COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH-342
DA Number	DA24/0075
LGA	Wagga Wagga
Proposed Development	Mixed Use Development Including a 9 Storey Building, with Ground Floor Commercial Development, and 8 levels of Residential Apartments (Shop Top Housing), a 7 Storey Building, with Ground Floor Commercial Development, and 6 levels of Residential Apartments (Shop Top Housing), 8 x 3 Storey Attached Multi Dwelling Housing Dwellings, and Two Levels of Shared Basement Carparking.
Street Address	Lot 1 DP 550746, Lot 1 DP 203835 and Lots 1-4 DP 20847, 185-187 and 66-72 Murray Street, Wagga Wagga NSW 2650
Applicant/Owner	Owner: Damasa Pty Ltd Applicant: The Trustee for The Donebus Family Trust
Date of DA lodgement	1 March 2024
Total number of Submissions **Number of Unique Objections**	• 2 • 2
Recommendation	Approval
Regional Development Criteria (Schedule 6 of the SEPP (Planning Systems) 2021	2) General development over $30 million. The capital investment value is $39,140,000
List of all relevant s4.15(1)(a) matters	• State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Sustainable Buildings) 2022 • Wagga Wagga Local Environmental Plan 2010 • Wagga Wagga Development Control Plan 2010
List all documents submitted with this report for the Panel's consideration	• Architectural Plan Set and Landscape Plans • Civil Engineering Plans • Statement of Environmental Effects • CPTED Report • Architectural Design Statement • Flood Impact Assessment (including additional information) • Waste Management Plan • Stormwater Management Plan • Arborist Report (including additional report) • Traffic Impact Assessment (including additional information) • Preliminary Site Investigation • Detailed Site Investigation (including addendum) • Masterplan Presentation Document • Unredacted Submissions
Clause 4.6 requests	Not applicable

Summary of key submissions	• Impacts on stormwater and flooding • Overshadowing • Privacy • Concerns about future stages
Report prepared by	Steven Cook, Senior Town Planner
Report date	14 April 2026

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 summarised, 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?	**No**
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*	**No**
Conditions Have draft conditions been provided to the applicant for comment? *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*	**No**

EXECUTIVE SUMMARY

Reason for consideration by Southern Regional Planning Panel

The proposal has been referred to the Southern Regional Planning Panel as it is for a general development with a capital investment value of more than $30 million.

Proposal

The proposal is for a 9-storey building, with ground-floor commercial and 8 floors of shop-top housing (containing 54 apartments), a 7-storey building with ground-floor commercial and 6 floors of shop-top housing (containing 36 units), 8 x 3-storey attached townhouses, two floors of basement car parking, and associated landscaping and access.

Permissibility

The site is zoned MU1 Mixed Use pursuant to the Wagga Wagga Local Environmental Plan 2010. The land use is permissible in the zone and consistent with the zone objectives.

The adjacent road reserve where additional works are proposed is zoned R1 General Residential. Those works (road works) are permitted without consent, and the development is not inconsistent with the objectives of the R1 zone.

Consultation

The development application was notified in accordance with Council's DCP. Two submissions were received during the exhibition period, raising issues around overshadowing, overlooking, impacts on flooding and stormwater, and uncertainty regarding future stages of redevelopment of the precinct.

Key assessment issues

- The development represents Stage 3 of the Civitas project, which is a master-planned precinct, supported by amendments to the Wagga Wagga Local Environmental Plan 2010, to facilitate the mixed-use redevelopment of a large (approximately 3.5ha) site historically predominantly used for a range of commercial purposes.
- The proposed buildings are of a large scale but generally consistent with the masterplan. The buildings comply with the WWLEP 2010 height limit on the site of 35 metres, and generally comply with the DCP height limits, which seek to distribute this height across the site.
- The development has been assessed against the Apartment Design Guide (ADG). While the development proposes a number of non-compliances with 'design criteria' in the ADG, the development is assessed as being consistent with the 'objectives' of the ADG. The Court has held that strict compliance with the design criteria is not a requirement of the Housing SEPP, and they only represent one method for achieving compliance with an objective.
- The site is subject to overland flooding. The development does result in minor increases in flooding off-site, but no new above-floor flooding in the modelled flood events. Considering all relevant matters, it is considered that the development is compatible with the flood function and behaviour on the land and that it will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties.
- A detailed site investigation has identified potential contamination. The report concludes that, subject to the preparation of a Remedial Action Plan (RAP), the site can be made suitable for the proposed development.
- The proposal is strongly in the public interest as it results in the provision of housing that is well designed and is in high demand in an accessible location.

Recommendation

The application is recommended for approval subject to conditions of consent.

REPORT

DESCRIPTION OF DEVELOPMENT

The proposal is for a mixed-use residential and commercial development, which comprises Stage 3 of the overall Civitas mixed use re-development of the Morgan-Murray-Forsyth Street MU1 zone precinct.

This Development Application specifically proposes the following development over two stages:

- The first stage, being stage 3C:
  - Demolition of dwellings, outbuilding and infrastructure and tree removal at 66-72 Murray Street
  - Construction of Building 3C – an 11.293-metre-high building containing 8 x 3 storey attached townhouses, comprising:
    - 7 x 3-bedroom townhouses and
    - 1 x 4-bedroom townhouse.
    - Ground floor access from Murray St, and double garage at rear.
    - Fencing and landscaping.
  - Rear access for townhouses off the eastern end of the Morgan Street service road.
  - Loading bay for Stage 3B.
  - Turning bay for loading bay.
  - Tree removal.

- The second stage, being Stages 3A and 3B concurrently:
  - Demolition of buildings and infrastructure and tree removal at 185 Morgan Street
  - Construction of Building 3A – 35-metre-high, 9 storey building, over two levels of basement carparking (shared with Building 3B), comprising:
    - Basement Levels 1 to 2 – carparking and storage, comprising:
      - 152 x car spaces.
      - 4 x motorcycle spaces.
      - 33 x bicycle storage units.
      - Comms, store, pump and plant rooms.
      - Residential storage.
    - Ground Floor – 2 x Commercial Premises (785m^2 total GFA)
    - Levels 1 to 8 – 8 floors of shop top residential apartments, totalling 54 units, comprising:
      - 4 x 1-bedroom units
      - 16 x 2-bedroom units
      - 26 x 3-bedroom units
      - 8 x 4-bedroom units
    - Roof top plant and terrace.
  - Construction of Building 3B – a-29.05m-high, 7 storey building, over two levels of basement carparking (shared with Stage 3A building), comprising:
    - Basement Levels 1 to 2 – carparking and storage (shared with Stage 3A – see above)
    - Ground Floor – 2 x Commercial Premises (642m^2 total GFA)
    - Levels 1 to 6 – 6 floors of shop top residential apartments, totalling 36 units, comprising:
      - 4 x 1-bedroom units
      - 20 x 2-bedroom units
      - 12 x 3-bedroom units

        - Roof top plant and terrace.
    - Associated landscaping
    - Access to and from the site from the Morgan Street service road, and construction of a service lane and dock within the site to the west of Building 3A.
    - 5 at-grade parking spaces
    - Relocation of the existing connection point between the Morgan Street proper and the Morgan Street service road approximately 30 metres to the east and make the connection point exit only from the service road to Morgan Street.
    - Modification of parking in the Morgan Street service road and Morgan Street including:
        - Relocation of 5 x on street parking spaces in Morgan Street.
        - Relocation of 4 x parking spaces within the service road.
        - Loss of 1 x parking space in the service road.
    - Tree removal

Subdivision is not proposed under this Development Application and will be subject to a stand-alone future application.

Figure 1 - 3D Render of Proposed Development

THE SITE & LOCALITY

The site of the proposed development is Lot 1 DP 550746 (185 Morgan Street, Wagga Wagga), Lot 1 DP 203835 (187 Morgan Street, Wagga Wagga) and Lots 1-4 DP 20847 (66-72 Murray Street, Wagga Wagga). Some road works are also proposed in the adjacent Morgan Street road reserve.

Development for an at-grade car park to support the proposal is located at 187 Morgan Street. The works for the car park have already been approved under DA23/0340 and do not form part of this application. However, the land is included in this Development Application as it accommodates an electrical substation required for the development and provides access to the service lane along the western edge of the site.

The site is located on the north-western corner of Murray and Morgan Streets, approximately 250m east of Docker Street.

185 Morgan Street is occupied by two multi-tenanted buildings occupied by a range of commercial and medial uses. 66-72 Murray Street each contain single dwellings, built in the mid-20th Century, along with associated outbuildings and ancillary structures. The site is flat, and subject to inundation from overland flow from heavy rainfall events. The single dwellings have a small number of trees and shrubs located in their front and rear yards.

The locality is mixed in character. To the east and south of the site residential uses prevail, including a mix of single dwellings and multi-dwelling housing. To the southeast are tennis courts, while to the north and west are the commercial developments associated with the MU1 zone, and contain a mix of business, office, retail and health uses. In the row of houses along Murray Street to be demolished, a single dwelling remains to the north that is not part of this Development Application and is in separate ownership.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

For the purpose of determining this development application, the following matters that are of relevance to the development have been taken into consideration pursuant to the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act, 1979.

(a)(i) - The provisions of any environmental planning instrument (EPI)
Local Environmental Plan

Wagga Wagga Local Environmental Plan 2010

Permissibility and Zoning

Under the provisions of the WWLEP 2010 the site is zoned MU1 Mixed Use.

This Development Application proposes a 'mixed use development', comprising two multi-storey developments with ground floor 'commercial premises', with 'shop top housing' above, along with a row of attached 'multi dwelling housing'. It is noted that the multi-dwelling housing would be defined as 'attached housing' if subdivision was also proposed, however, as noted, it is not proposed at this time.

The definitions of these terms are as follows:

> *'Mixed use development' means a building or place comprising 2 or more different land uses.*
>
> *'Commercial premises' means any of the following—*
> *(a) business premises,*
> *(b) office premises,*
> *(c) retail premises.*
>
> *'Shop top housing' means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.*
>
> *'Multi dwelling housing' means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.*
>
> *'Attached dwelling' means a building containing 3 or more dwellings, where—*
> *(a) each dwelling is attached to another dwelling by a common wall, and*
> *(b) each of the dwellings is on its own lot of land, and*
> *(c) none of the dwellings is located above any part of another dwelling.*

'Commercial premises' and 'shop top housing' are permitted with consent in the MU1 zone.

The 'multi dwelling housing' could not reasonably be characterised as any of the listed prohibited land uses and therefore is permitted with consent as an innominate land use.

While consent is sought for 'commercial premises', the range of potential uses that definition allows is extensive, and it is not possible to reasonably consider all potential impacts associated with all potential uses. Likewise, requiring all uses of these spaces to obtain a development consent prior to operating is also unreasonable. Therefore, it is recommended that, in the event consent is granted to the development, that consent be granted only to some commercial uses, with all remaining uses requiring consent before fit-out. It is recommended that these approved uses be restricted to the following (as defined by the WWLEP 2010):

- Office, business and retail premises other than premises that are:
  (i) food and drink premises,
  (ii) a funeral chapel,
  (iii) a funeral home,
  (iv) retail premises where firearms within the meaning of the Firearms Act 1996 are sold,
  (v) landscaping material supplies,
  (vi) a market,
  (vii) premises that are a beauty salon or hair dressing salon,
  (viii) premises where a skin penetration procedure within the meaning of the Public Health Act 2010 is carried out,
  (ix) restricted premises,
  (x) a roadside stall,
  (xi) sex services premises,
  (xii) vehicle sales or hire premises, and

This list is based on landuses for which a change of use may not be carried out as exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

The objectives of the MU1 zone are as follows:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

The proposed development is considered consistent with these objectives. The development forms part of an overall redevelopment of the Morgan St precinct which includes a range of developments including commercial and residential uses. The development itself includes commercial and residential uses, which will activate the precinct, and will generate employment.

With regard to the second objective, the development provides attractive frontages to both public streets and internally within the site.

The development includes measures to minimise land use conflicts, as set out by this assessment report, and is therefore consistent with the third objective.

Finally, in relation to the fourth objective, the development includes substantial, ground floor,

non-residential floor area.

The Morgan Street road reserve adjacent to the site is zoned R1 General Residential. Works in the R1 zone are for modifications to on-street car parking and access. Roads (which would include on-street parking) are permitted without consent in the R1 zone, and therefore only require approval under Section 138 of the *Roads Act 1993*. However, the impacts of the works in the road reserve, insofar as they relate to the proposed development, have been considered throughout this report.

The objectives of the R1 zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure co-ordinated and cost-effective provision of physical, social and cultural infrastructure in new residential areas.*

The works are restricted to the road reserve only, in an area already used for parking. Therefore, the development will not impinge on the ability of the housing related objectives of the R1 zone to be achieved and the development is not considered inconsistent with the objectives of the R1 zone.

4.3 – Height of Buildings
Clause 4.3 of the WWLEP 2010 sets a maximum building height for buildings on certain land. On the subject land the maximum building height permitted is 35m.

The height of the building 3A (the tallest building) is 35m above existing ground level and therefore the development complies. The highest point is concentrated to the centre of the building, and is the roof of a plant room. Building heights are discussed further under part (a)(iii) of this assessment report.

Clause 5.21
The site is located within the Flood Planning Area (FPA) for overland flooding and is therefore subject to Clause 5.21 of the WWLEP 2010. Clause 5.21 states:

(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development-

(a) is compatible with the flood function and behaviour on the land, and
(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
(d) incorporates appropriate measures to manage risk to life in the event of a flood, and
(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters-

(a) the impact of the development on projected changes to flood behaviour as a result of climate change,

(b) the intended design and scale of buildings resulting from the development,
(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,
(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

The application is supported by a Flood Assessment Report that includes pre- and post-development modelling for the 10%, 5% and 1% Annual Exceedance Probability (AEP) overland flood events.

Flood levels on the development site are 179.20m AHD in the 1% AEP flood. Flooding also occurs on surrounding properties and roads as shown on the figure below. Flood hazard across the site ranges from H1 to H3, with H1–H2 conditions dominating the surrounding road network during a 1% AEP flood.

Figure 2 - Existing Flood Depths 1% Flood Event

The modelling indicates that the proposed development results in relatively minor increases in peak flood levels on residential land that is to the east of the site. For example, the assessment found that maximum increases in peak flood levels are broadly as follows:

Event	Maximum Increase
10% AEP	Up to 18mm
5% AEP	Up to 13mm
1% AEP	Up to 4mm

These increases exceed the model sensitivity threshold (10 mm) in the 5% and 10% events and therefore require consideration in terms of impact.

The applicant obtained finished floor level data via various means for affected dwellings and

compared these with pre- and post-development flood levels. This analysis shows:

- No new dwellings experience above-floor flooding in the 10%, 5% or 1% AEP events.
- The 12 dwellings that currently experience above-floor flooding in a 10% AEP flood would generally experience increases in the depth of above-floor inundation of between 15-16 mm (noting the 18mm impact occurs at property that does not experience above floor inundation either pre- or post-development).
- The 24 dwellings that currently experience above-floor flooding in a 5% AEP flood would generally experience increases in the depth of above-floor inundation of between 12-13 mm.
- The 26 dwellings that currently experience above-floor flooding in a 1% AEP flood would generally experience increases in the depth of above-floor inundation of between 3-4 mm.

The findings of the assessment indicate that there would be a minor increase in the frequency of above-floor flooding in several of the affected dwellings, as evidenced by the fact that there are measurable increases in peak flood levels for the assessed floods either side of a dwelling going from not-above-floor flooded to above-floor flooded.

While a minor increase in the frequency of above-floor flooding in dwellings that already experience above-floor inundation in a 1% AEP flood could be deemed to be insignificant by some, it is nevertheless an impact that must be considered. By application of the merits based approach prescribed in the NSW Government's Flood Risk Management Manual, it has been concluded that the identified impacts in existing development are acceptable for the reasons that:

a) no new dwellings become flood-affected in the 10%, 5% or 1% AEP events.;
b) the additional depths of above-floor flooding (a maximum of 16 mm in a 10% AEP flood) does not materially change the nature or severity of the flooding impacts already experienced in the affected dwellings;
c) any increase in the frequency of above-floor flooding is limited to a very narrow range of AEP-specific flood events; and
d) the flood related impacts are considered to be relatively minor when weighed against the broader public interest in providing additional housing supply and diversity in a well-serviced location and noting Council's strategic support for mixed-use development on this site.

Given the above factors and associated discussion, the development is considered 'compatible with the flood function and behaviour on the land' (5.21(2)(a)), and that it 'will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties' (5.21(2)(b)).

While the Applicant has indicated that a shelter-in-place response would be viable during a flood event, in assessing the proposal, it is not considered a formal shelter-in-place arrangement given that evacuation generally remains available from the site during floods up to 1% AEP in magnitude. As such it is considered the development 'will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood' (5.21(2)(c)).

While evacuation generally remains available from the site during floods up to 1% AEP in magnitude, there is merit in occupants remaining in place during a local catchment flood event, especially in the instance where a flood rarer than 1% AEP is experienced in Wagga Wagga. In this regard, it will be necessary to incorporate measures within the proposed development

which limit access to the basement car park given the risk of it being inundated by floodwater during floods rarer than 1% AEP in magnitude. In this regard, there will be a need to prepare a Flood Emergency Response Plan for the proposed development which includes the following as a minimum:

- sets out protocols and procedures for the site in the event of both riverine and local catchment flooding to minimise the risk to occupants of the land, including persons moving onto and off the site;
- sets out protocols to prevent entry into the basement car park during a flood event (both riverine and local catchment), from both within the buildings, and from offsite, up to and including a PMF event; and
- covers all development on the site and shall include measures to ensure occupants (including any short stay occupants) are aware of these arrangements.

