WAGGA WAGGA NSW 2650 Lot 1 DP 775220
Owner:	Government Property NSW

REPORT

Description of Development

This application is for the change of use of from a public administration building to an educational establishment. The building is to be used by the Riverina Conservatorium of Music for music lessons and recitals. The property is owned by Government Property NSW and the applicant is NSW Public Works Advisory, accordingly the application is made by and on behalf of the Crown and is to be determined as a Crown Development Application.

The Conservatorium will operate as an educational and administration centre from Monday to Friday between 7am and 8pm. A maximum of 20 concurrent music lessons will occur on weekday afternoons, with weekly meetings of musical groups of up to 50 people. Additional teaching lessons will occur between 9am-8pm at the weekends with additional and occasional rehearsal and student performances that would finish no later than 10pm. There will be occasional recitals and group auditions for up to 150 people.

The change of use will include the following works:-

- ☐ An addition to the south-western corner of the building to raise the roof, creating a void above the rehearsal space that allows for increased volume and improved attenuation.
- ☐ Refurbishment works to the building and façade upgrades to include new aluminium framed windows, perforated metal sun-shading panels, replacement of fascia panels and new pre-finished cladding panels with integrated vertical fins to the extended area of the building.
- ☐ New mechanical plant area on the raised roof area to be screened by new building façade.
- ☐ Minor demolition works including removal of link to adjacent building on site, demolition of existing external egress staircase, removal of roller doors to plant rooms and removal of temporary internal partitioning.
- ☐ Reconfiguration of rooms to provide teaching and learning studios across both levels, three rehearsal spaces, storage areas, new foyer, reception and administration offices and amenities.
- ☐ New ramp and front stairs with handrails to front entry; new footpath from car-park (with pedestrian gateway) to main entrance; new lift, new external (egress) staircase.

The existing total GFA of the office building is 1301m². Due to the nature of the proposed internal works, the total GFA increases slightly to 1431m², an increase of 130m².

The proposed site plan identifies 38 car parking spaces of which two are accessible parking spaces with a centralised shared zone. Twenty spaces will be reserved for staff and six spaces are specifically assigned as short term drop off spaces adjacent to a pedestrian footpath that leads directly into the front entrance of the building. The remaining ten spaces are available for visitors, students and parents as required throughout the afternoons and evening. A loading dock is proposed to the rear of the building and includes suitable manoeuvring areas.

The application seeks an amendment to the existing on-street parking restrictions to the front of the site. Currently the frontage to the building on Simmons Street includes a loading zone between 8.30am-6.00pm with the remainder being unrestricted parking. It is proposed that this whole frontage area be amended to a no parking zone between 3pm and 7.30pm to allow for drop off and pick up to occur exclusively to the conservatorium during this time period. Outside of these hours there would be unrestricted parking. This matter has been addressed by referral to Council's traffic officers and is reviewed within the body of the report.

New signage is proposed in the form of building identification sign(s). There will be one sign to the Johnston Street elevation that consists of laser cut lettering attached to the metal screen that is proposed to wrap around the corner elevations of the building. The lettering will be at

the upper level of the building, at its highest point 6.2 metres above ground level. The second sign is to the Simmons Street elevation and also consists of individual letters that will be fitted to the balustrade wall of the access ramp. Both signs will be illuminated from below by in-ground lighting.

A preliminary site investigation has identified the presence of underground fuel storage tanks. The removal of the tanks is defined as remediation works requiring consent under SEPP 55. A deferred commencement condition is recommended that allows for the required remediation works to be completed prior to any consent becoming operational.

The Site and Locality

The subject site is legally identified as Lot 1 DP775220 and is known as 1 Simmons Street. The lot is irregular in shape extending to 4804sq.m and is located on the south-eastern corner of the junction of Simmons Street and Johnston Street.

The premises consists of one two storey building previously used as a public administration building (by the former Roads and Maritime Authority.) The building which has frontage to both Johnston Street and Simmons Street was built during the 1970s and is inconsistent with surrounding buildings in the heritage streetscape. The site also includes a former laboratory building and a single storey former conference/IT room building with attached carport, both of these buildings front onto Johnston Street. The subject application only relates to the two-storey building that fronts Simmons Street.

There is vehicular access to the site from the southern most-point of Simmons Street, this leads to a large car-parking area that currently has 44 spaces. There is a secondary entry to the site from Johnston Street but this is not utilised in association with this development. There are footpaths to both street frontages.

The site is generally surrounded by residential properties however directly to the north on the opposite side of Johnston Street is a public school. Directly to the south is a lagoon beyond which is a tree lined walkway and residential and commercial properties. The site is within close proximity of the commercial core.

The site is within the heritage conservation area.

Easements and Covenants

The land is not subject to any known easements or covenants.

Previous Development Consents

DA67/79 - New office block two storey brick construction. Approved 14.3.1979.

DA155/86 - Proposed subdivision, demolition of shed and construction of car parking facilities. Approved 18.9.1986

DA256/89 - Proposed demolition of existing brick storage building, extension to existing laboratory building. Approved 14.12.1989

DA98/0135 - Painting of building in Conservation Area. Approved 18.9.1998

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

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

Wagga Wagga Local Environmental Plan 2010

Under the provisions of the WWLEP 2010 the land is zoned B3 Commercial Core. The objectives of the B3 zone are:

- ☐ *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- ☐ *To encourage appropriate employment opportunities in accessible locations.*
- ☐ *To maximise public transport patronage and encourage walking and cycling.*
- ☐ *To ensure the maintenance and improvement of the historic, architectural and aesthetic character of the commercial core area.*

The development will serve the needs of both the local and wider community providing education to a range of children and adults from different areas. The use will provide employment for the educators and is in an accessible location that allows for students to walk, cycle and catch the bus to utilise this service. The proposed changes to the building will enhance the aesthetic character of the heritage area. Based on the above the development is seen to be consistent with the listed zone objectives.

Part 2 Permitted or prohibited development Land Use

The Riverina Conservatorium is predominantly funded by the NSW Department of Education and is dedicated to providing the best possible music education in the region. Whilst not a traditional 'school' the proposed use of the premises is best defined as an **Educational Establishment** as follows:

educational establishment means a building or place used for education (including teaching), being:

- (a) a school, or*
- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.*

Educational Establishments are permitted with consent in the B3 zone.

2.7 Demolition

The demolition of a building or work may be carried out only with development consent.
By lodging this application the applicant has complied with this clause of the LEP.

Part 3 Exempt & Complying Development

The proposed development is not Exempt or Complying Development. The application is seeking consent.

Part 4 Principal development standards

There are no principal development standards that apply to this development.

Part 5 Miscellaneous provisions

5.10 Heritage Conservation

(1) *Objectives:*

The objectives of this clause are:

- (a) to conserve the environmental heritage of Wagga Wagga*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The proposal does not adversely affect the significance of the heritage area in this locality due to the existing building being a modern bulky structure that does not contribute to the heritage streetscape and that is not characteristic of the conservation area. The upgrades to the façade of the building will improve the streetscape, furthermore the views to and from the site within the conservation area are improved as a prominent building is upgraded with a more contemporary and amenable design.

(2) *Requirement for consent:*

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,*
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior*

This proposal includes demolition and new building work within a conservation area and therefore requires consent from Council. The lodgement of this application satisfies this clause.

(4) *Effect on heritage significance*

The consent authority must before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted.

Consideration has been given to these provisions. It is considered that the proposal meets with the objectives of the clause, has met the requirements for consent in submitting the application and in principal, does not detrimentally affect the significance of the conservation area. Council has therefore considered the effect of the proposed development on the heritage significance of the heritage conservation area and assessed that the effect is acceptable.

Part 6 Urban Release Areas

The proposal is not within an Urban Release Area.

Part 7 Additional Local Provisions

7.2 Flood Planning

The site is within the central area and is identified as being flood prone during the 1:100 flood event, this clause therefore applies.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and*
- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) incorporates appropriate measures to manage risk to life from flood, and*
- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

The site is within the area protected by the main city levee and thus is only impacted upon by very large flood events. The community has accepted the risk associated with continuing development of the central area in the face of this flood risk due to the substantial economic impacts that would result should development be halted or curtailed. The city levee is currently being upgraded to provide protection against floods up to the 1 in 100 year flood level, plus 500mm freeboard.

Notwithstanding, it is considered that the proposed development is compatible with the flood hazard of the land, will not significantly affect flood behaviour and will not result in unsustainable social and economic costs to the community as a result of flooding.

7.3 Biodiversity

A significant part of the site is covered by the biodiversity layer and therefore this clause applies. The objectives of this clause are to protect, maintain or improve the diversity of the native vegetation. There is no vegetation on the site and the layer is likely associated with the proximity to the lagoon and vegetation that exists along the waterside. There is no vegetation being removed as part of the development and no impact upon any habitats. The development is consistent with the clause.