Given the importance of ensuring these matters are adequately addressed, and to ensure any physical measures necessary are incorporated into the final design, it is recommended that this plan be required prior to the release of the Construction Certificate.

With the preparation of a Flood Emergency Response Plan, it is considered the development incorporates appropriate measures to manage risk to life in the event of a flood (5.21(2)(d)).

The development is proposed on a highly modified urban site and will not significantly alter flood behaviour, and as such, it is considered that the development "will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses" (5.21(2)(e)).

In relation to the matters listed under 5.21(3), the impacts of climate change are incorporated into Council's flood modelling and management plans. In addition, the scale and design of the buildings, being a large-scale mixed-use commercial building are considered appropriate, risks to life are not considered significant and evacuation considered unlikely. However, the as stated above, a Flood Emergency Response Plan will need to be prepared for the proposed development prior to the release of the Construction Certificate. Finally, that there is no potential to relocate buildings on the site.

5.22 - Special Flood Considerations

The site is between the FPA and PMF for riverine flood events. It is not defined as sensitive and hazardous development, nor is it considered (as set out above) that the land, in the event of a flood, causes a particular risk to life. Therefore, the clause does not apply.

Notwithstanding, it has been recommended under the assessment against Section 5.21 of the WWLEP 2010, that the site-specific Flood Emergency Response Plan for the site have regard to PMF flood events, particularly in relation to access to the basement car park.

7.1A – Earthworks

The proposed development involves earthworks, including for excavating basements for car parking. 7.1A(3) states:

(3) Before granting development consent for earthworks, the consent authority must consider the following matters—

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,

(b) the effect of the proposed development on the likely future use or redevelopment of the land,

(c) the quality of the fill or the soil to be excavated, or both,

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,
(e) the source of any fill material and the destination of any excavated material,
(f) the likelihood of disturbing relics,
(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

The bulk of the earthworks will be for the basement carpark, with some additional works likely necessary to establish minimum finish floor levels. As discussed under 5.21, the works are unlikely to detrimentally impact drainage patterns. Likewise, impacts on soil stability are unlikely. The earthworks facilitate the future use of the land. No fill is proposed to be imported to the site. Conditions of consent are recommended in relation to the test and classification of soil excavated from the site to ensure appropriate disposal at a facility approved to receive it, noting the soil is not assessed of being of particular significance. The earthworks, by their nature, are unlikely to impact the amenity of adjoining properties as demonstrated by this assessment report. No relics, as defined under the WWLEP 2010 have been identified on the site. Standard conditions regarding sediment and erosion control are recommended.

As such, it is considered the development complies with Clause 7.1A.

7.6 – Groundwater Vulnerability
Clause 7.6 applies to the site as the land is identified as "Groundwater" on the Water Resources Map of the WWLEP 2010. There are no relevant controls, however, within Clause 7.6 that apply to development of this type.

7.9 – Primacy of Zone E2
Clause 7.9 of the WWLEP 2010 requires that:

Development consent must not be granted to development on any land unless the consent authority is satisfied that the development maintains the primacy of Zone E2 Commercial Centre as the principal business, office and retail hub of Wagga Wagga.

The proposal, while not located in the Wagga Wagga Central Business District, is located in proximity to, and supports the CBD. The development replaces existing commercial floor area on the site while introducing a large number of new residential units. As such, approval of the development is unlikely to negatively impact on the primacy of Zone E2 Commercial Centre as the principal business, office and retail hub of Wagga Wagga, as it is replacing existing commercial floor area, while introducing new residents to support existing businesses in the CBD. The close proximity to the CBD, within comfortable walking distance, means that there are strong links between the two areas.

Clause 7.11
Clause 7.11 of the WWLEP 2010 applies to development that will penetrate the Obstacle Limitation Surface for the Wagga Wagga Airport. The land is within the OLS area, but the proposed building is not expected to penetrate the OLS (the OLS being approximately 185m above ground level at the development site) and thus Clause 7.11 does not apply.

There are no other provisions of the WWLEP 2010 relevant to this application.

State Environmental Planning Policies
State Environmental Planning Policy (Resilience and Hazards) 2021
Chapter 4 of SEPP (Resilience and Hazards) 2021 contains the provisions of the former SEPP 55 – Remediation of Land. Clause 4.6 of SEPP (Resilience and Hazards) 2021 requires that:
(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).

With respect to this the development proposes a change of use of to residential purposes. A Detailed Site Investigation was carried out for the site. This was subsequently amended by an addendum report following the alteration of the development footprint prior to lodgement.

The reports identified exceedances of BaP (TEQ) at two bore holes (BH-12 and BH-13) related to bitumen that was observed amongst the fill material to a depth of 1.3m and contains coal tar. The DSI states:

Although NEPM 2013 does discuss the limited bioavailability of carcinogens when present in the form of bitumen, the concentrations are quite significant and will require remediation of the area that covers approximately 500m2.

TRH concentrations in the F2 band also exceeded NEPM standards at one of the two boreholes, while F3 concentrations exceeded NEPM Management Limits.

In a separate borehole (BH4-1) a separate hotspot of 250m2 to a depth of 0.5m was identified for remediation, again due to high concentrations of BaP TEQ, however, the DSI states that more accurate delineation of the contaminated fill should be undertaken at the time of excavation. The DSI also identified an exceedance of zinc EIL at one borehole (BH4-2) however, concluded that due to location the exceedance does not represent a risk “to the ecology”. It is noted boreholes BH4-1, BH4-2, BH4-3 and BH4-4 are all located in an area that is not subject to this Development Application, but were investigated in the DSI as they fell within the original intended development footprint.

The sampling and results are summarised in the figure below:

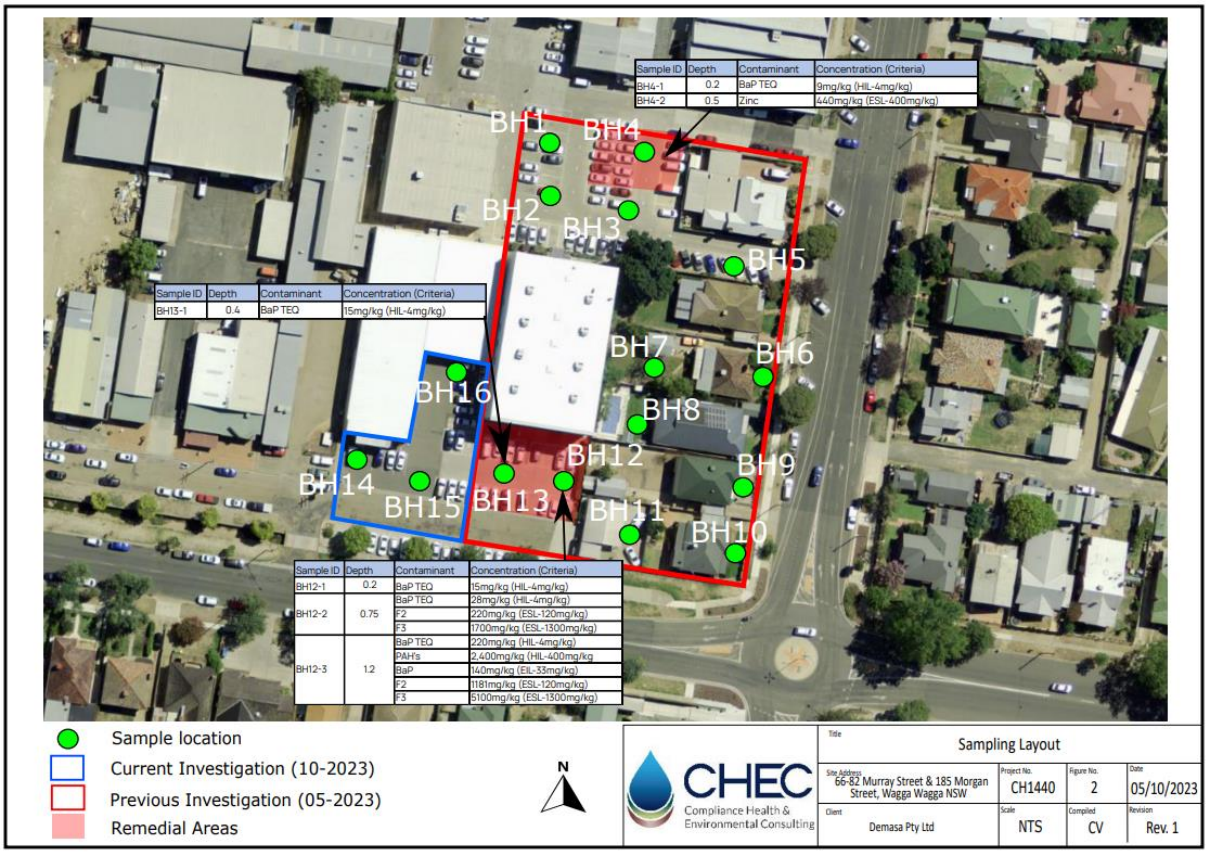

Figure 3 - Soil Sampling Locations and Result Summary

The reports conclude that the "site can be made suitable for the intended land use as a mixed-use retail and residential development with basement car parking with the development and implementation of a Site Remedial Action Plan (RAP)". It also notes that further sampling will be required upon demolition of the medical centre building. The DSI notes that the RAP can be developed pre-demolition but will require contingencies in the event that significant additional contamination or additional contaminants are identified. Finally, the DSI identifies that a waste classification will need to be developed in conjunction with site remediation works.

It is recommended that conditions of consent requiring the development and implementation of a RAP be conditioned on any consent. All relevant matters under the SEPP have been considered and the land has been assessed as being potentially contaminated, however, subject to remediation, the site can be made suitable for the proposed development.

<u>State Environmental Planning Policy (Transport and Infrastructure) 2021</u>
Section 2.45 of SEPP (Transport and Infrastructure) 2021 requires that for development carried out "within 5m of an exposed overhead electricity power line" Council must:

(a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
(b) take into consideration any response to the notice that is received within 21 days after the notice is given.

The development is proposed in proximity to electricity supply infrastructure. Essential Energy raised no safety concerns and provided standard general comments. Where relevant, comments should be included in any conditions of consent.

Section 2.122(4) of the SEPP relates to traffic generating development and to development listed in Schedule 3 to the SEPP. The schedule lists thresholds for development with access to a classified road or access to a road generally. The thresholds apply to a new premises of the relevant size or capacity, or an enlargement of an existing premises, being an alteration or addition of the relevant size or capacity.

The thresholds include 200 or more car parking spaces. The development includes 152 basement parking spaces, 5 at-grade parking spaces, 12 garage parking spaces, as well as the relocation of 9 parking spaces within the Morgan Street road reserve. This is a total of 178 spaces. When combined with the at grade car park approved under DA23/0340, which is proposed to service this development, it is considered the development has capacity for 200 or more parking spaces and therefore is Traffic Generating Development. As a consequence the Development Application was referred to Transport for NSW (TfNSW) for comment.

TfNSW raised no objection to the proposed development. TfNSW made general comments which have been considered.

State Environmental Planning Policy (Sustainable Buildings) 2022
Chapter 2 Standards for Residential Development – BASIX
The proposed shop top housing, along with the multi dwelling housing, are forms of BASIX development as defined within the Environmental Planning and Assessment Regulation 2021 and as such the SEPP applies. A compliant BASIX Certificate has been submitted in support of the application.

Chapter 3 Standards for non-residential development
Chapter 3 applies to "development, other than development for the purposes of residential accommodation, that involves the erection of a new building, if the development has an estimated development cost of $5 million or more". Advice was sought from the Department's Sustainable Buildings SEPP Team, who confirmed that if the commercial component of the development does not have an estimated development cost of more than $5 million (regardless of the overall cost), then Chapter 3 would not apply. A Quantity Surveyor Report confirmed the estimated development cost for the commercial component is less than $5 million and therefore Chapter 3 does not apply.

State Environmental Planning Policy (Housing) 2021
Chapter 4 Design of residential apartment development
Chapter 4 of the housing SEPP applies to 'residential apartment development' which includes shop top housing.

The chapter only applies if:

(a) the development consists of-
(i) the erection of a new building, or
(ii) the substantial redevelopment or substantial refurbishment of an existing building, or
(iii) the conversion of an existing building, and

(b) the building is at least 3 storeys, not including underground car parking storeys, and

(c) the building contains at least 4 dwellings.
The proposed development satisfies all of these requirements and thus the chapter applies.

Section 145 of the SEPP requires Developments Applications for residential apartment development to be referred to a design review panel, but only if a design review panel has been established for the local government area. No design review panel has been established

in the Wagga Wagga Local Government Area.

Section 147 states that development consent must not be granted to residential apartment development unless the consent authority has considered the following:

- *the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9*

An assessment of the quality of design against the design principles under Schedule 9 is provided in the table below.

- *the Apartment Design Guide,*

Consideration of Apartment Design Guide is provided in the following table.

Section 148 deals with non-discretionary development standards for residential apartment development in accordance with section 4.15(2) and (3) of the Environmental Planning and Assessment Act 1979. Under subsection (2), if the development complies with these standards, Council:

a) is not entitled to take those standards into further consideration in determining the development application, and
b) must not refuse the application on the ground that the development does not comply with those standards, and
c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

However, if the development application does not comply with those standard, subsection (3) states:

a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and
b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

The following are non-discretionary development standards under this clause of the SEPP

a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,
b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,
c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

As identified under the assessment of the application below against the ADG, it is satisfied that the development is able to comply with all of the non-discretionary standards listed above. In accordance with subsection 4.15(2) of the Act, these matters will not be taken into further consideration in this assessment, the application has not been recommended for refusal and no conditions have been recommended that would result in more onerous requirements in relation to these matters.

Section 149 states that a requirement, standard or control for residential apartment development that is specified in a development control plan and relates to the following

matters has no effect if the Apartment Design Guide also specifies a requirement, standard or control in relation to the same matter.

(a) visual privacy,
(b) solar and daylight access,
(c) common circulation and spaces,
(d) apartment size and layout,
(e) ceiling heights,
(f) private open space and balconies,
(g) natural ventilation,
(h) storage.

This clause has been accounted for in the assessment of the application against the relevant sections of the DCP 2010 (see Section 9 of DCP) later in this report.

Table 1 - Assessment of the development against the design principles for residential apartment development (Housing SEPP - Schedule 9)

Principle 1- Context and Neighbourhood Character	**Applicant comments (NOTE: the applicant has provided a lengthy response to each principle, the following is a Council summary)**	**Council comments**
Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, areas undergoing change or areas identified for change.	The design responds to the current and emerging context of the precinct, which includes retail and commercial premises of one to three storeys, older warehouse typologies and newer contemporary buildings. The site is close to Wollundry Lagoon, the cultural precinct, the town centre and the Base Hospital. Surrounding sites include low-rise detached dwellings. The proposal respects the immediate context with appropriate transitioning of land uses. The master plan anticipates mixed-use buildings, a public plaza and townhouses, contributing to a future local centre with residential, commercial and retail uses connected by the plaza.	The proposed development does respond to both the existing and future character of the precinct. Scaling of the development to Murray Street is proposed to respond to existing development to the east, while the service road provides adequate separation to the south. The area is identified for change, with a masterplan adopted, and DCP site specific DCP controls written to support this change. The design is consistent with the change that has been envisaged for the site. Buildings are well designed and respond to the neighbourhood, streetscape and adjacent sites. The applicant comments are concurred with. The development is consistent with this principle.
Principle 2 - Built Form and Scale	**Summary of applicant comments**	**Council comments**
Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also	The built form follows the master plan and site-specific DCP, which distribute massing, provide separation between buildings and ensure height transitions towards neighbouring sites. The DCP	The development is generally consistent with the heights, scaling and bulk set out in the masterplan, supported by the DCP. As noted, stepping of building height has been

achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, building articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.	height diagram establishes higher buildings in the centre and lower buildings at the perimeter, with nominated street setbacks. Building 3A meets the 32m height zone, Building 3B meets the 24m height zone, and the townhouses sit within the 12m height zone to transition to residential dwellings. Buildings observe ADG setbacks and are separated by a public plaza, providing framed views and suitable transitions between building types.	proposed and impacts in regard to built form and scale are acceptable. The built form defines the public domain, and contributes to the character of the area. The applicant comments are concurred with. The development is consistent with this principle.
Principle 3 - Density	**Summary of applicant comments**	**Council comments**
Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.	The site is an active retail and commercial hub with destination retail, services and on-site parking. The DCP identifies the opportunity for higher density living and working communities, supported by adjusted building heights and the desired future character. The proposed density on the site presents a contextual fit, having easy access to the surrounding services, with its proximity to Wagga Wagga town centre, and the town centre's retail and commercial hub, public transport, as well as Wagga Base Hospital. The available services are further supplemented with the expansion of retail and commercial offering on site and the public amenity is enhanced with meaningful connection to the Wollundry Lagoon and public outdoor spaces created on site through the introduction of the public plaza. The north–south public plaza improves pedestrian connectivity and permeability. The proposal demonstrates high residential amenity with compliant solar access, natural ventilation and deep soil, private, communal and public open spaces.	The proposed density is appropriate having regard to the design of the building and plaza areas, infrastructure, the proximity of the site to services, the health precinct, the CBD and public transport. The development is consistent with this principle.
Principle 4 - Sustainability	**Summary of applicant comments**	**Council comments**
Good design combines positive environmental and social and economic outcomes. Good sustainable design includes use of	The site is currently an adaptive reuse of an industrial area with warehouse typologies, hardstand and minimal vegetation. The master plan will improve natural	Compliance with the ADG will ensure suitable design to maximise sustainability. The development is consistent with this principle.

natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling which reduces reliance on technology and operation costs. Good sustainable design also includes recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.	qualities, resolve conflicts between vehicles and pedestrians and create public outdoor spaces with better amenity. Buildings are designed to maximise solar gain, with projections and articulation providing shading. NatHERS and BASIX assessments outline sustainability commitments. Apartments comply with ADG requirements, and all townhouses are dual-aspect to promote cross-ventilation. Shadow diagrams show no overshadowing issues and sufficient solar access. Additional sustainable initiatives will be considered at detailed design stage.	
Principle 5 - Landscape	**Summary of applicant comments**	**Council comments**
Good design recognises that landscape and buildings operate together as an integrated and sustainable system, resulting in developments with good amenity. A positive image and contextual fit of well-designed development is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features that contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, and respect for neighbours' amenity. Good landscape design provides for practical establishment and long term management.	The proposal provides opportunities for future landscaping with sizable deep soil areas coupled with ground floor private landscape gardens to town houses and planting on structures (at ground for the plaza, the roof top communal areas and select private balconies) to further enhance the natural qualities of the site. The communal open spaces are proposed to accommodate soft and hard landscaping. The proposed deep soil areas will also provide opportunity to grow mature trees and provide deep soil landscaping opportunities. Detailed landscape design is provided by the Taylor Brammer Landscape Architects Development Application Package.	The proposed landscaping approach is generally satisfactory. Deep soil areas, private gardens and communal spaces appear capable of supporting appropriate planting and improving site amenity. Final landscape outcomes will depend on detailed design and implementation, but the proposal is consistent with the intent of the principle and provides adequate opportunities for canopy growth, microclimate benefits and visual relief within the precinct.
Principle 6 - Amenity	**Summary of applicant comments**	**Council comments**
Good design positively influences internal and external amenities for	The development includes two mixed-use apartment buildings over retail and basement parking,	The development demonstrates compliance with key ADG amenity requirements, including solar

residents and neighbours. Achieving good amenities contributes to positive living environments and resident well-being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.	and eight 3-storey townhouses. Apartments maximise solar access and natural cross-ventilation by minimising south-facing and single-aspect layouts. Living rooms meet ADG minimum widths and open to private open space. Bedrooms meet ADG dimensions and include built-in robes. Storage is provided internally and supplemented by basement storage. Building 3A lobbies receive natural light and ventilation. Both buildings have rooftop communal spaces with BBQs, landscaping and furniture, supplemented by the ground-floor plaza. Townhouses are dual-aspect with strong solar access and private open spaces.	access, natural ventilation, apartment layout and provision of communal open space. The mix of private and shared spaces is appropriate, and the design provides acceptable levels of internal amenity for future residents. No significant amenity concerns are identified. The development is consistent with this principle.
Principle 7 - Safety	**Summary of applicant comments**	**Council comments**
Good design optimises safety and security within the development and the public domain. Good design provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.	The design has been considered in relation to the desired future character of the site and the effects of flooding. A raised public plaza elevates ground-floor tenancies above identified flood levels and delineates pedestrian space from vehicular circulation, providing greater safety and amenity for common public spaces. Drop-off and pickup zones create safe and comfortable areas adjacent to the plaza with passive surveillance from retail tenancies. Townhouses have direct vehicular access to garages with internal access and provide passive surveillance to Murray Street. A separate CPTED report demonstrates how Stage 3 achieves safety in design requirements.	The proposal incorporates passive surveillance, clear sightlines and separation of pedestrian and vehicle areas. The plaza and active frontages contribute positively to safety outcomes. A CPTED report has been provided, and no major safety issues are evident.
Principle 8 - Housing diversity & social interaction	**Summary of applicant comments**	**Council comments**
Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves	The development offers a wide range of housing typologies, with a mix of 1-, 2-, 3- and 4-bedroom apartments and larger three- and four-bedroom townhouses for families. Buildings 3A and 3B accommodate a good variety of apartment types per floor, providing options for varied budgets. The development is anticipated to attract a wide range	The proposal provides an appropriate mix of apartment types across Buildings 3A and 3B, supporting a range of household needs and budgets. Communal rooftop areas and the ground-level plaza offer suitable opportunities for social interaction and are consistent with the intent of the principle. Retail activation further contributes to activity

practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.	of residents and will grow with future mixed-use stages. Communal rooftop areas and the ground-level plaza activated by retail cultivate social interaction. Landscape design, plant selection, materials, furniture and play components provide a rich and engaging space for residents and visitors.	within the precinct. The townhouses are not subject to the Apartment Design Guide or this SEPP principle, but their inclusion in the overall development does increase housing diversity.
Principle 9 - Aesthetics	**Summary of applicant comments**	**Council comments**
Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well-designed residential apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	The Stage 3 development has been crafted to present a suitable built form and architecture for the intended future character of the site. Building placement and massing follow the site-specific DCP heights and setbacks, creating a consistent streetscape to Morgan Street. Building heights transition from the 8-storey Building 3A to Building 3B and then the 3-storey townhouses along Murray Street. Materials and finishes relate to the context and set the standard for the emerging character, with variation between the base, middle and crown reducing the effects of taller buildings and providing domestic scale. The townhouses use complementary materials.	The architectural treatment is consistent with the intended future character of the precinct and aligns with the site-specific DCP in relation to height, setbacks and massing. The transition in building heights provides an appropriate interface to surrounding development. The proposed materials and finishes are suitable for the context and contribute to a coherent presentation across the mixed-use buildings and townhouses. The aesthetic approach is acceptable and compatible with earlier stages of the CIVITAS precinct.

Table 2 - Assessment of the development against the Apartment Design Guide (ADG) Criteria

APARTMENT DESIGN GUIDE (ADG)			
No	**Objective**	**Control (summarised where appropriate)**	**Comment**
3A	**Site Analysis**		
3A-1	*Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.*	*Each element in the Site Analysis checklist should be addressed*	Supporting information provided in the form of plans showing site analysis and context, streetscapes, materials and building form demonstrates compliance.
3B	***Orientation***		
3B-1	*Building types and layouts respond to the streetscape and site while optimising solar access within the development.*	*Face streets and incorporate direct access from the street. Orientate buildings to north*	The buildings provide a partially activated frontage to Morgan Street. The overall site layout, site constraints and the adopted masterplan establish a north–south pedestrian corridor through the site, which results in the buildings being oriented north–

			south with their primary active frontages facing internally. This arrangement improves solar access, views and amenity for the residential apartments and is acceptable in the context of the masterplan. Building access is provided from within the plaza, and the design and articulation achieve an appropriate presentation to Morgan Street. There is an opportunity to increase glazing to the southern elevation of Commercial Tenancy 1 in Building 3B to provide a more active frontage to Morgan Street, similar to Tenancy 1 in Building 3A. It is recommended that this be addressed by condition
3B-2	*Overshadowing of neighbouring properties is minimised during mid-winter.*	*Solar access for adjoining properties to meet 3D and 4A or where they do not currently receive this, a reduction to solar to neighbours no greater than 20% If significant reduction increase building separation* *Minimise privacy and overshadowing impacts*	Setbacks result in limited overshadowing of properties to the south of the site, ensuring compliance with 3D and 4A for these properties would essentially be unchanged.
3C	**Public Domain Interface**		
3C-1	*Transition between private and public domain is achieved without compromising safety and security.*	*Direct entry from street, balconies to overlook public domain, permeable fencing, active ground level, minimise concealed areas*	The development is shop top housing. Secure access to each lobby is provided off the public plaza. Residential balconies overlook the public domain. Plaza and furniture provides opportunities for interaction.
3C-2	*Amenity of the public domain is retained and enhanced.*	*New planting, garbage areas out of view, limit use of ramps, mail boxes in lobbies,*	Landscaping and the public plaza enhance the public domain. Undesirable elements are softened and screened where possible.
3D	**Communal and Public Open Space**		
3D1	*An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.*	*Communal open space has a minimum area equal to 25% of the site* *Minimum dimensions of 3m* *Developments achieve a minimum of 50% direct sunlight to the principal usable part of the*	Communal open space is provided on the roof tops of Buildings 3A and 3B. The site area associated with the proposed development is 5982m^2. This, however, includes the land associated with the townhouses, which are not subject to the ADG. The area, excluding the townhouses (but

		communal open space for a min 2 hours between 9am-3pm on 21 June	including access roads including shared access for the apartments and townhouses) is approximately 4700m^2. The total communal area provided is 927m^2, which is around 20%. The applicant notes that in addition to these areas, an 830m2 plaza is provided in the development at ground level which includes deep soil and over structure landscaping, urban furniture, and water play area. The roof top areas and the plaza combined are 1757m2 or around 37% of the site. Given the size of the plaza, and the substantial additional space it provides, it is considered that the non-compliance for communal space is acceptable, and that there is adequate and a variety of high-quality spaces across the site for residents to use and interact in. Solar access is achieved for a minimum 2 hours to 50% of the principal usable part of the communal open space between 9am and 3pm. Given that the development relies on the plaza to meet this requirement, it is recommended that conditions of consent require final, detailed plaza and landscape plans be submitted pre-Construction Certificate, including furniture detail, and that separately, pre–Occupation Certificate conditions clearly require the delivery of the plaza to the satisfaction of the Council. Any conditions should emphasise the need for areas to play, relax and interact in the plaza.
3D2	*Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting*	*Facilities are provided for a range of age groups and include seating, BBQ areas, etc. Locations respond to microclimates. Visual impacts minimised.*	A range of activities are catered for including BBQs and dining, seated areas, landscaping, and recreation. The plaza includes water play areas.
3D3	*Communal open space is designed to maximise safety*	*Communal areas should be visible from habitable*	Roof top communal areas are controlled, resident only access.

		rooms, well lit, and safe and contained.	The plaza has passive surveillance from balconies.
3D4	*Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood*	*Well connected with public streets, connected, linked through view lines, opportunities for a range of recreational activities, good solar access, clear boundaries between public and private areas.*	Plaza is connected to Morgan Street and will connect north with future stages, visually connecting to Wollundry Lagoon. Solar access is available, with protection from the afternoon sun. Building entries and fences delineate public and private areas.
3E	**Deep Soil Zones**		
3E1	*Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality*	*Minimum dimension deep soil zone is 6m and 7% of site area.*	300m2 of deep soil zones are provided. This is around 6.4% of the site, minus the townhouses. However, as noted earlier this includes shared driveways with the townhouses. If this shared driveway is excluded, 7% of the site has deep soil zones. However, it is noted these areas are only between 1.5m and 3.5m in width. These areas are supplemented with 100m2 of over structure planting in the plaza, and there is 320m2 of rooftop landscaping. In the context of the brownfield site, the significant additional landscaping on the site, and the overall area of deep soil landscaping provided, it is considered the ADG is sufficiently satisfied in this regard.
3F	**Visual Privacy**		
3F1	*Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy*	*Minimum required separation distances from buildings to the side and rear boundaries* *Up to 12m (4 storeys)* - *Habitable and balconies 6m* - *Non habitable 3m* *Up to 25m (5-8 storeys)* - *Habitable and balconies 9m* - *Non habitable 4.5m* *Over 25m (9+ storeys)*	A full assessment against the ADG separation distances, along with discussion, follows at the bottom of this ADG table.

		- *Habitable and balconies 12m* - *Non-habitable 6m* *Separation distances between buildings on the same site should combine requried building separation distances depending on room type.*	
3F2	*Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space*		Communal areas and open space and access paths are separated from private open spaces and apartment windows. Private balconies and apartments generally make use of design elements to ensure privacy
3G	**Pedestrian Access and Entries**		
3G1	*Building entries and pedestrian access connects to and addresses the public domain*		The entries to the buildings address and are off the plaza which forms part of the public domain.
3G2	*Access, entries and pathways are accessible and easy to identify*		Access and movement through the site are clear, with the plaza functioning as both a central feature and the primary pedestrian pathway. Future stages will connect to and utilise the access provided by the plaza. Building entries are legible and easily identifiable from the public plaza.
3G3	*Large sites provide pedestrian links for access to streets and connection to destinations*		Pedestrian access through the site is provided. As further stages occur to the north, these linkages will progress through to Wollundry Lagoon.
3H	**Vehicle Access**		
3H1	*Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes*		Car park access is clear, and provided off the Morgan Street road reserve. The design of the access is acceptable.
3J	**Bicycle and Car Parking**		
3J1	*Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas*	*Sites zoned B4 in a nominated regional centre (which includes Wagga Wagga):* *Minimum car parking requirement is the rate set out in the Guide to Traffic Generating Development or DCP requirements whichever is the lesser.*	The Guide to Traffic Generating Development has been superseded by TfNSW's 'Guide to Transport Impact Assessment'. The Guide sets out the parking rates for high density dwellings in Category 3 areas (i.e. Wagga Wagga) at:

			- 1 space per 1 bedroom dwelling - 1.3 spaces per 2 bedroom dwelling - 1.5 spaces per 3 bedroom (or larger) dwelling plus 1 visitor space per 5 dwellings. The WWDCP does not have a control for shop top housing but for residential flat buildings requires: - 1 space per 1 or 2 bedroom unit - 2 spaces per 3 bedroom or larger unit. plus 1 visitor space per 5 dwellings. The development includes 8 x 1 bedroom, 36 x 2 bedroom, 38 x 3 bedroom and 8 x 4 bedroom apartments in the portion of the development ADG applies to. Using the Guide, the parking calculation is as follows: (8 x 1) + (36 x 1.3) + (38 x 1.5) + (8 x 1.5) + (90/5) = 142 spaces. Using the DCP, the parking calculation is as follows: (8 x 1) + (36 x 1) + (38 x 2) + (8 x 2) + (90/5) = 154 spaces. The Guide to Transport Impact Assessment is the lesser, and thus the applicable requirement for the shop top housing is 142 spaces. 152 basement parking spaces and 5 at grade parking spaces are proposed in conjunction with stages 3A and 3B which can accommodate this demand. Overall parking requirements for the entire development, including townhouses and commercial components is assessed

			separately in part (a)(iii) of this assessment report.
3J2	*Parking and facilities are provided for other modes of transport*		4 motorcycle parking spaces and 33 bicycle storage units are provided. Given the scale of the development, it is recommended that a condition of consent be imposed requiring the provision of electric vehicle charging facilities on the site as part of this development, as well as demonstrated capacity to increase the overall number of charging stations within the car park in future.
3J3	*Car park design and access is safe and secure*		Car park design and access is considered acceptable, safe and secure.
3J4	*Visual and environmental impacts of underground car parking are minimised*		Underground car park design is considered acceptable and consistent with the guidance in this section.
3J5	*Visual and environmental impacts of on-grade car parking are minimised*		Minimal at grade parking is proposed in association with this development. It is considered acceptable.
3J6	*Visual and environmental impacts of above ground enclosed car parking are minimised*		No above ground parking is proposed.
4A	**Solar and Daylight Access**		
4A1	*To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space*	*Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter.* *A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter*	Discussion follows at the bottom of this ADG table.
4A2	*Daylight access is maximised where sunlight is limited*		Sunlight access has been maximised.
4A3	*Design incorporates shading and glare control, particularly for warmer months*		Projections and eaves provide shading protection from summer sun. The applicant has advised that windows will incorporate high performance glazing to reduce solar heat gain and reflectance.
4B	***Natural Ventilation***		
4B1	*All habitable rooms are naturally ventilated*		All habitable rooms have openable windows or doors.

4B2	*The layout and design of single aspect apartments maximises natural ventilation*		The design of the development is acceptable in this regard.
4B3	*The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents*	*At least 60% of apartments are naturally cross ventilated. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.*	40 of 54of the apartments in building 3A (74.1%) and 24 of the 36 apartments in Building 3B (66.6%) meet cross ventilation requirements.
4C	**Ceiling Heights**		
4C1	*Ceiling height achieves sufficient natural ventilation and daylight access*	*Minimum ceiling heights from finished floor level to finished ceiling level:* *Habitable 2.7m* *Non-habitable 2.4m*	Floor to floor heights of 3.2m are provided, which will accommodate the required ceiling heights. Compliance should be conditioned.
4C2	*Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms*		Ceilings heights are considered acceptable.
4C3	*Ceiling heights contribute to the flexibility of building use over the life of the building*		Sufficient commercial floor area is provided on site. It is unlikely additional commercial floor area will be required in future at this site.
4D	**Apartment Size and Layout**		
4D1	*The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity*	*Minimum internal areas* *3 bed 90m2* *4 bed 102m2* *The minimum internal areas only include one bathroom. Additional bathrooms increase the minimum internal area by 5m2 each.* *Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.*	All units comply. All habitable rooms have windows and exceed 10%.
4D2	*Environmental performance of the apartment is maximised*	*Habitable room depths are limited to a maximum of 2.5 x the ceiling height.* *In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window*	Room depths are generally compliant. There are some exceedances particularly in open plan areas, but these are acceptable as areas receive adequate light and ventilation and are of an adequate width.