7.6 - Groundwater Vulnerability

Clause 7.6 of the WWLEP 2010 relates to groundwater vulnerability. The subject site is identified as sensitive on the Water Resources Map and as such this clause applies. The objective of this clause is to protect and preserve groundwater sources. It is not anticipated that there will be any adverse impacts on groundwater as the use is not identified under this clause as impacting on groundwater sources and the works are all associated with an existing building.

7.9 - Primacy of Zone B3 Commercial Core

Clause 7.9 states that development consent must not be granted to development on any land unless the consent authority is satisfied that the development maintains the primacy of Zone B3 Commercial Core as the principal business, office and retail hub of Wagga Wagga. The subject site is zoned as B3 and located at the edge of the CBD. The proposed use will contribute to the viability and vitality of the central area by introducing a compatible land use that does not detract from the primacy of the CBD and therefore satisfies this control.

State Environmental Planning Policies (SEPPs)

SEPP 55 Remediation of Land

Clause 7 of SEPP 55 states the following:

- (1) *A consent authority must not consent to the carrying out of any development on land unless-*
- (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is-*
- (a) *land that is within an investigation area,*
 - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
 - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital-land-*
 - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

Under part 2 of this clause Council is required to consider whether land is contaminated prior to granting consent for the change of use. The history of land uses that was included in the SEE identified potentially contaminating land uses such as a brewery, laboratory, hospital and the RTA depot. Given that the proposed use is for an Educational Establishment a Preliminary Site Investigation (PSI) was requested and prepared.

The report was prepared by a suitably qualified person and includes the findings of both desk-top research and a site visit. The report referenced the findings of both a PSI and DSI that were carried out in 2016 and noted that the site conditions since that time are un-changed. A Geo-technical report was prepared in 2018 that included the drilling of boreholes and collection of soil samples with subsequent laboratory analysis for a general suite of contaminants of concern. Sampling and analysis of soil for potential contaminants of concern was based on potential future classification of soil for off-site disposal as “excavated natural material”, rather than for the purpose of contaminated land assessment.

The key findings from the analysis relate to the presence of underground fuel storage tanks (USTs) on site. There are historical plans and records confirming the presence of tanks on site, it is considered that there were up to five tanks on site at one time. There is also a record of the removal and decommissioning of some of the tanks however the accuracy as to which tank was removed and whether they have all been removed is uncertain. A ground penetrating radar (GPR) survey of the site carried out as part of the 2016 reports identified two areas where they believed USTs remained at the site and identified three locations where they believed tanks had previously been removed.

The EPA fact sheet regarding Underground petroleum storage system (UPSS) obligations states the following:-

Decommissioned tanks must be removed and disposed of in accordance with Australian Standard AS 4976-2008. In limited circumstances, tanks may be decommissioned 'in-situ' (left underground) but only where there is a risk to surrounding infrastructure from their removal. The person responsible for the UPSS must notify the local council 30 days in advance of the plan to decommission the tank(s) or storage system. The person responsible for a UPSS at the time of decommissioning must ensure that the site is investigated for contamination and a validation report for the storage site is delivered to the local council no later than 60 days after the system is decommissioned or removed. The UPSS operator must also notify SafeWork NSW when a tank(s) or a UPSS has been decommissioned.

The analysis of the previous reports and site visit observations concludes that the presence of UPSSs on site that may contain remnant fuel could pose an ongoing risk of land contamination, or could be an explosive hazard if struck during intrusive works by parties unaware of their presence. Any remaining UPSS infrastructure should be removed on this basis and site validation completed following the decommissioning works.

The recommended removal of the tanks and subsequent validation of the site to determine site suitability are remediation works and as such a remediation action plan is required to support these works. As this is a heritage area the works are classed under clause 9 of SEPP 55 as category 1 works that require consent and are required to be notified. In accordance with the Act notification must occur for a minimum period of 28 days.

It is recommended that the remediation works be addressed as a deferred commencement condition. The deferral will require remediation works to be approved and completed in accordance with a remediation action plan to the satisfaction of Council prior to any consent becoming operational.

State Environmental Planning Policy No 64 - Advertising and Signage

The SEPP provides a series of objectives and assessment criteria against which signage must be assessed, with consent only to be granted if the development is consistent with these. This assessment is as follows:

Clause 3 - Aims and objectives of the policy

(1) *This Policy aims:*

(a) *to ensure that signage (including advertising):*

- (i) is compatible with the desired amenity and visual character of an area, and*
- (ii) provides effective communication in suitable locations, and*
- (iii) is of high quality design and finish,*

(2) This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.

The proposal is for business identification signage, the assessment of the signs throughout this report concludes that they are compatible with the amenity of the area, provide effective communication in a suitable location and are of a high quality design and finish.

Clause 7 - Relationship with other environmental planning instruments

In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.

The State Environmental Planning Policy prevails over the Wagga Wagga Development Control Plan 2010.

Clause 8 - Granting of consent to signage

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

The proposed sign is considered consistent with clause 3(1)(a) and has been assessed against the assessment criteria specified in Schedule 1 below.

Schedule 1 - Assessment criteria

1 Character of the area

- ☐ *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- ☐ *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

The building on which the signs are to be located is within an area of mixed character and includes residential properties, recreational open areas, a public school that is a listed heritage item and the subject site. There is no theme for advertising in the area with the closest other signage being at the school and including an illuminated pylon sign.

2 Special areas

- ☐ *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

The subject site is within the conservation area. The signs will not detract from the character of the area as they are incorporated into the upgraded facade works to the building.

3 Views and vistas

- ☐ *Does the proposal obscure or compromise important views?*
- ☐ *Does the proposal dominate the skyline and reduce the quality of vistas?*
- ☐ *Does the proposal respect the viewing rights of other advertisers?*

The signs are incorporated into the building elevations and will therefore not detract from existing vistas and views. The bulk of the building is existing and already dominates the skyline from certain viewpoints.

4 Streetscape, setting or landscape

- ☐ *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- ☐ *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- ☐ *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- ☐ *Does the proposal screen unsightliness?*
- ☐ *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
- ☐ *Does the proposal require ongoing vegetation management?*

The proposed facade treatments to the building will modernise the appearance and screen the existing plain elevations that are not contributory to the heritage area or the streetscape. The signs will form a part of the new elevations and their scale is appropriate to the size of the building. The signs will not protrude above existing buildings or structures and will not require ongoing vegetation management.

5 Site and building

- ☐ *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- ☐ *Does the proposal respect important features of the site or building, or both?*
- ☐ *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

6 Associated devices and logos with advertisements and advertising structures

- ☐ *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

7 Illumination

- ☐ *Would illumination result in unacceptable glare?*
- ☐ *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- ☐ *Would illumination detract from the amenity of any residence or other form of accommodation?*
- ☐ *Can the intensity of the illumination be adjusted, if necessary?*
- ☐ *Is the illumination subject to a curfew?*

8 Safety

- ☐ *Would the proposal reduce the safety for any public road?*
- ☐ *Would the proposal reduce the safety for pedestrians or bicyclists?*
- ☐ *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

Based on the above assessment against the schedule 1 criteria the signs are consistent with the SEPP and considered acceptable in this location.

Conditions of consent will ensure the signs are erected in a safe and secure manner and given the location will have no impact on public or road safety.

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State.

The Riverina Conservatorium is predominantly funded by the NSW Department of Education and is dedicated to providing the best possible music education in the region. The NSW Conservatorium of Music Education Programs offer a wide range of music education, training, performance and engagement opportunities for schools, students, teachers and community members in regional, rural and remote areas by catering for learners, performers and audiences of all ages, interests and abilities.

Whilst the development is clearly for an educational establishment the controls within this SEPP relate more to the construction of new primary and high school developments. However the following controls are of relevance to this particular application:-

Part 4 Schools - specific development controls

35 Schools-development permitted with consent

(1) Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone.

The B3 zone is a prescribed zone and an application has been lodged.

(6) Before determining a development application for development of a kind referred to in subclause (1), (3) or (5), the consent authority must take into consideration:

(b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.

The facilities of this educational establishment are open to all ages and predominantly for use during afternoons and evenings by all members of the community.

The applicable sections of the SEPP have been considered and raise no concerns.

State Environmental Planning Policy (State and Regional Development) 2011

Under Section 4.5(b) of the Act a regional planning panel is identified as the consent authority for development of a kind that is declared by an environmental planning instrument as regionally significant development.