4D3	*Apartment layouts are designed to accommodate a variety of household activities and needs*	*Master - min 10m2 and other bedrooms 9m2 (excludes wardrobe space)* *Bedrooms min dimension 3m (excludes wardrobe space)* *Living rooms or combined living dining rooms have a minimum width of:* *· 3.6m for 1 bed* *· 4m for 2 bed and 3 bed* *The width of cross over or cross through apartments are at least 4m internally to avoid deep narrow apartment layouts.*	The apartment layouts comply with the minimum dimensions.
4E	**Private Open Space and Balconies**		
4E1	*Apartments provide appropriately sized private open space and balconies to enhance residential amenity*	*All apartments are required to have primary balconies as follows:* *1 bed - minimum area 8m^2, depth 2m* *2 bed - minimum area 10m^2, depth 2m* *3+ bed - minimum area 12m^2, depth 2.4m* *The minimum balcony depth to be counted as contributing to the balcony area is 1m.* *For apartments at ground level, a private open space is provided instead of a balcony. It must have a minimum area of 15m and minimum depth of 3m.*	All balconies comply. No ground floor apartments are proposed.
4E2	*Primary private open space and balconies are appropriately located to enhance liveability for residents*		All balconies have direct linkage to living areas.
4E3	*Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building*		Complies, there is a mix of materials used across the building façade.

4E4	*Private open space and balcony design maximises safety*		Heights of balconies and balustrades will be required to comply with the BCA. Compliance will be confirmed at CC stage.
4F	**Common Circulation and Spaces**		
4F1	*Common circulation spaces achieve good amenity and properly service the number of apartments.*	*The maximum number of apartments off a circulation core on a single level is eight.*	Does not comply for levels 1-4 of Building 3A, which have 9 apartments on each level. However, as foreshadowed by the design guidance, this is acceptable where high levels of amenity are achieved in lobbies, corridors and apartments. It is considered this is achieved, with lobbies designed to receive natural light and air.
4F2	*Common circulation spaces promote safety and provide for social interaction between residents*		Internal circulation areas acceptable, with appropriate sight lines, and enable social interaction between residents.
4G	**Storage**		
4G1	*Adequate, well designed storage is provided in each apartment*	*In addition to storage in kitchens, bathrooms and bedrooms:* *Storage required:* *1 bed 4m^3* *2 bed 6m^3* *3+ bed 10m^3* *50% is to be within the apartments.*	Internal storage areas comply for all but 8 apartments. 4 of these apartments fail by 0.05m^3 while the other 4 provide 37% of storage space internally. In the context of the overall development, noting there is substantial external storage exceeding minimum requirements, these non-compliances are considered acceptable. As noted, adequate external areas are available in the basement, however, details dividing these spaces between apartments has not been provided. It is recommended that this detail be provided prior to the release of the Occupation Certificate.
4G2	*Additional storage is conveniently located, accessible and nominated for individual apartments*		As noted above, final storage area details will be required prior to the release of the Occupation Certificate.
4H	**Acoustic Privacy**		
4H1	*Noise transfer is minimised through the siting of buildings and building layout*		Apartment layouts group entry points together and direct bedrooms away from circulation space and noise sources
4H2	*Noise impacts are mitigated through layout and acoustic treatments*		The apartments generally comply with the design guidance.
4J	**Noise and Pollution**		

4J1	*In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings*		The development is not proposed in what is considered to be a noisy or hostile environment.
4J2	*Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission*		Materials, insulation and glazing will assist to mitigate noise.
4K	**Apartment Mix**		
4K1	*A range of apartment types and sizes is provided to cater for different household types now and into the future*		A variety of apartments have been provided in this development.
4K2	*The apartment mix is distributed to suitable locations within the building*		The mix of apartment sizes are distributed through the development.
4L	**Ground Floor Apartments**		
4L1	*Street frontage activity is maximised where ground floor apartments are located*	*Direct street access should be provided to ground floor apartments. Activity is achieved through front gardens, terraces and the facade of the building.*	N/A - no ground floor apartments.
4L2	*Design of ground floor apartments delivers amenity and safety for residents*	*Privacy and safety should be provided without obstructing casual surveillance.*	N/A - no ground floor apartments.
4M	**Facades**		
4M1	*Building facades provide visual interest along the street while respecting the character of the local area.*		Building facades are acceptable and are generally consistent with the guiding principles, as discussed throughout this assessment report.
4M2	*Building functions are expressed by the facade*		Building entrances are clearly defined. Apartment layout is appropriately expressed.
4N	**Roof Design**		
4N1	*Roof treatments are integrated into the building design and positively respond to the street*		The roof design integrates into the building and responds positively to the street.
4N2	*Opportunities to use roof space for residential accommodation and open space are maximised*		Common open space is provided on roof tops and includes seating, BBQs and shade structures.
4N3	*Roof design incorporates sustainability features*		Solar panels are included as part of the development.
4O	**Landscape Design**		
4O1	*Landscape design is viable and sustainable*		Landscaping plans are considered to be high quality. Landscaping is provided

			throughout the site, including on roof tops. Species selection is not substantially consistent with Council's landscaping guidelines, and a condition has been recommended for an amended plan addressing this. It is also recommended that a condition of consent be imposed requiring the preparation and adherence to an ongoing landscape maintenance plan.
4O2	*Landscape design contributes to the streetscape and amenity*		Landscaping contributes to the streetscape and the amenity of the site and area.
4P	**Planting on Structures**		
4P1	*Appropriate soil profiles are provided*		Appropriate soil profiles are generally provided.
4P2	*Plant growth is optimised with appropriate selection and maintenance*		Species selection is not substantially consistent with Council's landscaping guidelines, and a condition has been recommended for an amended plan addressing this.
4P3	*Planting on structures contributes to the quality and amenity of communal and public open spaces*		The proposed structures and plantings are high quality and contribute to the quality and amenity of the communal and public open spaces on the site.
4Q	**Universal Design**		
4Q1	*Universal design features are included in apartment design to promote flexible housing for all community members*	*Developments achieve a benchmark of 20% of the apartments incorporating the Livable Housing Guideline's silver level universal design features.*	22 of the 90 apartments incorporate the Livable Housing Guidelines silver level universal design features. This is 24% of the apartments.
4Q2	*A variety of apartments with adaptable designs are provided*	*Adaptable housing should be provided in accordance with the relevant council policy*	Communal and public areas are accessible by ramps and lifts. Accessible car parking spaces are provided. Solar access is maximised.
4Q3	*Apartment layouts are flexible and accommodate a range of lifestyle needs*		All layouts, areas of private open space and bedrooms are of a design and dimension to allow for multiple functions.
4R	**Adaptive Reuse- N/A**		
4S	**Mixed Use**		
4S-1	*Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement*	*Mixed use development should be concentrated around public transport and centres* *Mixed use developments positively contribute to the public domain.*	The site has been identified as a mixed use redevelopment site. The site has traditionally been used for commercial purposes and the development is a continuation of this. The commercial tenancies open onto a new plaza which contributes positively to the public domain.

4S-2	*Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents*	*Residential circulation areas should be clearly defined. Landscaped communal open space should be provided at podium or roof levels*	Residential lobbies are separated from the commercial tenancies, with secure lift access. Open space is provided on the roof top.
4T	**Awnings and Signage**		
4T-1	*Awnings are well located and complement and integrate with the building design*		Limited awnings are proposed due to the setbacks of the building and the inset balconies. This is considered acceptable given the design of the buildings and the layout of the site. Lobby entries are set into the building providing cover.
4T-2	*Signage responds to the context and desired streetscape character*		Retail signage is not proposed at this time, however appropriate signage areas are available. A wayfinding emblem is proposed on the building to assist in site identification. This emblem is integrated into the building.
4U	**Energy Efficiency**		
4U1	*Development incorporates passive environmental design*	*Adequate natural light is provided to habitable rooms* *Well located, screened outdoor areas should be provided for clothes drying*	Adequate natural light is provided to all habitable rooms. Each unit has access to a balcony that can be used for drying. Some of these areas are screened.
4U2	*Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer*		BASIX Certificate shows compliant energy efficiency and thermal comfort.
4U3	*Adequate natural ventilation minimises the need for mechanical ventilation*		Natural ventilation is provided to all habitable rooms.
4V	**Water Management and Conservation**		
4V1	*Potable water use is minimised*	*Water efficient fittings, appliances and wastewater reuse should be incorporated*	BASIX Certificate shows compliant water efficiency
4V2	*Urban stormwater is treated on site before being discharged to receiving waters*	*Water sensitive urban design systems are designed by a suitably qualified professional*	Rainwater is collected on site for retention and reuse in landscape irrigation. Water treatment is incorporated into the stormwater drainage solution for the site.
4V3	*Flood management systems are integrated into site design*	*Detention tanks should be located under paved areas, driveways or in basement car parks*	Extensive flood modelling and assessment has been carried out. This has been incorporated into the site design through the raised plaza and finished floor levels.
4W	**Waste Management**		

4W1	*Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents*	*Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park.*	Waste storage is proposed via skip bins located within designated storage areas off the service laneways. As the system relies on skip bins and regular commercial collection, a condition of consent should require a waste management plan to be in place at all times, including a requirement for an ongoing commercial waste collection agreement with an appropriate provider. It is also noted that the residential waste room for Building 3B does not clearly demonstrate how service vehicles will access the area for collection. A condition should require amendments to the design to enable direct vehicular access to the residential waste room, or alternatively, submission of details demonstrating how waste collection will be undertaken. The plans indicate that waste collection for Building 3B will rely on an SRV-sized vehicle, and compliance with this requirement should be conditioned. Finally, a condition should be imposed prohibiting the storage of skip bins outside the designated waste rooms or external to the building.
4W2	*Domestic waste is minimised by providing safe and convenient source separation and recycling*		The waste management plan indicates that general waste and recycling bins will be provided. There is some ambiguity whether an organics bin will be provided. Waste management relies on residents transporting waste to the bin room. It is recommended that a condition of consent be imposed requiring an updated waste management plan, which clearly includes organics bins, and the provision of appropriate food organics bins/caddies for each apartment, along with split general waste and recycling

			bins. In addition, ongoing compliance with the plan is recommended to be conditioned.
4X Building Maintenance			
4X1	*Building design detail provides protection from weathering*		Building design is considered appropriate.
4X2	*Systems and access enable ease of maintenance*		The applicant has advised window selection will enable cleaning of windows from inside of the building or balconies and that low maintenance materials and finishes selections will be made to limit the need and frequency of maintenance.
4X3	*Material selection reduces ongoing maintenance costs*		The applicant has advised that low maintenance materials and finishes selections will be made to limit the need and frequency of maintenance. Sensors to control artificial lighting will be used in common areas. Robust and durable materials and finishes will be used to common areas.

***3F1 – Visual Privacy Assessment**

Separation distances to boundaries (all distances habitable unless otherwise stated)					
Building 3A	*Required*	*West*	*North*	*East (74 Murray St)*	*Complies*
Ground	3m(non hab.)	9.9m	3.6m	≈ 27m	Yes
Level 01	6m	9.27m	2.57m	≈ 27m	No (North)
Level 02	6m	9.4m	2.57m	≈ 27m	No (North)
Level 03	6m	9.37m	2.57m	≈ 27m	No (North)
Level 04	9m	9.4m	2.57m	≈ 27m	No (North)
Level 05	9m	10.5m	4.56m	≈ 28m	No (North)
Level 06	9m	12.37m	4.25m	≈ 28m	No (North)
Level 07	9m	12.54m	4.6m	≈ 28m	No (North)
Level 08	12m	12.6m	4.6m	≈ 28m	No (North)
Level 09	6m(non hab.)	12.12m	4.1m	≈ 29m	No (North)

Separation distances to boundaries (all distances habitable unless otherwise stated)				
Building 3B	*Required*	*North (74 Murray St)*	*North (80 Murray St)*	*Complies*
Ground	3m (non hab.)	4.6m	≈ 18m	Yes
Level 01	6m	5.9m	≈ 18m	No (74 Murray)
Level 02	6m	5.9m	≈ 18m	No (74 Murray)
Level 03	6m	5.9m	≈ 18m	No (74 Murray)
Level 04	9m	5.9m	≈ 18m	No (74 Murray)
Level 05	9m	6.52m	≈ 21m	No (74 Murray)
Level 06	9m	7.75m	≈ 22m	No (74 Murray)

Level 07	4.5m (non hab.)	9m	≈ 23m	Yes

Note 1 – Distances to eastern boundary discussed under internal setbacks.
Note 2 – Distances to 74 Murray Street calculated using method in Figure 3F.6 of the ADG

Separation distances between buildings (all distances habitable unless otherwise stated)			
Building 3A and 3B	*Required*	Observed	Complies
Ground	6m (non hab.)	14m	Yes
Level 01	12m	12.35m	Yes
Level 02	12m	12.35m	Yes
Level 03	12m	12.35m	Yes
Level 04	18m	12.35m	No
Level 05	18m	15m	No
Level 06	18m	17.23m	No
Level 07	13.5m (habitable to non-habitable)	18.6m	Yes

Separation distances between buildings (all distances habitable unless otherwise stated)			
Building 3B and 3C	*Required*	Observed	Complies
Ground	3m (non hab.)	11.13m	Yes
Level 01	6m	9.2m	Yes
Level 02	6m	9.2m	Yes

Note - There are no ADG setback requirements for the townhouses. Setbacks are calculated from Building 3B to the future boundary of the townhouse.

The following non-compliances have been identified:

- Building 3A – all levels to the northern boundary
- Building 3B – Levels 01 to 06 to 74 Murray Street
- Between Buildings 3A and 3B – Levels 04 to 06

Building 3A – Northern Boundary
The development forms part of a master-planned redevelopment of the wider precinct. The land to the north is in the same ownership and will be subject to future redevelopment under the masterplan. Lot boundaries are expected to change, and it is not reasonable to assess setbacks strictly against the current boundary. Appropriate setbacks and privacy outcomes can be managed as the northern land develops through the placement and design of future buildings, noting the current masterplan shows a wide plaza area immediately to the north of Building 3A which will provide separation. The existing building to the north is a single-storey post office, and no privacy or overlooking impacts are identified. The non-compliance is acceptable in this context.

Building 3B – To 74 Murray Street
The non-compliances relate to a single adjoining site within the broader master-planned precinct that remains in separate ownership. The land is zoned MU1 and is expected to redevelop in the future, noting the townhouse layout facilitates a logical continuation through this lot. In most instances the non-compliances are minor, and the setbacks to the dwelling proper exceed the required separation distances. Given the scale of the variation and the distance to the dwelling proper, strict compliance is not considered reasonable and the variation is acceptable.

Notwithstanding the precinct has been formally identified and zoned for higher-density, mixed-use redevelopment and the adopted planning controls and strategic objectives anticipate and enable redevelopment. In that context, the proposed development is part of an orderly, precinct-wide transition that delivers clear public benefits including increased housing

supply, improved public domain and economic activity. These public benefits cannot reasonably be frustrated by a single remaining lot that retains an existing low-scale use.

It is not uncommon for redevelopment precincts to include one or more privately-owned properties that remain at odds with the intended future character. While the concerns of adjoining owners should be considered and mitigated where practicable, the precinct-scale outcome should not be deferred indefinitely to accommodate a single undeveloped lot. The appropriate response is to assess impacts and where necessary, manage those impacts, where reasonably practical and possible.

Therefore, as the proposed generally complies with the strategic intent for the site, and given the development generally complies with the ADG, some residual privacy impacts, if they exist are considered acceptable.

Between Buildings 3A and 3B – Levels 4 to 6
Non-compliances occur on Levels 4, 5 and 6.

Level 4
Balconies and habitable rooms are within 18 metres of each other, affecting seven apartments across the two buildings. Each affected balcony includes a section of solid balustrade that provides privacy when seated. While additional screening could be imposed by condition, the limited number of affected apartments (in the context of the overall development), the reasonable separation provided, the lower floor level, and the presence of solid balustrades mean the outcome is acceptable without further modification.

Levels 5 and 6
The extent of non-compliance is significantly reduced. Balconies are larger and provide ample opportunity for residents to manage privacy and avoid overlooking. Most apartments with reduced separation have additional balcony space that wraps around the building corners, except Apartments 505 and 605 in Building 3A.

For Apartment 605, the adjoining balcony area in Building 3B within 18 metres is small and unlikely to be heavily used. The variation is less than 1 metre, and substantial balcony space is available beyond the 18-metre threshold.

For Apartment 505, the balcony has additional depth that assists somewhat in managing privacy and reduces direct overlooking. While the outcome is not as strong as elsewhere in on the upper levels, as it affects only one apartment within the context of the upper floors, on balance and considering the overall design quality and the extent of the variation, the non-compliance is acceptable.

***4A1 – Solar and Daylight Access**
The objective of this section is to optimise the number of apartments receiving sunlight to habitable rooms. The numerical control for Wagga Wagga is a minimum 3 hours of direct sunlight to 70% of apartments at mid-winter (9am-3pm). The development does not achieve this, with 56% of apartments complying.

Notwithstanding, it is considered the development optimises the number of apartments receiving sunlight to habitable rooms. Only 6% of apartments receive no direct sunlight on the winter solstice, well below the 15% maximum recommended in the controls. Furthermore, 86% receive a minimum 2 hours (9am-3pm), and 76% receive a minimum 3 hours if the time range is expanded to 8:30am-4:30pm (and the assessment applied to habitable rooms).

The applicant has argued that, at the scale of development proposed, 2 hours is a more reasonable standard to adopt. This is the standard applied in Sydney, Newcastle and

Wollongong, and at 35 m, with multiple towers, the scale of this development is consistent with the type of development in those cities. The difficulties in achieving the 3 hours at these scales do not dissipate outside metro areas. It is arguably the case that the ADG did not envisage the scale of development seen in this application outside metro areas.

The applicant also notes that "the hours of 9-3pm are restrictive for this particular development as a function of the geometry of the north-south Axis of the buildings. With the buildings aligned almost to true North, it is not practically achievable to provide the 3 hrs of Sunlight into the apartments within that time period. As the sun approaches midday, the sun is aligned to the façade which renders the ability to achieve the 1sqm of sunlight into a habitable room for the required 15mins impossible." Direct sunlight received before 9am or after 3pm still provides amenity to the apartments and contributes to the objective of optimising the number of apartments receiving sunlight.

Therefore, taking into account all relevant matters, it is considered that the development meets the objective of this section, noting the objective is to optimise the number of apartments receiving sunlight to habitable, rather than living rooms and the variation to the design criteria is acceptable. As noted by the applicant, recent Land and Environment Court decisions support that ADG design criteria are guidance and that the 70%/3 hours figure for living rooms is only one means of achieving the objective.

State Environmental Planning Policy (Planning Systems) 2021
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 6 of the SEPP is declared to be regionally significant development for the purposes of the Act and includes (of relevance to this application):

2) General development over $30 million
Development that has an estimated development cost of more than $30 million.

The Capital Investment Value for the development (noting it was lodged on 1st March 2024 under the former Regulation where Capital Investment Value was the relevant value) is $39,140,000 (excluding GST).

There are no other environmental planning instruments relevant to the application.

(a)(ii) - The provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)
There are no draft environmental planning instruments relevant to the Development Application.

(a)(iii) - Any development control plan
Wagga Wagga Development Control Plan 2010
Section 1 General
1.10 Notification of a Development Application
The application was originally notified to adjoining neighbours and nearby properties from 20 November 2024 to 4 December 2024. During the exhibition period it was identified that the notification letters contained an error in the land description. On 21 November 2024, corrected correspondence was issued to adjoining neighbours, clarifying the property details and advising that the exhibition period had been extended to 10 December 2024. Two public submissions were received.

1.11 Complying with the Wagga Wagga Development Control Plan 2010

The controls in the DCP support the Guiding Principles of the Plan and principles and objectives within the various sections. Except as varied elsewhere in this Plan, all Development Applications, Section 4.55 Applications and Section 8.2 Applications should aim to satisfy all stated objectives and controls.

Whilst all developments should aim to satisfy all controls within the DCP, it is acknowledged that there may be circumstances where it may not be possible to achieve strict compliance.

Council may consent to an application which departs from any control, whether a "numeric" or non-numeric control. In such cases, a written submission must be lodged with the Development Application.

Where an application involves the variation of one or more controls within the DCP Council staff have delegation to approve variations but limited to the following circumstances;

- *Where adequate justification is provided by the applicant for the number of controls being varied and,*
- *Any development, other than development that is for multi dwelling housing, where a variation to any numerical control by greater than 10% is proposed, and*
- *Where no objections have been received in relation to any numerical control that is being varied by greater than 10%, and*
- *Where the number of submissions in the form of objections received in response to an advertised or notified development application, is less than 10.*

The following variations to the WWDCP 2010 are proposed:

- 9.2.2 C2 in relation to maximum front and side fence heights in the townhouse development.
- 9.2.3 C3 in relation to maximum secondary frontage fence heights in the townhouse development.
- 9.3.1 C1 in relation to minimum dimensions for private open space in the townhouse development.
- 9.3.6 C1 in relation to primary and secondary setbacks in the townhouse development.
- 10.8 C9 in relation to maximum building height for Building 3B.
- 10.8 C11 in relation to building setbacks.

The variations are supported, with the reasons set out in the assessment against the WWDCP 2010 that follows. However, it is noted that staff delegations are not relevant for this application with the Southern Regional Planning Panel as the consent authority.

Section 2 Controls that apply to all development

2.1 Vehicle access and movement

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

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.

C3 Vehicles are to enter and leave in a forward direction unless it can be demonstrated

that site conditions prevent it.

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.

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

C6 Ensure adequate sight lines for proposed driveways.

Vehicular access to the site is via Morgan Street, off the service road that runs between the road proper and the site. The service road presently has two access points off Morgan Street, both entry and exit, with traffic between the two access points restricted to one way movement, from the west to the east. The development proposes to move the eastern connection point approximately 30 metres east, and to restrict it to exit only from the service road.

Figure 4 - Aerial Image of Current Service Road and Connection Points to Morgan Street

Access is considered to be suitable, however, to ensure safer access and egress arrangements, Council's Traffic Engineer has recommended that the relocated eastern connection point between Morgan Steet and the service road be made left-turn only for exiting vehicles, noting there is a roundabout 100 metres to the east of the driveway which would enable right turn drivers to do a U-turn.

A Traffic and Parking Impact Study (with additional supplementary advice), was carried out for the development. Council's Traffic Engineer has reviewed this and is satisfied the development will not impact the performance of the Morgan Street-Murray Street roundabout.

Regarding the intersection of Morgan and Docker Streets, the traffic study contends the intersection already operates at a level of service E or F, and as such, there is an existing need for Council to upgrade the intersection. This performance appears to reflect the longest individual delays recorded rather than the overall distribution of vehicle movements. Council's own traffic counts show that the vast majority of vehicles experience acceptable delays, and Council's Director City Engineering advised that a benefit–cost analysis would not justify an upgrade. The Director also advised that the intersection is not on any forward works program, that the existing performance is an existing network constraint rather than one attributable to this development, and that there is insufficient evidence at this time to support conditioning an upgrade as part of this stage. However, Council will undertake its own broader network analysis for the ultimate masterplan, and any upgrade requirements may be considered in connection with future stages should that analysis identify a need.

Vehicles are able to enter and exit the site in a forward direction, with a turning bay proposed to assist this. It is recommended, however, the maximum vehicle length be limited to the maximum vehicle sizes for which swept paths have been provided for a particular driveway,

and where appropriate, signage should be provided.

Loading and unloading areas are provided. One loading bay is proposed within the service road. This is considered acceptable in the circumstances, given the function of the road, and the location at the end of the public roadway. This loading bay will require appropriate signage.

Access driveways are considered acceptable and able to meet relevant standards.

It is noted access relies in part on access over 187 Morgan Street (i.e. the adjacent car park). It is recommended that a condition of consent be imposed requiring reciprocal rights of way (in favour of all units, commercial tenancies and the townhouses, noting these may ultimately be subdivided onto separate lots) to support the one-way circular movement of traffic through the car park on 187 Morgan Street, and the service road on 187 Morgan Street.

2.2 Off-street parking

Residential parking in the shop top housing is subject to a non-discretionary development standard under the Housing SEPP. The development complies with that standard and therefore the residential parking rates for that component of the development cannot be further considered under the WWDCP 2010.

Parking for the commercial tenancies and townhouses is considered under the WWDCP 2010.

Under the WWDCP 2010 the following parking rates are relevant:

Multi dwelling housing:

- *1 space/1 bedroom dwelling*
- *1.5 spaces/2 bedroom dwelling*
- *2 spaces/3 or more bedrooms or larger dwelling*
- *Visitor spaces – 1 per 4 dwellings where there are more than 4 dwellings (1 space required per 5-7 dwellings, 2 spaces per 8-11 dwellings, etc.)*

As noted in part (a)(i) of this assessment report, if subdivision was proposed under this Development Application, the townhouses would be characterised as “attached dwellings” which require only 1 space per dwelling and no visitor parking.

Business premises, office premises, shops and retail:

- *Within the Wagga Wagga city centre (E2 Zone) and mixed use areas (MU1 Zone): 1 space/ 45m^2 GFA*

The townhouses comprise

  - 7 x 3-bderoom townhouses and
  - 1 x 4-bedroom townhouse.

2 spaces are requried per 3 bedroom or greater dwelling. Therefore 16 spaces are required. In addition, 2 visitor spaces are requried.

There is 1427m^2 of commercial floor area in total.

For business premises, office premises, shops and retail in the MU1 zone the parking rate is 1 space per 45m^2 GFA

1427/45 = 31.7 spaces (32 rounded up).

The parking requirement and availability is summarised in the table below:

Use	Parking Requirement
Residential Apartments	142 (assessed under ADG)
Commercial Premises	32
Townhouses	18
Total	*192*

Parking Area	Parking Provision
Building 3A and 3B Basement	152
At grade, on site	5
Car park approved under DA23/0430	45
Townhouse garages	16
Total	*218*

Surplus is 26 spaces.

It is noted that a number of parking spaces exist within Morgan Street. These are not typical on street parking spaces and effectively operate as a car park. These have not been included in the calculations above and provide additional parking capacity for the site.

Regarding the townhouse parking, each townhouse has a two-vehicle garage. This satisfies the private parking component. Visitor parking is not able to be accommodated on site. This is acceptable given the apartments will be subdivided in future, and as attached dwellings they would not require any visitor parking (and would only require one resident space per dwelling).

Consideration is also requried to be given to the allocation and distribution of parking across the site. A number of the basement parking spaces are tandem parks. It is considered that this parking arrangement is appropriate, but only where both tandem spaces are allocated to the same apartment. It is therefore recommended that this be conditioned, and that a plan be submitted prior to the release of the Occupation Certificate identifying the allocation of all parking spaces to each unit.

Finally, to ensure parking spaces on 187 Morgan Street are available for use in conjunction with this development to meet the parking demand, it is recommended that a condition be imposed requiring a Section 88B instrument to be placed over the land requiring all parking spaces to be available for use in conjunction with this development (including surplus spaces to accommodate changes in use of the commercial premises). The 88B shall be in favour of all units, commercial tenancies and the townhouses, noting these may ultimately be subdivided onto separate lots in future.

2.3 Landscaping

Landscaping for the mixed-use component is discussed under the ADG assessment and is considered acceptable. Townhouse landscaping is considered acceptable for the scale and size of the development.

2.4 Signage

No signage is proposed in this Development Application.

2.5 Safety and security

C1 Use good site planning to clearly define public, semi-public and private areas.

C2 Entries are to be clearly visible and identifiable from the street, and are to give the

resident/occupier a sense of personal address and shelter. For non-residential uses, administration offices or showroom are to be located at the front of the building.

C3 Minimise blank walls along street frontages.

C4 Avoid areas of potential concealment and 'blind' corners.

C5 Provide lighting to external entry areas, driveways and car parks in accordance with the relevant Australian Standards. The lighting is to be designed and sited to minimise spill and potential nuisance to adjoining properties.

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

C7 Where a site provides a pedestrian through route the access path is to be clearly defined and sign posted, appropriately lit, and have satisfactory visibility.

C8 Locate public toilets and rest areas to promote their use, and maximise public surveillance without creating visual intrusion.

Entries to the building and car park are clearly visible and identifiable. Use of landscaping, building design, and levels help to define public, semi public and private areas on the site whilst maintaining natural surveillance. Blank walls have been minimised. It is recommended that standard conditions regarding lighting be imposed.

A Crime Prevention through Environmental Design (CPTED) report accompanied the Development Application. The report concluded a "low" risk CPTED rating.

The development is considered consistent with the controls in this section.

2.6 Erosion and Sediment Control Principles

Standard conditions of consent are recommended in this regard.

2.7 Development adjoining open space

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.

Land zoned public recreation is located diagonally opposite the site, however the land is enclosed tennis courts not generally open to the public. Access is not proposed via the open space, nor are materials proposed to be stored within or landscaping proposed to encroach onto the site.

The scaling of the development provides adequate separation from the open space to ensure the development is compatible with the amenity and outlook of the open space. No significant views from the open space will be impacted upon by the proposed development.

Section 4 Environmental Hazards and Management

4.2 Flooding

While this section of the DCP technically applies as the land is identified as 'flood prone land', the controls of this section are based on the Wagga Wagga Floodplain Risk Management Study 2009 that related to riverine flooding associated with the Murrumbidgee River and did not consider MOFFs. Therefore it would be considered unreasonable to impose these controls as the impacts, such as the risk to life and property and the compatibility of development with the flood hazard, have the potential to be substantially different to those impacts in a riverine flood event.

Having established that the controls of this section 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 relevant objectives of the DCP remain a consideration. The relevant objectives are as follows:

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.

The discussion under 5.21 of the WWLEP 2010 covers off on the compliance of the development with these objectives. A flood management plan is recommended to be conditioned. It is considered that the development is compatible with the flood hazard.

Section 5 Natural Resource and Landscape Management
5.2 Preservation of trees
A number of trees that would require consent for removal under this section are proposed to be removed. The tree removal forms part of the Development Application and therefore separate approval and a tree removal permit is not requried.

The trees to be removed are necessary to facilitate the development. Adequate new landscaping is proposed which is considered acceptable to offset the amenity impacts of this removal.

14 of the 31 trees proposed to be removed are greater than eight metres and require consideration under the WWDCP 2010 for their removal. 3 of these 14 are either dead or "undesirable plant species" (as defined in the Wagga Wagga Development Control Plan, 2010).

Of the 11 trees requiring consent for removal only one was classified as being in "Good" condition in the arborist report and therefore a realistic consideration for retention in any altered landscape. The arborist report notes that tree is, however, a species (Celtis australis) that is broadly considered as an "Invasive Environmental Weed" due to its propensity to "self-seed" after its seed is broadcast in the droppings of birds, a characteristic shared by a range of species listed as "undesirable plant species" in the Wagga Wagga Development Control Plan, 2010.

Therefore, it is recommended that all tree removal be approved to support the development.

5.4 Land subject to Clauses 7.3, 7.4, 7.5 and 7.6 of the Wagga Wagga Local Environmental Plan 2010
As noted under the LEP assessment, Clause 7.6 applies to land, as it is identified as "Groundwater" on the Water Resources Map of the WWLEP 2010. However, as impacts are not considered likely a report addressing groundwater impacts is not requried under this section of the WWDCP 2010

Section 9 Residential Development
This section contains the controls for residential development.

Clause 149 of SEPP (Housing) provides that the following aspects of the ADG prevail over any similar provision in a DCP; Visual privacy; Solar and daylight access; Common circulation and space; Apartment size and layout; Ceiling heights; Private open space and balconies; Natural ventilation and storage.

The parts of Section 9 addressing these matters therefore have no effect and no further assessment is required in relation to the apartment buildings (shop top housing). Remaining clauses within this section that relate to site layout, streetscape, building form, setbacks and

envelope, site area per dwelling, site cover, design details, building elements, materials and finishes have also been appropriately addressed for the shop top housing under the Housing SEPP and ADG earlier in this report and/or do not apply to development in the MU1 zone.

In addition to the above, Section 10.2 of the WWDCP 2010 states:

Any residential component must comply with the relevant provisions of Section 9, except for sites in a MU1 Zone that have an approved masterplan.

While a masterplan has been developed and exhibited for the site as part of the planning proposal increasing the height limits on the site, the masterplan excluded the land on which the townhouses are now proposed. While it was always envisaged this land would eventually form part of the overall redevelopment, as evidenced by the fact that the planning proposal also applied to this land, as do the site specific DCP controls, at the time of the planning proposal they remained in separate ownership and so that part of the site was not masterplanned. As such, it is considered an assessment against Section 9 is requried.

For reasons set out above, the Section 9 assessment relates to the townhouse component of the development only.

9.2.1 Site Layout

C1 Use site characteristics such as trees, changes in level or rock outcrops as features within the site layout.
C2 Integrate access, landscaping and services in the site layout, avoiding underutilised spaces.
C3 Orient living spaces to maximise solar access.
C4 Facilitate natural cross ventilation within dwellings through the location of windows and doors.

The proposed townhouses respond to the controls in this section. The orientation of row houses facing a north-south running street does present challenges for solar access, however all units apart from townhouse one have maximised their access by providing end-to-end living area on level 1, providing dual east and west frontage to the living areas.

9.2.2 Streetscape

Objectives

O1 Encourage compatibility with existing built form.
O2 Encourage attractive streetscapes.
O3 Ensure a strong street edge with good definition between the public and private domain.
O4 In locations where front fences are an important feature of the established streetscape, ensure that new fences complement the character of the streetscape.

Controls

C1 Provide a street address and front elevation that is consistent with the predominant scale, rhythm and form of the street.
C2 Front fence height forward of the building line is not to exceed 1200mm. However, a side boundary fence forward of the building line may be permitted to taper from the maximum permitted height (1.8 metres) at the building line down to the 1200mm maximum permitted height at the front boundary.
C3 Fence height at and behind the building line is not to exceed 1800mm in height.
C4 The majority of windows in dwelling wall which face the street should be windows of habitable rooms.

The proposed townhouses are of substantially greater scale than existing development on Murray Street, however, they are in keeping and consistent with the desired future character of what is an identified redevelopment site for higher density living.