Development specified in Schedule 7 of the SEPP is declared to be regionally significant development for the purposes of the Act and includes (of relevance to this application):-

Crown development over \$5 million

Development carried out by or on behalf of the Crown (within the meaning of Division 4.6 of the Act) that has a capital investment value of more than \$5 million.

Section 4.15(1)(a)(ii) - Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority

Draft State Environmental Planning Policy - Remediation of Land

The Draft SEPP was placed on exhibition until 31 March 2018. The SEPP will replace SEPP 55. The Explanation of Intended Effects outlines that the key operation framework of SEPP 55 will remain. Changes in the SEPP relate primarily to land undergoing remediation work.

The Draft SEPP clarifies those works that are category 1 remediation works requiring consent. One of the types is listed as follows:-

remediation works associated with infrastructure for the storage, handling or management of hazardous chemicals (including petroleum) on sites containing underground storage systems or aboveground storage tanks for hazardous chemicals (including petroleum)

As noted under the SEPP55 assessment the site contains UPSSs and the removal of the tanks is recommended in the PSI that has been prepared by the applicant. The Draft SEPP reiterates the fact that this work requires consent.

As the SEPP has been exhibited a degree of weight should be afforded to this draft instrument.

Section 4.15(1)(a)(iii) - The provisions of any development control plan

Wagga Wagga Development Control Plan 2010

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

Section 1 - General

1.10 Notification of a Development Application

The application was advertised and notified to adjoining neighbours from 18 June - 2 July 2020 in accordance with the provisions of the DCP. Three submissions were received during the notification period. The submissions are addressed under section (d) of this report.

Section 2 - Controls that Apply to All Development

2.1 Vehicle access and movements

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

Access to the site is from Simmons Street which is a non-arterial road. The vehicle access at the south-western corner of the site remains as existing.

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

A traffic and parking impact assessment was prepared in support of the application.

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

The movement of vehicles to and from the site will all be in a forward direction.

C4 Provide adequate areas for loading and unloading of goods on site. The loading space and facilities are to be appropriate to the scale of development.

There is a new loading area proposed within the site, the dock is sited to the southern side of the building and utilises an existing vehicle movement area that can accommodate medium rigid vehicles up to 8.8m in length. Deliveries to and from the site are not anticipated to be significant and the scale of the loading area is considered suitable for the development.

As a result of the new loading dock it is proposed to remove the on-street loading zone area at the front of the building. There is no objection to the removal of this loading zone.

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

There are no changes proposed to the location of the driveway.

C6 Ensure adequate sight lines for proposed driveways.

The access driveway exits onto the head of cul-de-sac, visibility of all vehicles approaching or leaving the site is very clear.

2.2 Off-street parking

The following controls of this section are relevant to this development:

C1 Parking is to be provided in accordance with the table below. For uses not listed, similar land uses should be used as a guide in assessing car parking requirements.

The traffic impact assessment includes an analysis of parking and vehicle movements at the existing conservatorium and uses this data to assess the provision of parking at the proposed subject site.

The SEE notes that the conservatorium will have a maximum of 20 staff members during peak times and anticipates that staff will drive to the site. It is also noted that at the existing premises prior to 5:00pm, a maximum of 12 cars park and wait on site during lessons and that the peak parking accumulation occurs at approximately 7:30pm.

On the basis of the above data from the existing comparable premises, the applicant has concluded that the proposed development requires the provision of 32 car parking spaces, comprising of 20 staff spaces and 12 medium stay spaces for visitors. The proposed car parking design provides 38 car parking spaces comprising of 20 staff parking spaces, 12 medium stay spaces for visitors and six (6) short term spaces for visitors, satisfying and exceeding the expected demand during the afternoon operating hours of the conservatorium.

The surplus of six (6) short term visitor spaces allows additional capacity for drop-off and pick-up of students before/after lessons. This is in addition to the proposed drop-off zone that is proposed along the Simmons Street frontage of the site. A review of the drop-off zone by Council's traffic officer has concluded that whilst there is no objection to the removal of the loading zone on Simmons Street the loss of on-street parking for other users in this locality cannot be supported. It is recommended that the loading zone be changed to a drop-off zone only between 2pm and 8pm Monday to Friday to assist in providing a safe spot for drop-offs to the Conservatorium. This recommendation requires endorsement by the Traffic Committee

and this is secured by condition.

Many of the classes in the afternoon are for school aged children who have the ability to travel directly to the site from other schools via school bus services into the central area. The ability for students to travel independently to the site via school bus is an improvement to the existing conservatorium that is not located within the central area and that is therefore not as well served by school buses.

On-street parking in the surrounding area of the proposed site experiences a sharp drop in demand after 4:30pm and any additional short-term demands for parking after this time can be accommodated on street without adversely affecting surrounding residents or businesses.

Based on the above analysis and conclusions drawn within the traffic impact assessment the proposed on-site parking provision is considered acceptable to meet the demands of the development.

C7 Variations to the parking requirements may be considered where minor alterations and additions are proposed and the changes do not encroach or reduce the current off-street parking spaces.

As there is no specific parking standard for this land use there is no variation sought. The proposed alterations and additions to the premises do result in a reduction in the number of off-street parking spaces however the parking numbers have been justified based on existing vehicle numbers and vehicle movements at the existing conservatorium and are considered acceptable in this location.

C8 A traffic and parking study may be required for certain proposals, including but not limited to proposals for schools and other education uses including child care centres, business parks, hospitals, cinemas and gyms.

A traffic and parking assessment has been provided in support of the application. The report analyses data collected from the existing conservatorium including on site car counts and surveys of staff and students. The data has been used to determine the car parking demand as noted above and concludes that the proposed number of spaces is acceptable. Furthermore a loading zone has been incorporated into the site design and allows for the on-street loading zone area to be deleted. The request to use the whole of the site frontage as a restricted drop-off zone only between 3pm and 7.30pm is not supported but the incorporation of a drop-off zone for two vehicles at the front of the premises is proposed and a condition is recommended that this be endorsed by Traffic Committee.

2.3 Landscaping

There is no landscaping proposed or existing at the subject site.

2.4 Signage

General controls for signage and structures

1. *All signage and structures must relate directly to the lawful approved or exempt land use being conducted on the land to which the signage or structure is to be displayed.*
Complies.

2. *Any sign or structure should reflect the architectural style of the building.*
The proposed signage will not detract from the architectural style of the building, the metal lettering is consistent with the proposed upgrades to the façade of the building.

3. *Signs should not obscure decorative forms or moulding and should observe a reasonable separation distance from the lines of windows, doors, parapets, piers and the like.*
The signs will not obscure decorative forms or mouldings and are clear of windows, doors and parapets.

4. *Signs should be of a size and proportion, which complement the scale of the existing building as well as surrounding buildings and signs. Signs should not significantly affect the presentation of the existing façade of the building.*
The new signs are consistent with the size and proportion of the existing two storey building.

5. *The scale of lettering should also be proportioned to the area of the signage panel to which it will be applied.*
The lettering is proportionate to the signs.

6. *Must be securely fixed and maintained in a structurally adequate and safe manner.*
The sign is incorporated within the building façade works and will be subject to compliance with the BCA.

7. *The colour used in the design of a sign or structure should complement the colour finish of the building to which it will relate.*
There is no colour to the signs as they are metal letters, this material is consistent with the amended facades and finishes to the elevations that include cladding and aluminium windows as well as the perforated metal screen on which the sign is proposed.

8. *Corporate colours should be limited to the signage.*
N/A.

9. *The illumination of signage and structures by low set floodlighting is preferred, rather than the use of neon or boxed fluorescent lighting on buildings.*
The sign is to be illuminated from in-ground lighting.

10. *The rationalisation of signage will be generally required where there is existing signage through the use of common directory pylon signs for multi-occupancy developments and by limiting the number of signs that may be erected on any-one building or site.*
N/A.

11. *A sign or structure must not endanger public safety or cause nuisance or a hazard by reason of its location, construction or design by either:*
a. *Emitting excessive glare or reflection from internal or external illumination or surface materials;*
b. *Obscuring the view of motorists or pedestrians;*
c. *Screening potentially hazardous road features;*
d. *Signage containing designs or messages which may either confuse or distract motorists*

The proposed signs will not endanger public safety, cause a nuisance or create a hazard.

Wall Signs

C17 *Maximum of one (1) business identification sign per tenancy elevation.*
Complies.

C18 *Maximum of one (1) building identification sign per building elevation.*

N/A.

C19 Must be integrated with the design of the building on which it is to be displayed and for a building having:

(a) An above ground elevation of 200m² or more - the advertisement must not exceed 10% of the above ground elevation;

(b) An above ground elevation of more than 100m², but less than 200 m² - the advertisement must not exceed 20m²; and

(c) An above ground elevation of 100m² or less - the advertisement does not exceed 20% of the above ground elevation.

Complies the sign is approximately 10 % of the elevation to Johnston Street.

C20 Must be attached flush to the wall and must not protrude more than 300mm from the wall.
Complies

C21 Must not protrude above the parapet or eaves.

The sign is not above the parapet or eaves. The sign to the northern elevation is incorporated into a screen on the building façade at first floor level and the sign to the western elevation is fixed to the wall forming part of the entry ramp into the building at ground level.

C22 Must not cover mechanical ventilation vents.

Complies

C23 Must not extend over any window or other external opening.

Complies

C24 Must not obscure significant architectural elements of the building.

Complies

2.5 Safety and security

The entrance to the building is clearly defined and access to and from the entry is to be improved. The existing ramp and stairs are to be reconstructed with new hand rails and a new pedestrian footpath leading to the entry is to be constructed from the car park. A pedestrian gate is proposed to the car-park allowing a safe and secure footpath for students and staff walking to and from vehicles.

The building is afforded natural surveillance from both street elevations and windows allow for natural surveillance from the building across the neighbouring locality. Lighting from street lights allows for a secure environment around the building and the car park will be illuminated to further improve user safety.

When the premises are closed the car park area has secure gates that can be locked but their open nature design allows for visibility into this area.

2.6 Erosion and Sediment Control Principles

There are minimal ground works but standard conditions will be included to minimise impacts of run-off from the site.

2.7 Development adjoining open space

To the south of the subject site is the Wollundry Lagoon with public footpaths and open space

areas on both sides. The development is not considered to adversely affect the area of open space and is consistent with the objectives and controls of this section that are listed below.

Objectives

O1 Ensure that developments adjoining open space contain impacts within their boundaries and don't impinge on, or rely on the open space area as a buffer.

O2 Encourage positive visual and physical relationships between private developments and public areas and reserves.

Controls

C1 Private developments are not to gain access across public open space.

C2 Materials are not to be stored on public land.

C3 Design, massing, scale and materials to be compatible with the amenity, views and outlook from the open space area.

C4 Landscaping is not to encroach into any public reserve.

Section 3 - Heritage Conservation

The conservation area covers a wide area of the city and includes controls for both the residential precinct and the commercial precinct. Although the subject site is zoned as commercial core the surrounding character is that of a residential precinct. Controls are generally of relevance to new developments and not applicable to the change of use development.

The existing building is uncharacteristic within the residential precinct being a former office use and a modern building with 1970s architectural style. The proposed works will enhance the building and modernise its appearance without any attempt to imitate surrounding heritage characteristics or features.

The alterations and additions proposed will impact upon the heritage streetscape but the contemporary nature of the works are considered to be appropriate and not detrimental to the overall character of the conservation area.

No further assessment of this chapter is required.

Section 4 - Environmental Hazards and Management

4.2 Flooding

The site is located within Central Wagga protected by the Levee. The relevant objectives and controls are as follows:

Objectives

O1 Minimise the public and private costs of flood damage.

O2 Minimise the risk of life during floods by encouraging construction and development that is "flood proofed" and compatible with the flood risk of the area.

O3 Ensure that development and construction are compatible with the flood hazard.

O4 Require compatibility with the Flood Plain Development Manual 2005 as relevant.

C1 Essential community services are not suitable for location in any of the flood risk precincts other than Central Wagga where they are to be above the Probable Maximum Flood (PMF) level. For the purposes of this Section, essential community services include:

- ☐ *Community, information and education facilities which may provide an important role in notifying the community of flood dangers or evacuation requirements during flood events.*

- ☐ *Emergency services facilities.*
- ☐ *Health service facilities.*

C2 Critical utilities are to be located on land above the PMF level in all precincts. For the purposes of this Section critical utilities include:

- ☐ *Child care centres.*
- ☐ *Educational establishments.*

Given the proposal is for an Educational Establishment and located well within the PMF it would not comply with C2 above. However, the 2009 Floodplain Risk Management Study (the study) from which these controls were formulated needs to be carefully considered in this instance given the location within an existing building within the CBD and the unique nature of the educational establishment.

The study has no definitions of 'Essential Community Services' or 'Critical Utilities' nor does the Flood Plain Development Manual 2006 (FPDM) or the LEP 2010. The study does under Section 6.6.1 state the following:

6.6.1 Flood Planning Levels

Discussion

Selecting the appropriate FPL for a particular floodplain involves trading off the social and economic benefits of a reduction in the frequency, inconvenience, damage and risk to life and limb caused by flooding against the social, economic and environmental costs of restricting land use in flood prone areas and of implementing management measures.

FPLs are generally required to be defined or applied for the following broad land use categories:

- *community services (schools, halls),*
- *critical services (hospitals, police stations, Council offices),*
- *residential (single and multi-unit),*
- *rural areas,*
- *commercial/industrial,*
- *recreational facilities,*
- *caravan parks,*
- *additions/extensions to existing structures,*
- *public utilities (electricity, sewer, water, phone, etc).*

It is noted that 'schools' are listed within 'community services' and not 'critical services'. It is also important to note the terminology is different to that used within the DCP and again not defined within the Study, the FPDM or the LEP.

The study then goes on to produce a flood policy matrix (table 12). Within this table for central wagga protected by the levee it uses the terms 'essential community facilities' and 'critical utilities'. It then lists a series of controls/conditions that would apply to these types of developments. These are as follows:

Essential Community Facilities

"Existing essential community services and critical utilities to be moved to land above the PMF flood level where possible."

It has no further controls, as it is otherwise marked as an "unsuitable land use".

Critical Utilities”

“Existing essential community services and critical utilities to be moved to land above the PMF flood level where possible.”

“Floor levels greater than the PMF level (plus freeboard).”

“Developments to consider local drainage and ponding of stormwater within the levee.”

“Engineers report to certify that any new structure can withstand the forces of floodwater, debris and buoyancy up to and including the PMF.”

“Development must be advised of the potential for and consequences of levee failure.”

“Advise that SES has an evacuation plan.”

“Parts of building below the 100y flood level (plus freeboard) to be constructed from flood compatible materials.”

Based on this it must be concluded that what falls within the definition of ‘Essential Community Services’ and ‘Critical Utilities’ was determined by Council at the time of drafting the DCP. There appears to be little connection between what is actually written in the study and what has been included in the DCP in terms of what is encapsulated in critical utilities and essential community services. It also seems unusual that educational establishments have ended up in both, where they have different requirements.

It appears that the most logical location for education establishments given the above discussion would be under ‘Essential Community Facilities’ given ‘schools’ are specifically listed under ‘community services’ and not ‘critical services’ within the study. The Study was generally looking at three broad land use types that appear to have merged into the DCP controls for ‘critical utilities,’ these are as follows:

- *community services (schools, halls),*
- *critical services (hospitals, police stations, Council offices),*
- *public utilities (electricity, sewer, water, phone, etc).*

Community services are uses that were pulled out because of the role they play in providing meeting places, evacuation centres and the like in flood events. I.e. community infrastructure during these events. Critical services are uses that are pulled out because they are buildings that need to continue running, especially during a flood, to ensure the ongoing operation of the city, and to provide and coordinate an emergency response to the flood. Public utilities which are exactly that - utilities that keep the city functioning.

For these reasons it can reasonably be argued that educational establishments are not a ‘critical utility’ and therefore C2 does not apply.

Whilst the proposal would be considered an educational establishment its unique nature as described in the description of development would mean that it’s not an ‘*education facilities which may provide an important role in notifying the community of flood dangers or evacuation requirements during flood events*’ and therefore this control would not be considered relevant.

Having established that both C1 and C2 are not relevant to this development does not immediately conclude that the development is acceptable. The flood prone nature of the land means that the objectives of the LEP and DCP remain a relevant consideration.

Given the proposal is for a change of use within an existing building located in the central area protected by the levee that is currently being upgraded to provide for a 1% ARI plus freeboard level of protection, the risk to life and property is considered acceptable. The flooding of the Murrumbidgee in this location would come with adequate warning time in the region of days as opposed to hours to allow for evacuation or temporary closure of the use. If this building

were to flood it would be of negligible additional public or private cost given the extensive damage that would be caused by an event exceeding a 1%ARI.

For these reasons, the proposal would not be considered inconsistent with the objectives of the LEP or DCP and the development can be supported in this location. Furthermore it should be noted that the adopted Floodplain Risk Management Study and Plan 2018 foreshadows far more flexibility in assessing DAs for these types of development below the PMF. Whilst it certainly notes a preference for a PMF floor level, it provides other options too which may allow these types of uses below the PMF once the revised DCP controls have been written on the back of this document. In keeping with this document a condition requiring the preparation of a flood evacuation plan will be included.