The front fences exceed the 1200 mm maximum height in C2, reaching up to 2.0 m. Ordinarily this would not be acceptable, but in this context a variation is reasonable, however, it is recommended that this variation be limited to 1800 mm. The reason for partially supporting the variation are:

- the scale of the townhouses and the broader development means the fence does not appear unreasonably dominant in the streetscape, and that strictly applying a fencing control predominantly written for low density suburban development is not reasonable
- the fence design incorporates open panels, reducing visual bulk (and ongoing compliance with this can be conditioned)
- the open fence design maintains passive surveillance, consistent with CPTED principles
- the mixed-use context and higher pedestrian/service activity justify clearer delineation between public and private areas to protect residential amenity
- the site is mixed-use and identified for higher-density redevelopment. Non-residential uses that could occur across the site would not be constrained by the residential fence control, so strict uniformity of fence heights is less important in this precinct than in a purely residential street.
- higher-density housing, which is a strategic priority in Wagga Wagga, typically has more limited private open space, and additional privacy to the front setback improves amenity and liveability

Notwithstanding, 1800mm is consistent in height with standard side boundary fences, and is considered a more reasonable height in the streetscape than 2000mm. On this basis, the proposal is consistent with Objectives O1–O4 and the variation to C2 is acceptable.

Dividing walls up to 3.4m in height are also proposed between each unit in the front setback area. These walls are substantial in scale and, particularly when viewed parallel to the site from the footpath or roadway, do unduly impact on the streetscape due to their bulk and mass. In addition, it is considered the height of these walls will substantially increase overshadowing of the front setback areas. While no subdivision is proposed at this time, one is likely in future and these would constitute side boundary fences. Therefore, they too would not comply with C2. As a compromise the walls should be allowed to remain at 1800mm in height to the front boundary (given 1800mm high fences are being supported on the front boundary), and that the walls shall be permitted to taper up the entry steps to maintain 1800mm in height above the dwellings finished floor level at the front face of the dwelling. A condition is proposed to secure this amendment.

The majority of windows facing the street are to habitable rooms, satisfying C4.

9.2.3 Corner lots and secondary facades

Objectives

O1 Encourage development on corner sites to respond to all street frontages.

Note: this objective relates to both building lines and fences.

Controls

C1 Houses on corner lots are to ensure an acceptable address to both frontages. Continue materials around the corner to the secondary road so that the building "turns the corner".

C2 Use articulation to avoid excessively long blank walls.

C3 A fence on the secondary frontage is permitted to have a height not exceeding 1800mm except in the following circumstances where its height is not to exceed

1200mm:

- *Where it enters and is within the building line of the primary road - within the building line a fence will be permitted to taper down from 1800mm maximum permitted height to the 1200mm maximum permitted height at the primary road boundary"*
- *Where a dwelling "addresses" the secondary road*

The secondary frontage of the townhouses provides an acceptable address to Morgan Street, with multiple windows to habitable rooms, changes in material, and building articulation.

The side fence to Morgan Street generally complies with C3 but does not taper at the front boundary and reaches approximately 2m in height due to site levels. The fence is predominantly open in character and, for the same reasons outlined under 9.2.2, the variation is considered acceptable, however, to ensure consistency with this front fence, this fence should also be limited to 1800mm.

9.2.4 Sloping sites
The site is not considered to be a 'sloping site'.

9.3.1 Site area per dwelling
There are no site area per dwelling controls for the MU1 zone.

9.3.2 Site cover
There are no site cover controls for the MU1 zone.

9.3.3 R3 Zones - Minimum frontage
The site is not in an R3 zone.

9.3.4 Solar access
Objectives

O1 Ensure that the amenity of the occupants of dwellings is achieved by designing so that they receive adequate daylight and natural ventilation to habitable rooms and sunlight to private open space areas.
O2 Ensure non-habitable rooms such as garages, laundries and bathrooms are positioned so that living areas, open space and habitable rooms receive maximum winter solar access and ventilation.
O3 Maintain reasonable sunlight access to adjoining properties.

Controls

C1 Locate garages, laundries and bathrooms to provide insulation from western sun.
C2 Locate living areas and private open space to ensure orientation to the north and north east where possible.
C3 Building design and site layout is to ensure adequate sunlight access to the internal living spaces and private open space of the proposed development.
C4 Variations can be considered to C1, C2 and C3 where it can be demonstrated that site constraints, existing built form and good design practices limit the ability of the proposal to comply with these controls.
C5 Residential Flat developments are to comply with the solar controls of SEPP 65 and associated documents as amended.
C6 For any adjacent dwellings that have north facing living areas, maintain 3 hours sunlight access to the windows of the living areas between 9am and 3pm in mid-winter (June 22).
C7 Variations to C6 above can be considered where it can be demonstrated that any form of reasonable development on the lot would cause non-compliance with C6. In this instance the impacts are to be minimised where possible.

C8 Proposed development design should take into account the location of any adjacent private open space and avoid excess overshadowing of that space.

Garages are located on the western façade of the townhouses. Bathrooms and laundries are not able to be practically located on this elevation, as it is required for private open space, solar access and light. Private open space for all of the units has been provided off living space on both the eastern and western elevations to maximise access to sunlight. Due to the street orientation, full orientation of the private open space and living areas to the north is not possible. For townhouse one, private open space is predominantly to the west and south. There is a small balcony to the east.

It is considered, given the constraints of the site and the density desired, that adequate sunlight access is provided to the internal living spaces and private open spaces of the townhouses. All units receive morning sun to the front elevation and private open space on the 22 June, with the building façade starting to overshadow itself around 12pm. This elevation includes a balcony off a living area for 7 of the townhouses, as well as ground floor open space, while the remaining townhouse has a living area with windows to this elevation, are front yard open space. While the ground floor open space is not strictly private, the fencing provides a degree of privacy and increases the usability of this space for activities that require a degree of privacy.

In the afternoon on 22 June, from around 1pm the rear (western) balconies of units 2-8, and the western terrace of unit 1 start receiving sunlight. Again, these areas are off living areas. The more southern units start losing sunlight access due to the overshadowing of building 3B around 2pm, although the northernmost three units continue to receive sunlight beyond 3pm.

It is noted that there is no numerical control for solar access for new developments in the WWDCP 2010. Sunlight access is considered adequate in the circumstances.

The townhouses do not cause overshadowing of existing residential development, other than some minor overshadowing of the front elevation of 178 Morgan Street. The overshadowing is not significant, and the dwelling is in common ownership with the subject land.

9.3.5 Private Open Space

Objectives

O1 Provide quality, useable private open space.
O2 Ensure adequate areas for recreation and outdoor living.
O3 Encourage good connection between dwellings and private open space.

Controls

C1 At least 24m2 of private open space is required per dwelling. The private open space is to be directly accessible to the main living area and have a minimum dimension of 4m.
C2 Enclosure of approved private open space will be permitted, however at least one side of the approved private open space is to remain open. Roofing of approved private open space is permitted provided that BASIX requirements are not compromised.
C3 Use screening where necessary to ensure the privacy of private open space areas.
C4 For residential flat developments and shop top housing, each unit without direct access to ground level must have a balcony with a minimum area of 8m2, and minimum dimension of 2m that is directly accessible from the main living area.

Each of the townhouses is provided with a minimum 24m2 of private open space.

For townhouses 2 to 7, this is provided across two x first-floor balconies, 9m^2 to the rear (west) and 15m^2 to the front (east). Townhouses 2 to 7 also have a small approximately 5m^2 second-

floor balcony to the west and 3.5m^2 second floor balcony to the east. Excluding the access path, the units also have an approximately 15m^2 front courtyard.

Townhouse 1 has a second-floor terrace of approximately 44m^2, and approximately 11.5m2 balcony on the south-eastern corner of the building. This townhouse has a side and front elevation courtyard of approximately 72m^2.

In terms of compliance with the controls, all dwellings have a minimum 24m2 of private open directly accessible to the main living area. Townhouse 1 also meets the minimum dimension requirements of 4m. For townhouses 2 to 7 the minimum dimension requirements are not met. This variation, however, is considered acceptable as it is considered the range of private open space areas provided, coupled with the semi-private ground floor courtyard, meets the objectives of the section. By splitting the open space between eastern and western elevations, sunlight access during winter, and shade during summer is maximised, ensuring the private open space is usable. The provision of the multiple areas, including the semi-private courtyard, means there are adequate areas for recreation and outdoor living across each dwelling. And finally, the location of the private open space ensures good connections between dwellings and private open space.

Adequate screening has been provided for the private open space areas.

C4 is not relevant to the application as each of the townhouses has ground floor access, however, it is noted that this control is met, and in the circumstances, given the nature of the site, and the density of the development, that it is a more reasonable control to measure a development of this kind against. Compliance with this control indicates generally that the provision of private open space across this development is acceptable.

9.3.6 Front setback

Objectives

O1 Encourage uniform building lines that correspond to the built setbacks and patterns of neighbouring buildings.

O2 Encourage attractive residential streets and quality public domain.

O3 Ensure that new developments complement the established built patterns. O4 Maintain lines of sight for vehicle safety.

Controls

C1 Minimum front setbacks for residential development (site area smaller than 2000m2):

Primary frontage to a main or arterial road	*9m #*
Primary street frontage (other roads)	*6m #*
Secondary frontage (corner site)	*3m*

 # - For residential accommodation in R3 Zones a minimum setback of 3m may be considered.

C2 In the older areas of Wagga Wagga front setbacks are typically 7.5m. where the setback of existing adjoining buildings is greater than 6m increase the front setback to the setback of the adjoining building closest to the street boundary.

C3 The front elevation of a dwelling as visible from a public road shall include at least one change in plane of the dwelling wall (that encloses a habitable room) of a minimum of 500mm. The front of the garage shall not protrude in front of the face of the forward most wall of the dwelling enclosing a habitable room. In all instances, the garage shall not encroach on the front setback identified under C1. The forward most part of a building/dwelling wall shall not project forward of the building line. Refer to diagrams opposite.

C4 Variations to the minimum setback can be considered in the following circumstances:

- *Within Urban Release Areas where it can be demonstrated that the reduced setback will be generally consistent with the character of the area or likely or*

desired future character of the area consistent with those generally allowed under the SEPP (Exempt and Complying Code) 2008 or relevant Code at the time of lodgement of a development application.

- *Areas where it can be demonstrated that the setback is consistent with neighbouring properties. This situation is typical to older established areas of Central Wagga and large lot residential land.*
- *Corner lots where it can be demonstrated that the reduced setback on either or both frontages provides a more attractive streetscape without impacting unreasonably on the amenity of the neighbouring properties. This is relevant to designs that address both frontages without boundary fencing.*

The front setback controls are primarily framed for conventional residential development. For R3 residential accommodation a reduced 3m setback may be considered. While the site is not in an R3 zone, it is considered this is the most relevant control for this mixed-use site.

Townhouses 2 to 7 are setback 3.92m from Murray Street and therefore comply with the applicable front setback requirement. Townhouse 1 (corner unit) has reduced setbacks of 2.68m to Murray Street and 1.80m to Morgan Street and therefore does not meet the numeric requirement in C1 for that secondary frontage.

The reduced setback for Townhouse 1 is acceptable for the following reasons:

- The setback is consistent with the minimum secondary frontage setback of 1.5m identified for this site to Morgan Street in Section 10.8 (see further discussion under relevant section)
- The site is identified for higher-density redevelopment and the proposed built form is consistent with the intended future character of the precinct.
- The building is well designed and the reduced setback does not produce an unduly dominant or unsightly element in the streetscape when viewed in the context of the adjacent Stage 3A/3B buildings.
- The corner location and existing road and lot pattern mean any reasonable setback would place the dwelling forward of the adjoining Morgan Street buildings. Reducing the setback does not appreciably alter any impact in this regard.
- The significant road reserve width helps minimise impacts of the reduced setbacks.
- The existing dwelling and outbuilding have setbacks approximately the same, and closer than the proposed setback.
- C4 allows variations where a reduced setback on a corner lot provides a better streetscape outcome does not unreasonably impact neighbouring properties. The reduced setback for Townhouse 1 meets that test.

C2 is not considered to apply as the site is a redevelopment site.

The design of the buildings complies with C3.

9.3.7 Side and rear setbacks

There are no controls in this section relevant to the proposed development.

9.4.1 Building elements

C1 Use verandahs or pergolas to link internal and external living areas.

C2 Porches are to be integrated into the building design, and are to be used to create a sheltered and clearly visible entry.

C3 Locate ancillary components such as aerials, satellite dishes, air conditioning units and the like so they are not visible from the street.

C4 For dual occupancy developments, each dwelling is to have a separate entry.

C5 Secondary dwellings are to appear as a single occupancy from the public domain.

The development is consistent with the relevant controls in this section, such as via porch design.

9.4.2 Materials and finishes

C1 Select materials for their environmental performance, durability, detail and appearance to achieve quality appearance.
C2 Avoid large unbroken expanses of any single material.
C3 Minimise use of highly reflective or glossy materials on building exteriors.
C4 Use contrasting materials in combination with design elements for features such as corner elements.
C5 For larger developments, use recessive colours for the upper levels to help minimise building bulk.

The development uses a range of building materials, and avoids long expanses of any single material. The development is consistent with the controls in this section.

9.4.3 Privacy

C1 Offset windows, balconies and private open space areas between adjoining dwellings.
C2 Provide adequate building separation within the development and from neighbouring buildings/adjacent land uses. Alternate design elements, including (but not limited to) opaque screens of appropriate dimensions, translucent or highlight windows may be used to improve privacy.

The setbacks between the townhouses and Building 3B comply with the ADG. The orientation of the balconies on townhouse 8 are such that overlooking into the property at 74 Murray Street is minimised. Privacy impacts are considered acceptable for a redevelopment of this kind and consistent with the controls in this section.

9.4.4 Garages, carports, sheds, driveways and outbuildings

No outbuildings are proposed. The relevant controls from this section for garages are as follows:

Objectives

O1 Minimise the visual dominance of garages and driveways in the streetscape.
O2 Where possible, locate garages so as to assist in protecting dwellings from early morning and late afternoon summer sun.

Controls

C1 Where garage doors form part of the facade of a dwelling fronting a public road
- *the garage door is to be:*
  *less than 50% of the width of the house**
  no wider than 6m #
  maximum 2.4m high #
- *double garages are only permitted on lots 12.5m wide or greater**
- *single fronted tandem garages with one space behind the other are permitted*

** - Variations to these controls may be considered for multi storey dwellings*
 # - Variations to these controls may be considered where the setback of the dwelling exceeds 10 metres.

C2 Garages, carports and sheds that open up to a laneway must be setback a minimum of 1m from the property boundary

The garages are to the rear and front an internal, private road, with no property boundaries

proposed. Therefore, neither C1 or C2 apply.

9.4.5 Site facilities

The development generally complies with the controls in this section. Mail delivery will be able to occur from on street. Garages are accessible. Drying areas are limited but acceptable in a development of this kind.

9.4.6 Changing the landform – cut and fill

No significant cut and fill is proposed for the townhouses as the site is mostly flat. The development is generally consistent with the controls in this section.

Section 10 Development in E1, E2, E3 and MU1 Zones and Neighbourhood Shop

10.2 Mixed use development

C1 All developments on sites and consolidated sites larger than 1 hectare within the B4 zone are required to be in accordance with an urban design based on master plan approved by Council. Controls C2 to C9 will not apply in such instances.

The site is not greater than 1 hectare. Notwithstanding, a masterplan has been developed for the bulk of the site, and in particular the mixed use components of the site (as part of a much larger masterplanned development) and specific DCP controls inserted to give effect to this. As such, it is considered that C2 to C9 do not apply.

The development itself is not consistent with the masterplan, as this site/building was not initially identified as including a residential component. Notwithstanding, taking into account factors such as the commercial real estate market post-covid, feasibility of the development, the demand for a mix of housing types, the public interest in encouraging new forms of housing, the fact the development is within the previously approved envelope, this variation is considered acceptable.

Site Specific Controls

C10 Land located within the B4 Mixed Use zone located on Morgan, Murray and Forsyth Streets is subject to the controls under section 10.8 of the DCP.

Noted and addressed below.

10.8 Morgan, Murray and Forsyth Streets Mixed Use Precinct

Controls

Design and orientation of development

C1 Development on the site occurs in accordance with an Urban Design-Based Master plan approved by Council.

The development is generally consistent with the masterplan submitted to Council with LEP19/0002, however it does introduce the townhouses fronting Murray Street (which were beyond the land to which the masterplan applied). In addition, the layout of buildings on the site has altered, largely in response to flooding constraints, and the additional land available through the inclusion of the Murray Street lots, however, the concept of a plaza, and shop top housing is unaltered for the site.

The high-rise development maintains the increased setbacks to Murray Street established in the masterplan, while the townhouses are consistent with the setbacks identified for townhouse development on Murray Street identified further north on the site. Connections through the site, enabling an eventual connection through to Wollundry Lagoon are consistent with the concepts set out in the masterplan as are building heights generally.

C2 Residential development over three storeys shall comply with State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and the supporting Apartment Design Guide.

This is assessed in part(a)(i) of this assessment report.

C3 Development shall be located and orientated to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development.

Clause 149 of SEPP (Housing) provides that the ADG prevail over any similar provision in a DCP in relation to overshadowing. Notwithstanding, the overshadowing impacts are considered acceptable.

C4 Development shall be located and orientated to maximise visual privacy between buildings on site and for neighbouring buildings.

Clause 149 of SEPP (Housing) provides that the ADG prevail over any similar provision in a DCP in relation to visual privacy. In addition, the townhouse setbacks and visual privacy impacts are assessed in the DCP Section 9 assessment. These matters are assessed as being acceptable.