The subject site is not identified as bush fire prone.

Section 5 - Natural Resource and Landscape Management

This issue has been addressed under Clauses 7.3 and 7.6 of the LEP above, given the nature of the works negligible issues are expected.

Section 6 - Villages

The proposal is for an educational establishment in the B3 zone. Section 6 is not applicable to this development.

Section 7 - Subdivision

The proposal is for an educational establishment in the B3 zone. Section 7 is not applicable to this development.

Section 8 - Rural Development

The proposal is for an educational establishment in the B3 zone. Section 8 is not applicable to this development.

Section 9 - Residential Development

The proposal is for an educational establishment in the B3 zone. Section 9 is not applicable to this development.

Section 10 - Business Development

The proposal is for an educational establishment in the B3 zone. The building is situated at the edge of the CBD within the Fitzmaurice Street precinct. There are no specific controls that relate to the development as the controls generally focus on external building works to Fitzmaurice Street. No further assessment under this section of the DCP is required.

One of the general design principles for the city centre is to *Improve the urban design of the centre, and encourage quality built form*. The external alterations to the building are a positive investment into the central area and result in significant improvement to the streetscape as modern cladding, sunshade screens, perforated metal screens and aluminium framed windows are used to improve the urban design of the locality.

Section 11 - Industrial Development

The proposal is for an educational establishment in the B3 zone. Section 11 is not applicable to this development.

Section 12 - Specific Uses and Developments

The proposal is for an educational establishment in the B3 zone. Section 12 is not applicable to this development.

Section 13 - Bomen Urban Release Area

The subject site is not within the Bomen urban release area. Section 13 is not applicable to this development.

Section 14 - Boorooma Urban Release Area

The subject site is not within the Boorooma urban release area. Section 14 is not applicable to this development.

Section 15 - Lloyd Urban Release Area

The subject site is not within the Lloyd urban release area. Section 15 is not applicable to this development.

Section 16 - Gobbagombalin Urban Release Area

The subject site is not within the Gobbagombalin urban release area. Section 16 is not applicable to this development.

Section 4.15(1)(a)(iia) - Planning Agreements

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

Section 4.15(1)(a)(iv) - any matters prescribed by the regulations

As the development is a Crown DA there is no requirement for a construction certificate or occupation certificate, the works will be required to be certified to comply with the Building Code of Australia.

As the development is for alterations and additions to an existing building Clause 94 of the Environmental Planning and Assessment Regulations applies. The fire safety measures have been assessed as adequate with an acknowledgement that the extensive refurbishment will result in further upgrade works to the building. There are no concerns raised.

Section 4.15(1)(b) - likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, development

Context and setting

The proposed Education Establishment is not a traditional use within a commercial core tenancy however this property is at the edge of the CBD and is characterised by a mix of uses

that includes a public primary school, residential properties, commercial and medical premises. The use is one that is permitted with consent and is suitable within the context and setting.

Streetscape

The proposed changes to the building will impact upon the streetscape of both Johnston Street and Simmons Street. The changes to Simmons Street are of more significance as they incorporate the raised roof addition to the building and associated facade upgrades. The addition allows for a modern upgrade to the building as contemporary materials are used to identify the new rehearsal area. The main entry also presents to Simmons Street and the new stairs and compliant access ramp including new signage further enhance the presentation to this streetscape. To the northern elevation significant changes are also proposed with the addition of a perforated metal screen and signage and cladding across parts of the building. The range of new materials adds interest to the elevation and breaks up the existing monotonous appearance of the building.

The changes to the streetscape are clear and of significance, the changes are assessed as acceptable offering enhanced amenity value to the streetscape without detriment to the character of the area.

Access, transport and traffic

Vehicle access to the building remains as existing from the southern driveway off Simmons Street.

An assessment of parking provision and numbers has been included earlier in the report and the proposed 38 off street spaces are considered acceptable.

The proposed no parking zone to the front of the premises between 3pm and 7.30 pm is not supported due to the loss of on-street car-parking spaces for other users within the locality. As the current restrictive loading zone is to be removed from this area it is recommended that a comparable area (two car-parking spaces) can be utilised as a restricted drop-off only zone between 2.30pm and 7.30 pm Monday to Friday. This will require endorsement by traffic committee and will be secured by condition.

Given the central location an increased number of students will have the opportunity to arrive by bus or walk from other schools near the CBD. Also at the end of lessons there are opportunities for students to walk into the commercial core and/or complete linked trips rather than just a single vehicle movement to and from the conservatorium.

Noise and vibration

There will be noise impacts during demolition and construction works. The noise from the construction works will be short term and controlled by conditions of consent limiting the hours of on-site operation.

Noise from the use of the building as a conservatorium of music has been assessed by the preparation of a noise impact assessment. Sensitive receptors were identified as residential properties to the north, east and west as well as commercial properties to the north and west and the school to the north.

The proposed hours of operation are 7am to 8pm Monday to Friday with possible additional teaching sessions at the weekend. Rehearsals and student performances will be held during the week and will finish no later than 10pm. An assessment of noise impact was carried out for both day-time and night-time periods.

Short-term noise monitoring was carried out to obtain representative noise levels of the site close to the nearest noise sensitive receivers. Three short-term noise monitoring locations were chosen as representative locations at 2 Simmons Street, 89 Johnston Street and opposite to 34 The Esplanade. From observations during the site visit, it is noted that ambient and background noise levels are dominated by local traffic and pedestrian movements, plus bird noises.

Long-term noise monitoring was also carried out with the noise logger being located on the existing site car park. The noise logger location was secure and considered to be representative of the typical ambient and background noise levels for the area.

The primary noise emissions from the proposal will be activities associated with the RCM and new rooftop mechanical plant. Typical activities within the RCM will include music from acoustic and amplified instruments. These activities will take place in the studios and rehearsal spaces, with the potential to impact upon the nearest noise sensitive receivers for those spaces facing Simmons Street and Johnston Street. Noise impact assessments for the different instruments have been undertaken. These assessments have assumed the sound power level for instruments, the recommended reverberation times within the learning spaces, surface areas of façade for each space, their sound insulation performance and distance to nearest noise sensitive receivers.

The design of the teaching and performance spaces requires a high sound insulation performance of façades to achieve the required low background noise levels. A minimum composite sound insulation index of 40dB is required for the building façades in order to meet the established noise level criteria. In order to achieve the cumulative noise level criteria at the noise sensitive receivers during evening-time, the façade, other external building elements and ventilation openings will need to be designed to provide the minimum composite sound insulation. Therefore, the construction of the teaching and performance spaces will assist in minimising noise break-out from the premises.

The mechanical rooftop plant will be selected and installed to ensure that the noise emitted is not loud in an absolute sense and not loud relative to the pre-existing ambient and background noise levels that surround the site. The noise impact assessment concludes that noise emissions from the rooftop plantroom will meet the relevant noise criteria. Acoustic assessment of all mechanical plant shall continue during the detailed design phase of the project in order to confirm any noise control measures to achieve the relevant noise criteria at the nearest noise sensitive receivers.

Activities within the RCM will require management controls to ensure noise emitted does not result in annoyance to, or impact on the amenity of surrounding receivers. By controlling noise emissions (associated with the operation of the proposed development) in accordance with the relevant criteria, amenity of noise sensitive receivers will be maintained and noise emissions should not be intrusive, therefore it is not expected that people and noise sensitive receivers will be adversely affected by the development. A condition of consent is proposed that requires appropriate noise attenuation measures to be installed in accordance with the recommendations of the noise impact assessment.

The increase of traffic noise levels due to the proposed development, is less than 2dB. Therefore, the traffic increase due to the proposed development will not result in any noticeable change in traffic noise levels and is expected to meet the NSW Road Noise Policy recommendations.

Hours of Operation

The Conservatorium will operate as an educational and administration centre from Monday to Friday between 7am and 8pm. A maximum of 20 concurrent music lessons will occur on weekday afternoons, with weekly meetings of musical groups of up to 50 people. Additional teaching lessons will occur between 9am-8pm at the weekends with additional and occasional rehearsal and student performances that would finish no later than 10pm.

Given the location within the commercial core these hours are considered suitable. Due to the proximity of residential properties to the premises and the fact that the noise assessment report assumed that activities would not continue after 10 pm it is appropriate to limit the hours of operation to no later than 10 pm on any day of the week.

Services

The site is fully serviced, upgrades will be completed as part of the development as required.

Heritage

The subject site is located within the heritage conservation area. The proposal does not adversely affect the significance of the heritage area in this locality due to the existing building being a modern bulky structure that does not contribute to the heritage streetscape and that is not characteristic of the conservation area. The upgrades to the façade of the building will improve the streetscape and the views to and from the site within the conservation area as a prominent building is presented with a more contemporary design.

Natural Hazards

Section 733 of the Local Government Act 1993 provides that Councils will not incur liability for decisions or omissions concerning flood liable land or land subject to the risk of bushfire have been considered. A risk assessment has been completed and Council will be able to demonstrate that it has acted appropriately in its decision making when defending claims in liability or in circumstances where administrative decisions are challenged.

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. The site is identified as flood prone being within the central area of the city. An assessment of the development against the applicable flood control has concluded that the development will not result in an increased flood risk. If the city were to be inundated with floodwater there would be ample warning time allowing for appropriate measures to be put in place such as cancelling classes and moving equipment and instruments off site or to the upper level. A flood evacuation plan will be secured by condition to ensure that these details are in place.

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. A risk assessment is not required as the development is not mapped as being on Bushfire Prone Land.

Man-Made Hazards

As noted earlier in the report there are underground fuel storage tanks on site that present a risk in the form of leakage and contamination and a hazard in the event of being struck by machinery. A preliminary site investigation has recommended the removal of the tanks. This remediation work requires approval and a deferred commencement condition is recommended to ensure that the remediation works are completed to the satisfaction of Council prior to the consent becoming operational.

Socio- Economic Impact in the Locality

The proposed development is to relocate the Riverina Conservatorium of Music to a central location at the edge of the CBD that is accessible to all and within a purposely adapted building for musical studios and rehearsal spaces. This development is seen to have positive social impacts as the students are given the opportunity to learn, rehearse and perform within this facility.

The development will also have a positive economic impact as a prominent vacant building within the central area is put into active use requiring significant upgrade and construction work that will benefit the local trades economy as well as providing employment for staff within the centre.

Users of the facility are likely to complete linked trips to and from the commercial core before or after lessons which results in further positive impacts to the local economy.

Site Design and internal design

The site layout is dictated by the existing building and car-park that remain largely unchanged. The car-park will be re-aligned and amended to include a loading dock and compliant car-parking spaces together with a clearly marked and safe pedestrian footpath leading to the main entry into the building. The addition to the building to accommodate the raised roof area is concentrated to the south of the site adjacent to the lagoon to minimise the impact to the heritage area and streetscape.

The internal design of the building is guided by the demands of the conservatorium to accommodate numerous studios and rehearsal areas for different instrument types with varying size and space requirements. New internal walls will incorporate acoustic treatments between each of the studios and the building is fully accessible with the upgraded ramped entry and new lift.

The Principles of Ecologically Sustainable Development

The following are principles of ecological sustainability:

1 The precautionary principle

Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

(a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and

(b) an assessment of the risk-weighted consequences of various options.

The principle requires decision-making to give the environment the benefit of the doubt.

2 Intergenerational equity

The present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations (that is, a partnership among all of the generations that may use or expect to benefit from the nation's resources).

3 Conservation of biological diversity and ecological integrity

Conservation of biological diversity and ecological integrity should be a fundamental consideration.

4 Improved valuation, pricing and incentive mechanisms

Environmental factors should be included in the valuation of assets and services:

(a) polluter pays (that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement), and

(b) the users of goods and services should pay prices based on the full cycle costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste, and

(c) environmental goals having been established should be pursued in the most cost-effective way by establishing incentive structures, including market mechanisms which enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

The proposed development will not result in any anticipated irreversible environmental damage, the proposed change of use utilises an established vacant space within the commercial core and therefore is not considered to impact on biological diversity or ecological integrity. The proposal is consistent with the precautionary principle to the extent that all potential threats to the environment have been identified and assessed. Accordingly the principles of ESD are considered to have been followed.

Section 4.15(c) - The Suitability of the site for the development Other Approvals

The subject site is an existing building that was last occupied by Roads and Maritime Services. The proposed alterations and additions to the building to facilitate the new use as an educational centre for the Riverina Conservatorium of Music are entirely suitable within this location. The site is at the edge of the CBD and in close proximity to the city's civil and cultural precinct including the theatre and art gallery.

The change of use makes good use of a significant vacant building within the CBD with no anticipated detrimental impacts to the surrounding locality. The site is easily accessible by different modes of transport and the use is one that is permitted with consent.

Section 4.15(d) - any submissions made in accordance with the Act or the regulation

Referrals

The application was referred to relevant internal referral groups. Recommended conditions of consent have been included.

Advertising

The application was advertised from 18 June to 2 July 2020 in accordance with the provisions of the DCP. Advertising consisted of two site notices placed on the site and a notice on Council's website with all documentation available online.

Notification

The application was notified to adjoining and nearby properties from 18 June to 2 July 2020 in accordance with the provisions of the DCP. Three submissions were received during the notification period

The submissions can be summarised as follows:

1. The use of general noise criteria and the premise that if intrusive noise is greater than the existing background noise level by more than 5dB, does not seem appropriate for the noise break-out from the conservatorium. Noise emissions from musical / teaching activities which are not typical of the area are more appropriately classified as offensive noise. A more reasonable assessment of noise should be "background noise level minus 5dB" for all periods.

Comment: The assessment has been carried out in accordance with the NSW EPA Noise Policy for Industry 2017. The methodology used to review intrusiveness and amenity criteria follows industry guidelines and the use of background noise plus 5dB is also an accepted standard for all noise assessments.

2. The manner in which the noise assessment has been completed. Average data from representative locations is used and this may not be appropriate.

Comment: See comment above.

3. Removal of on street loading zone and a new dock within the site. This will result in noise disturbance to nearby residents. A drop off zone is a better alternative to allow for parcel drop offs during the day and avoid the need to use the car-park area.

Comment: There is not considered to be a significant amount of loading and delivery to and from the site. The use of the dock as required during the day within a location adjacent to the CBD is not anticipated to result in significant noise disturbance to neighbouring premises or the surrounding locality.

4. Loss of parking in the street for residents. Suggest that permit parking be introduced for residents together with 2 hour limited parking for all other users.

Comment: The issuing of parking permits is a matter for traffic committee and has not been a recommendation from Council's traffic officer. Limited parking time would impact on local commercial premises within the vicinity as well as staff from the school who are likely to utilise on-street parking throughout the school day. There will be no loss of existing on-street parking as the proposed drop-off zone will be comparable to the existing loading zone area.

5. An active travel plan should be included with this type of development to promote alternative modes of travel and healthy travel options. Placing bike racks to the front of the building will not encourage cycling, greater storage is needed for bikes as well as changing facilities and showers.

Comment: There is no requirement for the application to include an active travel plan. The site is centrally located and it is anticipated that many school children will arrive via school buses from other schools across Wagga. This will significantly reduce the number of children being dropped off at the centre straight after school when the area is busy with students leaving the neighbouring public school. The provision of bike racks is a positive inclusion and other measures may be implemented by the Conservatorium for their staff as required.

6. There are no noise controls to prevent offensive noise from the musical and teaching facilities, the report recommends management controls but no details of them.

Comment: A condition of consent is proposed that requires any recommended noise attenuation measures to be implemented and endorsed by a suitably qualified person upon completion of works. The operation of the conservatorium relies upon acoustic insulation to the rehearsal spaces and studios to maximise sound quality and therefore any proposed management controls are in the interest of the applicant to be fully implemented.

7. There is no night time noise assessment and should be as the centre will operate until 10 pm which is night-time.

Comment: Established noise criteria and legislation references the night time period as 10pm - 7am. As the conservatorium will not be in use during these hours there was no need to include an assessment of noise during this period.

Section 4.15(e) - the public interest

The public interest is best served by the consistent application of the requirements of the relevant planning controls and by Council ensuring that any adverse effects on the surrounding area and the environment are avoided.

The proposed development is believed to have a positive socioeconomic impact on the community and presents an enhanced amenity value to the streetscape as the building façade is modernised.

Other Legislative Requirements

Section 1.7 of the EPA Act 1979 and Part 7 of the *Biodiversity Conservation Act 2016* (Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats)

On 21st November 2017, certain zones of the WWLEP 2010 achieved Biodiversity Certification under the *Biodiversity Conservation Act 2016*, including all Business, Industrial, Residential and Special Infrastructure Zones that were in place at the time of the making of the *Biodiversity Conservation Act 2016*. The subject site falls within an area subject to the Biodiversity Certification Order.

The effect of the Biodiversity Certification, as set out by Section 8.4 of the *Biodiversity Conservation Act 2016* is that:

An assessment of the likely impact on biodiversity of development on biodiversity certified land is not required for the purposes of Part 4 of the Environmental Planning and Assessment Act 1979.