C5 Development provides active street frontages. Minimise expanses of blank walls and use articulation and materials to create visually interesting street elevations.

Active street frontages have been provided to Morgan Street and Murray Street. Articulation and material use has created visually interesting street elevations.

C6 Development provides ground floor frontages that are compatible with the pattern, form, scale and character of adjoining developments.

The buildings are consistent with the design and theme of the nearby by Enixus and Stage 2 Civitas buildings and provide appropriate street level setbacks.

Height of buildings

C7 Height of buildings shall minimise the impact on adjoining properties. Building design shall demonstrate impacts to surrounding properties with respect to overshadowing, privacy, noise and any other impacts.

Clause 149 of SEPP (Housing) provides that the ADG prevail over any similar provision in a DCP in relation to visual privacy and overshadowing. In relation to the townhouses these matters were assessed under Section 9. As discussed above, the development is considered to minimise impacts on surrounding properties. Overlooking and privacy impacts are considered acceptable. Given the precinct already contains a range of commercial uses, and noting the types of commercial premises proposed to be approved as part of any consent, noise impacts are unlikely to be significant.

C8 The roof height of the tallest building on the site, shall not exceed 32m. The maximum roof height is not to be unilaterally applied across the site.

The tallest building on the site (Building 3A) has a maximum height of 35m. As set out under C9, the 32m refers to the roof height and does not include plant overrun on the roof. It is considered the plant overrun concept includes landscaping, barriers, structures and facilities associated with the roof top open space, along with plant rooms and the like. The roof height of Building 3A, excluding the roof top overrun, is approximately 30.6m.

C9 The height distribution strategy diagram(s) provided below indicate how height could be appropriately distributed across the site to ensure that the objectives and controls can be achieved. Development Applications will be required to demonstrate how the height of proposed buildings meet the intent of the height distribution diagrams to comply with the objectives.

Figure 5 - WWDCP 2010 Height Distribution Plan

Building 3A sits within the 32m roof height zone, and thus complies.

Building 3B is in the 24m roof height zone. The roof height is approximately 24.2m and so exceeds the maximum roof height by 200mm. This minor variation is considered acceptable given:

- the natural variations in the existing ground surface levels,
- the need to elevate the surrounding plaza and ground floor for flood protection, and
- that the building sits well within the eastern boundary of the 24m zone, ensuring the desired reduction in scale to the dwellings to the east is achieved.

3B also exceeds the 27m allowed for plant overrun. The exceedance is by approximately 2m, however, it only relates to a very small part of the building, away from the southern edge of the building (minimising overshadowing impacts to properties on Morgan Street). For this reason, as well as those outlined above, this variation is also considered acceptable.

Building 3C (the townhouses) are within the 12m maximum roof height zone. There is no overrun in the 12m zone. The maximum roof height of building 3C is approximately 11.3m and therefore complies.

It is noted that control C9 is not firm in its wording, with the diagram only being indicative of how could be appropriately disturbed across the site. It is considered that this wording indicates that the control was never intended to be rigidly applied.

C10 Roof top plant shall be located in a manner that is setback from building edges and

screened so as not to be visible from the immediate public domain.

Complies. Plant is setback appropriately from building edges or screened and will not be clearly visible from the immediate public domain.

C11 Appropriate interfaces with adjoining zones and permitted heights. Interfaces shall consider the following when considering appropriate heights:

- *Land use and zone*
- *Adjacent zone height*
- *Physical separation distance*
- *Orientation*
- *Appropriate setbacks that respect height impacts*

Interfaces are considered acceptable. Building height, setback and design is considered acceptable in relation to impacts as set out above.

In relation to setback, the height distribution chart identifies a 1.5m setback for the side setback of the townhouses to Morgan Street, and a 3m setback for front of the townhouses to Murray Street, as well as for Buildings 3A and 3B to Morgan Street.

The townhouses comply with these setbacks, other than the front elevation for townhouse 1, which is discussed and justified under the assessment against section 9.3.6 of the DCP.

Buildings 3A and 3B achieve a 3m setback to the Morgan Street service road at ground level. An awning protrudes into the front setback which is considered and indeed desirable to improve amenity and the appearance of the building. To achieve building articulation, there are also some minor incursions on levels 1-4 of less than 300mm. It is considered these minor incursions are acceptable and do not alter the intention of the setbacks, result in increases in overshadowing nor unacceptable impacts on the streetscape. The incursions provide articulation to the building and improve its overall appearance.

Vehicle access and parking

C12 In addition to the provisions provided under section 2 of the DCP, the following site-specific controls apply to development on the site:

- *A detailed Traffic Impact Assessment must be submitted as part of any future development on the site. It must consider the full development potential of the site and changed traffic conditions as a result of the current and anticipated development of the Wagga Wagga public hospital and boarder roadwork.*
- *The Traffic Impact Assessment must address all traffic including vehicular, pedestrian and cycling needs for the precinct. Consideration of the impacts of the current active travel plan which intends to utilise Murray Street is also required.*
- *Parking must be provided in accordance with an approved access and Parking Strategy and Management Plan for the entire site.*
- *The Parking Strategy and Management Plan must provide a comprehensive parking system that considers both the supply and management of parking consistent with the guidance of the parking provisions of the Wagga Wagga DCP and the RMS' Guide to Traffic Generating Developments for Metropolitan Subregional Areas. The above may include a shared use parking strategy that demonstrates that the anticipated peak parking demand will be less than the sum of the off-street parking requirements for specific land uses.*

  As a minimum requirement, residential parking shall comply with the RMS' Guide to Traffic Generating Developments for Metropolitan Subregional Areas.

Commercial parking shall comply with the parking provisions of the Wagga Wagga DCP.

Where restricted access parking is proposed as part of either residential or commercial development, the Parking Strategy and Management Plan must consider and address impacts on access to and provision of parking both on and off the site.

- *The Parking Strategy and Management Plan must include a requirement for end-of-trip facilities to encourage cycling in line with Council's Active Travel Plan which will pass the site.*

The traffic and parking for the development and overall development has been assessed in the TIA for this development and previous stages. Adequate parking for cars, bicycles and motorcycles has been provided to service this development, in accordance with the ADG and the WWDCP 2010. The active travel path runs along Murray Street. No new driveway connections are proposed across the active travel path.

Open spaces and landscaping

C13 Public open spaces and pedestrian linkages within the development shall be connected with the surrounding pedestrian and cycle networks.

Linkages are provided through the site. The proposed plaza will ultimately connect through the north of the site and to Wollundry Lagoon.

C14 Opportunities for a range of recreational activities should be provided for people of all ages on the site and can be provided with a combination of hard and soft space with high amenity and urban design elements and features.

The development includes landscaped areas of high amenity and includes seated areas, barbeque areas, and a water play area. It is considered the development meets the intent of this control.

C15 A detailed landscape plan shall be submitted to Council for approval in accordance with the landscaping requirements provided under Section 2 of the DCP and where appropriate in accordance with the Apartment Design Guide.

A detailed landscape plan has been submitted and is considered acceptable.

Services

C16 Garbage collection, loading and servicing areas shall be screened and/or located so they do not impact neighbouring properties with respect to access, noise and odours. A loading management plan and waste management strategy shall be provided with any development application.

A waste management plan was submitted with the Development Application. Waste rooms are located on the ground floor. Waste management is discussed in detail under the ADGs with conditions in relation to commercial waste contracts, bin provision and access works recommended.

Stormwater management

C17 A stormwater management plan is to be developed as part of any development application having regard to managing overland flow across and off the site. It must consider the full development potential of the site and existing stormwater infrastructure on the site as well as broader catchment area. The stormwater management plan shall indicate an appropriate discharge point(s) that will not adversely affect the surrounding properties and surrounding road infrastructure. The stormwater plan is to be prepared in accordance with Council's Engineering Guidelines.

A stormwater management plan has been submitted for the site. Stormwater management is also considered in conjunction with the flood management issues as discussed under the 5.21 and 5.22 WWLEP 2010 assessment. Stormwater management will be managed via standard conditions.

There are no other provisions of the WWDCP 2010 relevant to this Development Application.

(a)(iiia) - any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
No planning agreement has been entered into under section 7.4.

(a)(iv) - the regulations (to the extent that they prescribe matters for the purposes of this paragraph)
Clause 29 of the regulations includes the following:

(1) A development application that relates to residential apartment development must be accompanied by a statement by a qualified designer.

(2) The statement must-
(a) verify that the qualified designer designed, or directed the design of, the development, and
(b) explain how the development addresses-
(i) the design principles for residential apartment development, and
(ii) the objectives in Parts 3 and 4 of the Apartment Design Guide.

The required information was provided with the development application.

(b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
Context and setting
The existing character surrounding the site is generally low-rise. The proposal departs from that immediate fabric and forms part of the precinct-scale transition of the Morgan–Forsyth–Murray area to higher-density development, consistent with the adopted controls and objectives for the site.

On the site, the commercial buildings proposed for demolition are basic structures with limited streetscape value and the dwellings to be removed are not of particular significance. Their removal is not considered a negative outcome and the replacement with well-designed buildings will result in a net improvement to the streetscape.

The buildings have been designed to moderate their apparent scale through façade articulation, material selection, increased setbacks at higher levels and stepping of overall height away from Murray Street. Active street frontages reduce the perceived bulk at the pedestrian scale. The proposed plaza, which will form a pedestrian route through the site with future stages, will add public amenity and has the potential to become a local gathering point.

Overlooking and overshadowing impacts are assessed as being acceptable. Submitted shadow diagrams indicate limited negative impacts and the proposed screening and setbacks are sufficient to protect neighbouring amenity.

The proposal will require removal of some on-site vegetation. While the existing trees have amenity value and their loss will affect the locality, this is offset by substantial new, high-quality landscaping across the site.

Access, transport and traffic
As discussed under the ADG assessment and in part (a)(iii) of the assessment report, traffic impacts are considered acceptable and sufficient parking is available, subject to the imposition of conditions. See the relevant sections of this report to see the proposed conditions.

The development relies on a car park approved on adjacent land at Lot 1 DP 203835 (187 Morgan Street, Wagga Wagga). This car park was approved under DA23/0340. The layout is required to change slightly to facilitate the turning of trucks into the service lane on the western side of Building 3A. Plans showing this have been submitted under this current Development Application The modification to the layout is considered acceptable and will not result in any unreasonable environmental impacts or the development approved under DA23/0340 being inconsistent with any environmental planning instruments. Having considered all relevant matters, it is considered appropriate to impose a condition under section 4.17(5) of the Act to require the modification of DA23/0340, so that the layout matches the layout submitted under this Development Application.

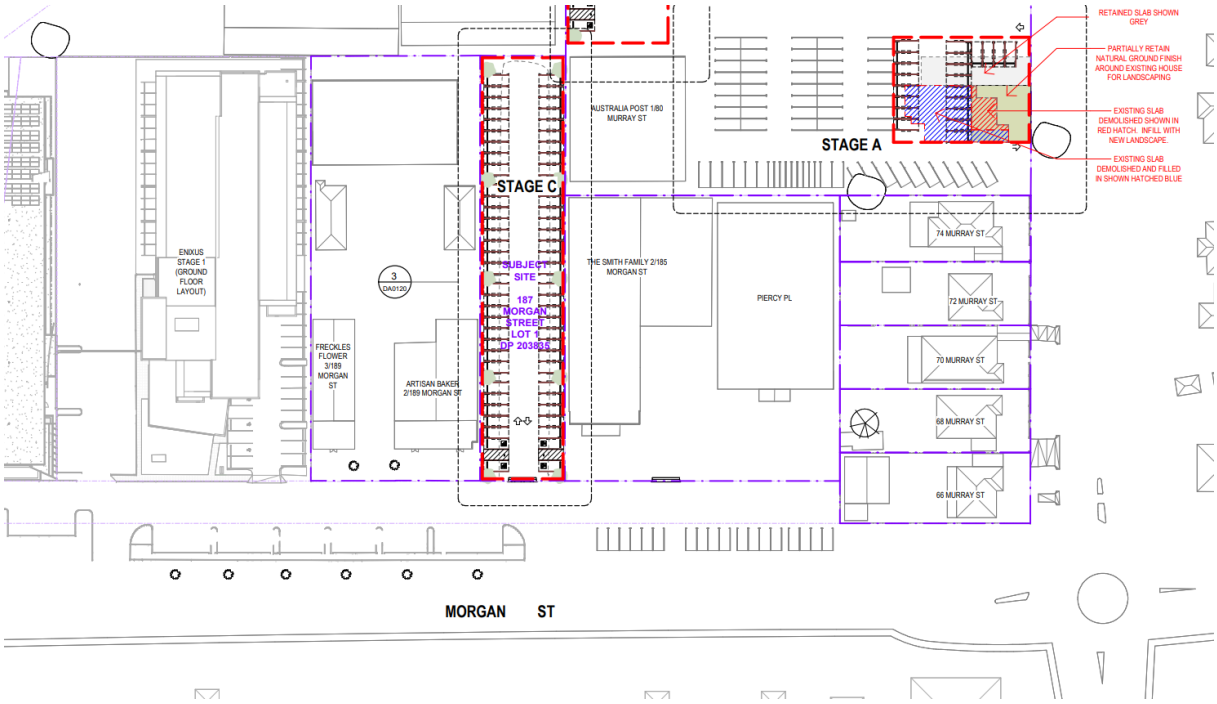

Figure 6 - Extract of Car Park Layout Plan Approved under DA23/0340

Services
Services are available to the site. Any upgrades to support the development will be requried to be carried out by the developer.

Heritage
There are no listed items of environmental heritage on the site and the site is not located in a heritage conservation area.

There are no identified items of Aboriginal Cultural Heritage on the site. The nearest significant site is the Wollundry Lagoon which is identified as an Aboriginal Place. Taking into consideration the matters set out in the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW2010), generic due diligence process* it is considered that the development can proceed with caution. Standard conditions of consent with regard to Aboriginal Cultural Heritage are recommended.

Natural Hazards
The site is identified as being subject to overland flooding. This is discussed in part (a)(i) and (iii) of this assessment report. Flooding impacts are considered acceptable.

Human-Made Hazards
Potential contamination is discussed in part (a)(i) of this assessment report. Subject to the provision of a Remediation Action Plan, and the carrying out of remediation works, the site is capable of being able to be made suitable for the proposed development.

Economic Impact in the Locality
The development is likely to have a positive economic impact in the locality, both through job creation during construction and through the provision of additional high quality commercial floor space.

Social Impact in the Locality
The development represents the third stage of an overall redevelopment of the entire Morgan-Forsyth-Murray St precinct. The overall redevelopment includes community facilities and outdoor plazas and will help create a new community and residential choice in close proximity to both the CBD and the health and knowledge precinct.

Pollution and off-site environmental effects
No significant pollution and off-site environmental impacts are identified. Standard conditions of consent with regard to erosion and sediment control are recommended.

Flora and fauna
Whilst some vegetation is proposed to be removed as part of the proposed development, this vegetation does not represent significant habitat or remnant vegetation. Impacts on flora and fauna are not considered to be significant.

The trees do have amenity value. The impacts associated with the proposed tree removal are discussed throughout this report.

Noise and Vibration
Standard conditions of consent with regard to noise and vibration are recommended during construction.

The Statement of Environmental Effects states “hours of operation for each commercial tenancy is expected have peak operational activity predominantly during normal business hours from 7:00am to 7:00pm Monday to Friday”. To encourage a vibrant community and to facilitate a range of potential uses, as well as to minimise the need for future Development Applications to extend hours of operation within a broadly acceptable range, it is recommended that consent be granted for the commercial premises to operate from 7am to 10pm Monday to Saturday and 8am to 10pm Sundays and public holidays.

These hours are based off the Noise Policy for Industry’s definition for day (7am to 6pm Monday to Saturday and 8am to 6pm Sunday) and evening (7am to 10pm, 7 days). As evening acoustic requirements apply from 6pm there is no functional difference with granting consent to 7pm or 10pm in terms of a use’s ability to comply with acoustic standards.

It is further noted that food and drink premises, which have the capacity to be noisier than standard retail premises, are not proposed to be included in the blanket land use approval for any consent, and therefore will still be subject to a Development Application and a consideration of their acoustic impacts.

Operation of the loading docks and deliveries should be restricted to the NPI's day hours (7am to 6pm Monday to Saturday and 8am to 6pm Sundays) as these activities have the capacity to cause greater acoustic impacts.

Energy Impacts
The development does not raise any concerns with regard to energy impacts.

Site Design and internal design
The design of the site is assessed as being generally acceptable. Conditions of consent have been recommended regarding vehicle lengths and rights of way. Internal unit design generally complies with the ADG and the WWDCP 2010.

Construction
Construction impacts, such as noise, traffic and parking, whilst not unreasonable, will need to be managed to reduce the impact for adverse impacts on surrounding properties. To this end a construction management plan is recommended.

Cumulative Impacts
Future development of the overall site will require reconsideration of impacts at each appropriate stage. Traffic impacts have been considered in the traffic impact assessment for the overall site, but these will need to be reconsidered at each relevant stage, as development occurs.

The Principles of Ecologically Sustainable Development
The proposal is considered to comply with the principles of Ecologically Sustainable Development such as inter-generational equality and conservation of biological diversity and ecological integrity.

(c) – The suitability of the site for the development
The site represents an opportunity to increase densities and facilitate redevelopment in central Wagga Wagga, near the CBD and the city's health precinct. The most efficient use of this land relies on increasing height and scale of buildings.