A consent authority, when determining a development application in relation to development on biodiversity certified land under Part 4 of the Environmental Planning and Assessment Act 1979, is not required to take into consideration the likely impact on biodiversity of the development carried out on that land.

Therefore, no further consideration of these matters is required.

Council Policies

None

Development Contributions - Section 7.11/7.12 Environmental Planning and Assessment Act 1979 & Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000

Section 7.11/7.12 of the Environmental Planning and Assessment Act 1979 and the City of Wagga Wagga's Local Infrastructure Contributions Plan 2019-2034 enables Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. A Section 7.12 contribution is calculated as 1% of the development cost for developments of a value greater than \$200,000.

The cost of development is \$7,209,977 and therefore the contribution payable is \$72099.77.

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

The previous public administration building would be considered as an office use under the water directorate guidelines. Applying the sewer contribution charge at the recommended rate of 0.01ETs per square metre of floor area to the existing floor area of 1301sq.m equates to a credit of 13.01 ETs (0.01 x 1301).

The proposed use being an educational establishment is calculated at a lower sewer contribution charge rate of 0.05ETs per person. The SEE indicates a maximum of 50 persons attending a weekly musical event which equates to a demand of 2.5ETs (50 x 0.05). As there is a credit of ETs no sewer contributions are payable.

The site is covered in hard-stand. The proposed works do not increase the impervious area and therefore the run-off to stormwater infrastructure is not impacted by the development and no stormwater contributions are payable.

Other Approvals

None required

Conclusion

The development is considered to be satisfactory based on the foregoing assessment. The proposal complies with the requirements of the Environmental Planning and Assessment Act 1979 and Councils Policies.

RECOMMENDATION

It is recommended that application number DA20/0080 for Change of Use to Educational Establishment (Riverina Conservatorium of Music) with internal and external alterations and signage be approved, subject to the following conditions:-

CONDITIONS OF CONSENT FOR APPLICATION NO.

This is a 'Deferred Commencement Consent' under Section 4.16(3) of the Environmental Planning and Assessment Act, 1979, (as amended). This consent does not become operative until the requirements listed in Schedule 'B' of this consent have been satisfied. The requirements must be satisfied within a period of 6 months from the 'Determination Date', that is shown on this consent.

Upon compliance with the requirements/conditions listed under Schedule 'B', and written confirmation from Council to that effect, the consent shall become operative from a 'Date of Endorsement' (to be included on the written notification) subject to the conditions listed in Schedule 'C' and any additional conditions arising from the requirements of Schedule 'B'.

A. SCHEDULE A – Reasons for Conditions

The conditions of this consent have been imposed for the following reasons:

- A.1 To ensure compliance with the terms of the Environmental Planning and Assessment Act 1979 and Regulation 2000.
- A.2 Having regard to Council's duties of consideration under Section 4.15 and 4.17 of the Act.
- A.3 To ensure an appropriate level of provision of amenities and services occurs within the City and to occupants of sites.
- A.4 To improve the amenity, safety and environmental quality of the locality.
- A.5 Having regard to environmental quality, the circumstances of the case and the public interest.
- A.6 Having regard to the Wagga Wagga Development Control Plan 2010.
- A.7 To help retain and enhance streetscape quality.
- A.8 Ensure compatibility with adjoining and neighbouring land uses and built form.
- A.9 To protect public interest, the environment and existing amenity of the locality.
- A.10 To minimise health risk to neighbouring residents and workers.

B. SCHEDULE B – Deferred Commencement Conditions

- B.1 A Detailed Site Investigation (DSI) must be prepared to the satisfaction of Council and in accordance with the EPA Contaminated Land Guidelines (2020) and all other applicable regulatory requirements.
Should the findings of the DSI confirm that the site is suitable for the intended use and no remediation works are required conditions B2, B3 and B4 do not apply.
- B.2 Subject to the findings of the DSI approved under condition B1, development consent shall be obtained for required Category 1 remediation works..
- B.3 Remediation works approved under the development consent referred to in B2 are to be carried out and completed in accordance with the approved plan and associated conditions/requirements.
- B.4 A Site Audit Statement (SAS) shall be submitted to Council certifying the suitability for the proposed use, at the completion of the remediation and validation. The SAS must be prepared by a site auditor accredited by NSW Environment Protection Authority (EPA) under the Contaminated Land Management Act 1997.

C. SCHEDULE C – Conditions

Approved Plans and Documentation

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

Plan/Doc.No.	Plan/Doc Title	Prepared by	Issue	Date
DA03	Site Plan	Stanton Dahl Architects	08	11.6.2020
DA05	Development Statistics Proposed	Stanton Dahl Architects	04	8.4.2020

DA08	Level 1 Demolition Plan (ground)	Stanton Dahl Architects	04	8.4.2020
DA09	Level 2 Demolition Plan	Stanton Dahl Architects	04	8.4.2020
DA10	Level 1 Floor Plan (Ground)	Stanton Dahl Architects	04	8.4.2020
DA11	Level 2 Floor Plan	Stanton Dahl Architects	05	7.9.2020
DA12	Lower Roof/Plant Room	Stanton Dahl Architects	05	7.9.2020
DA13	Upper Roof Plan	Stanton Dahl Architects	05	7.9.2020
DA15	Elevations 1	Stanton Dahl Architects	05	7.9.2020
DA16	Elevations 2	Stanton Dahl Architects	05	7.9.2020
DA17	Sections	Stanton Dahl Architects	04	8.4.2020
DA18	Shadow Diagram 1	Stanton Dahl Architects	04	8.4.2020
DA19	Shadow Diagram 2	Stanton Dahl Architects	04	8.4.2020
DA21	Materials & Finishes	Stanton Dahl Architects	05	7.9.2020
DA22	Signage	Stanton Dahl Architects	04	7.9.2020
	Architectural Design Statement	Stanton Dahl Architects		8.4.2020
	Statement of Environmental Effects	Salvestro Planning		
190430.02FA	Traffic Impact Assessment	McLaren Traffic Engineering	A	6.3.2020
190430.04FB	Supplementary Traffic and Parking Advice	McLaren Traffic Engineering		21.4.2020
190430.03FA	Proposed Change of Parking Restrictions	McLaren Traffic Engineering		4.2.2020
180338	Noise Impact Assessment	JHA	B	13.2.2020
	Preliminary Site Investigation	Ground Doctor Pty Ltd.		11.8.2020

The Development Application has been determined by the granting of consent subject to and as amended by the conditions of development consent specified below.

NOTE: Any modifications to the proposal shall be the subject of an application under Section 4.55 of the Environmental Planning and Assessment Act, 1979.

Requirements before the commencement of any works

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

- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the development site/works and the public place prior to works commencing on site.

All construction materials, waste, waste skips, machinery and contractors vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractor's vehicles will be permitted within the public space.

If necessary, an awning must be erected, sufficient to prevent any substance, from or in connection with the work, falling into the public place. Further the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

NOTE 1: Any such hoarding, fence or awning must be removed when the work has been completed.

NOTE 2: Any external lighting required by this condition must be designed and positioned so that, at no time, will any light be cast upon any adjoining property.

NOTE 3: Prior to any hoarding being erected, the applicant must ensure that an application for a Hoarding Permit is submitted to and approved by Council.

C.3 Prior to works commencing on site, toilet facilities must be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a) a standard flushing toilet connected to a public sewer, or
- b) if that is not practicable, an accredited sewage management facility approved by Council, or
- c) if that is not practicable, any other sewage management facility approved by Council.

NOTE 1: The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced and the toilet facility must not be removed without the prior written approval of Council.

NOTE 2: "Vicinity" in this condition is defined to mean within 50 metres of the subject building site.

NOTE 3: The toilet facilities are to comply with all WORK COVER NSW requirements.

- C.4 Prior to works commencing a container must be erected on site for the enclosure of all building rubbish and debris, including that which can be wind blown. The enclosure shall be approved by Council and be retained on site at all times prior to the disposal of rubbish at a licenced Waste Management Centre.

Materials and sheds or machinery to be used in association with the construction of the building must not be stored or stacked on Council's footpath, nature strip, reserve or roadway.

NOTE 1: No building rubbish or debris must be placed, or be permitted to be placed on any adjoining public reserve, footway, road or private land.

NOTE 2: Weighbridge certificates, receipts or dockets that clearly identify where waste has been deposited must be retained. Documentation must include quantities and nature of the waste. This documentation must be provided to Council prior to application for an Occupation Certificate for the development.

NOTE 3: The suitable container for the storage of rubbish must be retained on site until an Occupation Certificate is issued for the development.

- C.5 Prior to the commencement of works erosion and sediment control measures are to be established and maintained to prevent silt and sediment escaping the site or producing erosion. This work must be carried out and maintained in accordance with Council's:-

- a) Development Control Plan 2010 (Section 2.6 and Appendix 2)
- b) Erosion and Sediment Control Guidelines for Building Sites; and
- c) Soils and Construction Volume 1, Managing Urban Stormwater

Prior to commencement of works, a plan illustrating these measures shall be submitted to, and approved by, Council.

NOTE: All erosion and sediment control measures must be in place prior to earthworks commencing.

- C.6 Pursuant to s7.12 of the Environmental Planning and Assessment Act 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, a monetary contribution of \$72,099.77 must be paid to Council, prior to works commencing unless, before the time due for payment, the applicant and the Council enter into a legally binding agreement for the applicant to provide works-in-kind or any other material public benefit(s) to the Council in part or full satisfaction of the monetary contribution.

The monetary contribution payable under this condition will be indexed in accordance with Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 from the endorsed date of this Development Consent until the date of payment.

- NOTE 1: Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 provides for Section 7.12 contributions to be indexed in accordance with annual movements in the March quarter Consumer Price Index (CPI) (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.
- NOTE 2: The monetary contribution identified above remains applicable if paid within the same financial year as the date of determination. If payment is to be made outside this period, you are advised to contact Council prior to payment being made to determine if CPI increases/decreases have occurred since the date of this consent. The CPI rate is 117.4.
- NOTE 3: A copy of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, is available for inspection at Council Chambers, corner Baylis and Morrow Streets, Wagga Wagga, or on Council's website.

- C.7 Prior to works commencing the applicant must lodge a bond with Council of:-
\$2000 for security deposit on the kerb and gutter and footpath

Plus a non-refundable administration fee as per Council's fees and charges.

- NOTE 1: Applicants will be required to contact Council PRIOR to making the payment to arrange a bond (BKG) number. This must be done prior to making payment at Council's customer service desk.
- NOTE 2: In lieu of payment, the applicant can with written authorisation from their builder, utilise an ongoing bond should their builder hold an ongoing bond.
- NOTE 3: All monetary conditions are reviewed annually, and may change on 1 July each year.
- NOTE 4: Works in the form of driveways, kerb and gutter and footpath may require you to obtain a Section 138 Roads Act 1993 approval. Please contact Council's Road Reserve Officer on 1300 292 442 prior to undertaking such works.
- NOTE 5: Council will accept a once off security deposit for the kerb and gutter and footpath for applicants who lodge multiple DA's with council.
- NOTE 6: The bond held on the kerb and gutter and footpath is fully refundable upon completion of all works and upon inspection by Council to ensure that any damage to Council infrastructure has been repaired. The bond will not be refunded in the event that damage done to Council's infrastructure is not repaired to the satisfaction of Council. All damage is to be repaired at the full cost of the applicant.

- C.8 Prior to works commencing a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.

- NOTE 1: 'Water management work' is defined in s283 of the Water Management Act to mean a 'water supply work', 'drainage work', 'sewage work' or 'flood work'. These terms are defined in that Act.
- NOTE 2: Riverina Water is responsible for issuing compliance certificates and imposing requirements relating to water supply works for development in the Council's area. An application for a compliance certificate must be made with Riverina Water. Additional fees and charges may be incurred by the proposed development - please contact Riverina Water

to ascertain compliance certificate water supply related requirements. A copy of such a compliance certificate is required prior to release of Construction Certificate.

NOTE 3: The Council is responsible for issuing compliance certificates and imposing requirements relating to sewerage, drainage and flood works for development in its area.

NOTE 4: Under s306 of the Water Management Act 2000, Riverina Water or the Council, as the case requires, may, as a precondition to the issuing of a compliance certificate, impose a requirement that a payment is made or works are carried out, or both, towards the provision of water supply, sewerage, drainage or flood works.

NOTE 5: The Section 64 Sewer base figure is nil.

NOTE 6: The Section 64 Stormwater base figure is nil.

NOTE 7: Section 64 contributions shall be indexed in accordance with CPI annually at the commencement of the financial year.

NOTE 8: The figures outlined in this consent are based on the current rate of CPI. Please be advised that CPI changes on a regular basis and you are advised to contact Council prior to payments being made, to ensure no further CPI increases/decreases have occurred since the date of this consent.

C.9 Prior to works commencing an amended plan shall be submitted to and approved by the General Manager or delegate, that identifies a revised treatment to the Simmons Street road frontage. The plan shall identify a restricted drop-off zone for two vehicles between 2.30pm and 7.30pm with the remainder as unrestricted parking.

The plan is required to be referred to and approved by the Local Traffic Committee prior to its final approval as these works incorporate a prescribed traffic control device.

NOTE 1: A prescribed traffic control device is a sign, signal, marking, structure or other device to direct or warn traffic on a road or road related area.

C.10 Prior to works commencing on site:

- i) Council must be notified of any damage to kerb and gutter and footpath fronting the site. The absence of such notification shall indicate that no damage exists and the applicant shall be responsible for the repair of any damage to kerb and gutter or footpath fronting the site.
- ii) Satisfactory protection for existing public infrastructure must be provided and maintained throughout the construction period.

C.11 A Section 68 Approval must be obtained from Council prior to any sewer or stormwater work being carried out on the site.

The licensed plumber must submit to Council, at least two (2) days prior to the commencement of any plumbing and drainage works on site a "Notice of Works".

NOTE: A copy of the Notice of Works form can be found on Council's website.

Requirements during construction or site works

- C.12 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Development Application.
- C.13 All excavation and backfilling associated with the erection/demolition of the building must be properly guarded and protected to prevent them from being dangerous to life or property.
- C.14 The demolition must be carried out in accordance with the provisions of Australian Standard AS2601-2001: The Demolition of Structures.

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

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

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

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

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

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

- C.15 The permitted construction hours are Monday to Friday 7.00am to 6.00pm and Saturday 7.00am to 5.00pm, excepting public holidays. All reasonable steps must be taken to minimise dust generation during the demolition and/or construction process. Demolition and construction noise is to be managed in accordance with the Office of Environment and Heritage Guidelines.
- C.16 Recommendations contained in the Noise Impact Assessment prepared by JHA and dated 13 February 2020 shall be incorporated into the final detailed design phase and implemented in full during construction works.
- C.17 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

- C.18 A Compliance Certificate for the plumbing and drainage work identified in Column 1 at the times specified in Column 2 must be obtained from Council.

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

Requirements prior to operation

- C.19 Prior to the occupation of the premises a Flood Evacuation Plan for the development shall be submitted to the satisfaction of Council.
- C.20 A final inspection must be carried out upon completion of plumbing and drainage work and prior to occupation of the development, prior to the issuing of a final plumbing certificate Council must be in possession of Notice of Works, Certificate of Compliance and Works as Executed Diagrams for the works. The works as Executed Diagram must be submitted in electronic format in either AutoCAD or PDF file in accordance with Council requirements.

All plumbing and drainage work must be carried out by a licensed plumber and drainer and to the requirements of the Plumbing and Drainage Act 2011.

NOTE: Additional fees for inspections at the Plumbing Interim Occupancy / Plumbing Occupation stage may apply. This will depend on the number of inspections completed at this stage of the work/s.

- C.21 Prior to occupation of the building a Water Plumbing Certificate from Riverina Water County Council shall be submitted to Council.

NOTE 1: The applicant is to obtain a Plumbing Permit from Riverina Water County Council before any water supply/plumbing works commence and a Compliance Certificate upon completion of the works. Contact Riverina Water County Council's Plumbing Inspector on 6922 0618. Please be prepared to quote your Development Application number.

General requirements

- C.22 The approved use must only be conducted between the hours of 7.00 am and 10.00 pm on any day of the week.
- Rooftop mounted mechanical plant is only to be operational between 7 am and 10 pm on any day of the week.
- C.23 Car parking bays fronting the pedestrian footpath in the car-park are to be provided with wheel stops.
- C.24 Illumination of the car park must be in accordance with AS 1158.3.1.2005, as amended, lighting for roads and public spaces.

D. SCHEDULE D – Activity Approval Conditions (Section 68)

N/A

E. SCHEDULE E – Prescribed Conditions

Conditions under this schedule are prescribed conditions for the purposes of section 4.17 (11) of the Environmental Planning and assessment Act 1979.

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

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

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

- (1) For development that involves any building work, the work must be carried out in accordance with the requirements of the Building Code of Australia.
- (2) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance shall be in force before any building work authorised to be carried out by the consent commences.
- (3) For a temporary structure that is used as an entertainment venue, the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.

NOTE 1: This condition does not apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the

development to which the work relates (not being the council) has given the council written notice of the updated information.

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

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

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

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

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

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

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

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

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

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

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

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

N/A