It is considered that the site is suitable for the proposed development and that all impacts identified under part (b) are acceptable and can be adequately mitigated through appropriate conditions of consent.

Hazards identified on the site are considered to be able to be appropriately managed.

(d) - any submissions made in accordance with this Act or the Regulations
Referrals
Apart from standard internal referrals, the development was referred to Transport for NSW, Essential Energy and Riverina Water.

Notification and Advertising
The application was originally notified to adjoining neighbours and nearby properties from 20 November 2024 to 4 December 2024. During the exhibition period it was identified that the notification letters contained an error in the land description. On 21 November 2024, corrected correspondence was issued to adjoining neighbours, clarifying the property details and advising that the exhibition period had been extended to 10 December 2024. Two public submissions were received.

Public Submissions and those from public authorities
Public Authority Submissions

Submissions were received from Essential Energy and Transport for NSW. These are discussed in the body of the assessment report.

Public Submissions
Two public submissions received during the exhibition period, both by way of objection. The matters raised in the submissions are summarised below:

Future development to the north has not been disclosed
Future development to the north is not subject to this Development Application, and the impacts associated with the development of that land will be subject to a future Development Application.

Concerns regarding overshadowing impacts
The location property in question relative to the development site means that it is not overshadowed in any way by the proposed development on 22 June.

Parking impacts, including impacts on on-street parking.
The proposed development meets the parking requirements of the ADG and WWDCP 2010. It is assessed that parking impacts are acceptable.

Privacy impacts
The objection is associated with a property located within the redevelopment precinct, but which remains in separate ownership. The proposed development generally complies with the ADG with regard to the property in question although there are some non-compliances. In most instances the non-compliances are minor, and the setbacks from the proposed development to the adjoining dwelling proper exceed the required separation distances. Given the non-compliances are generally not significant, and the distance to the dwelling proper the privacy impacts are not considered significant.

Notwithstanding the precinct has been formally identified and zoned for higher-density, mixed-use redevelopment and the adopted planning controls and strategic objectives anticipate and enable redevelopment. In that context, the proposed development is part of an orderly, precinct-wide transition that delivers clear public benefits including increased housing supply, improved public domain and economic activity. These public benefits cannot reasonably be frustrated by a single remaining lot that retains an existing low-scale use.

It is not uncommon for redevelopment precincts to include one or more privately-owned properties that remain at odds with the intended future character. While the concerns of adjoining owners should be considered and mitigated where practicable, the precinct-scale outcome should not be deferred indefinitely to accommodate a single undeveloped lot. The appropriate response is to assess impacts and where necessary, manage those impacts, where reasonably practical and possible.

Therefore, as the proposed generally complies with the strategic intent for the site, and given the development generally complies with the ADG, some residual privacy impacts, if they exist are considered acceptable.

Flooding / Stormwater Impacts
The flooding impacts of the development are discussed in detail in part (a)(i) of this assessment report and are assessed as being acceptable in the overall context of the development and public interest.

It is noted the objector's property is not modelled to experience any increase in flooding as a result of the development.

(e) - the public interest
The proposed development is in the public interest. It delivers 98 new dwellings (a mix of 1-4 bedroom apartments and townhouses) in a highly accessible location, increasing housing supply and diversity to meet local and regional needs.

The proposal implements adopted policy directions that support higher-density, well-located housing, including Housing 2041 (NSW Housing Strategy), the National Housing Accord (targeting 1.2 million well-located homes over five years) and relevant local strategies such as the Wagga Wagga Housing Strategy and the Wagga Wagga Local Strategic Planning Statement. By contributing to these targets the development helps deliver state and national housing objectives.

Furthermore, the development improves the quality of the precinct and the public domain, and once the final overall development is realised, will create a vibrant, connected community adjacent to the Wagga Wagga CBD.

Other Legislative Requirements
Section 1.7 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)
In accordance with the above listed legislation there are a number of tests to determine whether the proposed development results in the need of offsets.

Firstly, the test to determine whether proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats (7.3). Given only a small amount of native vegetation is proposed to be removed, all of which are garden plantings and not generally endemic to Wagga Wagga, as well as the absence of any recorded endangered flora or fauna on site, there is not anticipated to be any adverse impacts upon ecological communities or habitats of threatened species.

Secondly whether the proposed removal of native vegetation exceeds the biodiversity offsets scheme threshold (7.4). The smallest lot on the subject site has a lot size of 562.7m^2 and in accordance with the legislation the threshold of native vegetation that can be removed is 2500m^2. Approximately 125m^2 of native vegetation will be cleared and therefore the threshold will not be exceeded.

Thirdly whether the development is within a declared area of outstanding biodiversity value. The published biodiversity values map does not include any declared areas at the subject site.

Based on the above assessment the application does not fall within the biodiversity offset scheme.

Relevant matters under the Biodiversity Conservation Act 2016 have been considered.

Council Policies
No additional Council policies apply to this development.

Comments by Council's Officers
Council's other relevant officers have reviewed the application in accordance with Council's processing procedures. Relevant comments or requirements have informed the assessment and are registered on the file.

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

Developer contributions are calculated under the *Wagga Wagga Local Infrastructure Contributions Plan 2019-2034*. Section 64 sewer and stormwater contributions are calculated under the *Development Servicing Plan No 1: Sewerage Services (2013)* and *Development Servicing Plan – Stormwater (2007)*. The calculations under these plans are as follows.

Section 7.11

The subject application is a mixed-use development, with more than 50% of the area being residential. Therefore, it is appropriate to levy Section 7.11 contributions. These contributions will be based on the number of bedrooms in the dwellings in the development.

There is one credit for each existing lot. They will be applied as shown in the table below.

Section 64 Sewer

The development will be charged based on the number of bedrooms in each dwelling in the residential portion of the development, as shown in the table below.

A contribution is also payable for the new commercial floor area. This is calculated at 0.01 ETs per m2. The base contribution rate per ET is $3538 (without CPI).

Building 3A = 785m2 x 0.01 x 3538 = $27,773
Building 3B = 642m2 x 0.01 x 3538 = $22,714

There is one credit for each existing lot. There is also a $27,218 credit from 2007 for the previously approved uses on the site. This credit is indexed to $32,039 in 2013. They will be applied as shown below. Contributions have been calculated and conditions included to enable contributions to be paid consistent with each identified stage of development

The Section 7.11 and Section 64 Sewer contributions are calculated as follows. Current CPI has been added (139.7/100.5 for sewer and 140.9/115.1 for 7.11)

Section 64 Stormwater

As there is no increase in hardstand, Section 64 Stormwater contributions are not required.

				Section 7.11 Contributions			Section 64 Sewer Contributions			
	Stage 3A	Stage 3B	Stage 3C	Stage 3A	Stage 3B	Stage 3C	Stage 3A	Stage 3B	Stage 3C	
1 bed dwellings	4	4		$ 23,104.00	$ 23,104.00		$ 7,076.00	$ 7,076.00		
2 bed dwellings	16	20		$ 123,232.00	$ 154,040.00		$ 42,456.00	$ 53,070.00		
3+ bed dwellings	34	12	8	$ 340,408.00	$ 120,144.00	$ 80,096.00	$120,292.00	$ 42,456.00	$ 28,304.00	
Total Dwellings	54	36	8							
New Commerical m2	785	642					27773.3	22713.96		
Less Credit Dwellings	-1		-4	-$ 10,012.00		-$ 40,048.00	-$ 3,538.00		-$ 14,152.00	Base Rate
Less Credit Commercial							-$ 32,039.00			Base Rate
Total Base				$ 476,732.00	$ 297,288.00	$ 40,048.00	$162,020.30	$ 125,315.96	$ 14,152.00	
Total CPI Rate				$ 583,592.87	$ 363,925.97	$ 49,024.88	$225,216.28	$ 174,195.42	$ 19,671.98	

Section 7.11		
1 bed Section 7.11 base rate	$ 5,776.00	$ 7,070.71
2 bed Section 7.11 base rate	$ 7,702.00	$ 9,428.43
3/4 bed Section 7.11 base rate	$10,012.00	$ 12,256.22
CPI Rate	140.9/115.1	

Section 64 Sewer		
1 bed Section 7.11 base rate	$ 1,769.00	$ 2,459.00
2 bed Section 7.11 base rate	$ 2,653.50	$ 3,688.50
3/4 bed Section 7.11 base rate	$ 3,538.00	$ 4,918.00
CPI Rate	139.7/100.5	

Other Approvals
No other approvals have been sought

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 DA24/0075 for Mixed Use Development Including a 9 Storey Building, with Ground Floor Commercial Development, and 8 levels of Residential Apartments (Shop Top Housing), a 7 Storey Building, with Ground Floor Commercial Development, and 6 levels of Residential Apartments (Shop Top Housing), 8 x 3 Storey Attached Multi Dwelling Housing Dwellings, and Two Levels of Shared Basement Carparking be approved, subject to the following conditions:-

CONDITIONS OF CONSENT FOR APPLICATION NO. DA24/0075

A. SCHEDULE A – Reasons for Conditions

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

A.1 To ensure compliance with the terms of the Environmental Planning and Assessment Act 1979 and Regulation 2000.

A.2 Having regard to Council's duties of consideration under Section 4.15 and 4.17 of the Act.

A.3 To ensure an appropriate level of provision of amenities and services occurs within the City and to occupants of sites.

A.4 To improve the amenity, safety and environmental quality of the locality.

A.5 Having regard to environmental quality, the circumstances of the case and the public interest.

A.6 Having regard to the Wagga Wagga Development Control Plan 2010.

A.7 To help retain and enhance streetscape quality.

A.8 Ensure compatibility with adjoining and neighbouring land uses and built form.

A.9 To protect public interest, the environment and existing amenity of the locality.

A.10 To minimise health risk to neighbouring residents and workers.

B. SCHEDULE B – Deferred Commencement Conditions

N/A

C. SCHEDULE C – Conditions

Approved Plans and Documentation

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

Plan/DocNo.	Plan/Doc Title	Prepared by	Issue	Date

DA040	Existing/Demolition Plan	MDP Architecture	DA2	16/10/24
DA050	Proposed Site Plan	MDP Architecture	DA2	16/10/24
DA060	Proposed Site Ground Plan	MDP Architecture	DA2	16/10/24
DA071	Stage 3 Construction Staging	MDP Architecture	DA1	02/04/26
DA080	3D Rendered Views	MDP Architecture	DA2	16/10/24
DA101	Basement 02 Floor Plan	MDP Architecture	DA2	16/10/24
DA102	Basement 01 Floor Plan	MDP Architecture	DA2	16/10/24
DA103	Ground Floor Plan	MDP Architecture	DA2	16/10/24
DA104	Level 01 Floor Plan	MDP Architecture	DA2	16/10/24
DA105	Level 02 Floor Plan	MDP Architecture	DA2	16/10/24
DA106	Level 03 Floor Plan	MDP Architecture	DA2	16/10/24
DA107	Level 04 Floor Plan	MDP Architecture	DA2	16/10/24
DA108	Level 05 Floor Plan	MDP Architecture	DA2	16/10/24
DA109	Level 06 Floor Plan	MDP Architecture	DA2	16/10/24
DA110	Level 07 Floor Plan	MDP Architecture	DA2	16/10/24
DA111	Level 08 Floor Plan	MDP Architecture	DA2	16/10/24
DA112	Roof Floor Plan 3A	MDP Architecture	DA2	16/10/24
DA113	Roof Plan 3A	MDP Architecture	DA2	16/10/24
DA201	East and West Site Elevations	MDP Architecture	DA3	13/04/26
DA202	North and South Site Elevations	MDP Architecture	DA3	13/04/26
DA203	Stage 3A Elevations	MDP Architecture	DA3	13/04/26
DA204	Stage 3B Elevations	MDP Architecture	DA3	13/04/26
DA205	Stage 3C Elevations	MDP Architecture	DA3	13/04/26
DA301	East West Site Section	MDP Architecture	DA3	13/04/26
DA302	Stage 3A Sections	MDP Architecture	DA3	13/04/26
DA303	Stage 3B Sections	MDP Architecture	DA3	13/04/26
DA304	Stage 3C Sections	MDP Architecture	DA3	13/04/26
DA401	Area Plans and ADG Compliance - 3A	MDP Architecture	DA3	13/04/26
DA402	Area Plans and ADG Compliance - 3B	MDP Architecture	DA3	13/04/26
DA403	Area Plans and ADG Compliance - 3C	MDP Architecture	DA2	16/10/24
DA404	3A/3B Apartment Design Guide Compliance and 3C GFA	MDP Architecture	DA3	13/04/26
DA601	Shadow Diagram - 9am, Existing/Proposed - 22 June	MDP Architecture	DA2	16/10/24

DA602	Shadow Diagram - 12pm, Existing/Proposed - 22 June	MDP Architecture	DA2	16/10/24
DA603	Shadow Diagram - 3pm, Existing/Proposed - 22 June	MDP Architecture	DA2	16/10/24
DA604	Solar Access 22 June	MDP Architecture	DA2	16/10/24
LA01	Landscaping - Site Plan	TaylorBrammer	B	24/10/24
LA02	Planting Plan - Ground Level	TaylorBrammer	B	24/10/24
LA03	Planting Plan - Roof Level	TaylorBrammer	B	24/10/24
LA04	Detail Plan and Section - Water Play and Plaza	TaylorBrammer	P2	24/10/24
LA05	Typical Detail Plan and Section - Townhouse	TaylorBrammer	B	24/10/24
LA06	Landscape Sections - Roof Level	TaylorBrammer	B	24/10/24
LA07	Planting Character and Schedule	TaylorBrammer	A	24/10/24
	Statement of Environmental Effects	Salvestro Planning	3.0	4/11/24
	Flood Impact Assessment (as amended by the letter of 17/4/25 and as amended by letter of 27/11/25)	Northrop	B	18/10/24
	Letter - Response to RFI	Angus Brien, Northrop		17/04/25
	Letter - Submission of Additional Information (excluding Attachment B)	David Hunter, Habitat Planning		27/11/25
	Loading and Operational Waste Management Plan	MDP Architecture	V3	23/10/24
	Arborist Report	Mark D McCrone Landscape Architect		Feb 2024
	Annexure E to the Traffic and Parking Impact Assessment	McLaren Traffic Engineering and Road Safety Consultants	D	25/10/24

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.

C.2 Consent is not granted under this consent for:

(a) the car park works on Lot 1 DP 203835 (187 Morgan Street). Any car parking works on Lot 1 DP 203835 shall be carried out under DA23/0340, as modified by the notice required under this consent

(b) any subdivision of land

(c) any signage (other than signage that may be erected as Exempt Development under State Environmental Planning Policy (Exempt and Complying Development) 2008)

C.3 The development shall be constructed over two stages, the first stage being Stage 3C, and the second stage being Stage 3A/3B, as set out below:

Stage 3C:

- Demolition of dwellings, outbuilding and infrastructure and tree removal at 66-72 Murray Street
- Construction of Building 3C:
- Associated fencing and landscaping works.
- Rear access for townhouses.
- Loading bay for Stage 3B.
- Turning bay.

Stage 3A/3B:

- Demolition of buildings and infrastructure and tree removal at 185 Morgan Street.
- Construction of Building 3A including basement carparking shared with Building 3B.
- Construction of Building 3B.
- Associated landscaping.
- Access and service road.
- 5 at-grade parking spaces.
- Modification of service road access off Morgan Street.

Stage 3C shall be completed prior to, or concurrently with Stage 3A/3B.

Requirements before a Construction Certificate can be issued

C.4 Prior to the issue of Construction Certificate 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 complete the Kerb Guttering and Footpath bond form and return to Council to arrange a bond (BKG) number. This must be done PRIOR to making payment at Council's Customer Service desk. The form can be found at <https://wagga.nsw.gov.au/__data/assets/pdf_file/0011/84188/Kerb-Guttering-and-Footpath-Bond-Form-Interactive.pdf>.

NOTE 2: In lieu of payment, the applicant can with written authorisation from their builder, utilise an ongoing bond should their builder hold and 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 Councils 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. If the applicant has security deposits held by Council for kerb and gutter and footpath at the time of Construction Certificate application, then Council may waive the need for an additional bond to be paid.

NOTE 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.5 Pursuant to s7.11 of the Environmental Planning and Assessment Act 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, a monetary contribution as identified in the table below must be paid to Council, prior to the issuing of the Construction Certificate for each stage. 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.

Base monetary contribution (Contribution Rate in Wagga Wagga Local Infrastructure Contributions Plan 2019-2034)	• $5,776 per one bedroom dwelling, • $7,702 per two bedroom dwelling and • $10,012 per three bedroom or larger dwelling. The four existing dwellings each have a base credit of $10,012 which is applicable in stage 3C. 185 Morgan Street has a base credit for 1 lot of $10,012 which is applicable in Stage 3A/3B.
Adopted CPI indexation applied at date of determination (as per Section 3.2 of Wagga Wagga Local Infrastructure Contributions Plan 2019-2034)	140.9/115.1
Indexed monetary contribution to be paid (valid for the financial year in which the date of determination was made)	• $7,071 per one bedroom dwelling,

	• $9,428 per two bedroom dwelling and • $12,256 per three bedroom or larger dwelling. The credit for each existing dwelling/185 Morgan Street is $12,256. (see Note 2)

NOTE 1: Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 provides for Section 7.11 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. Indexed developer contributions are adopted annually by Council for the financial year.

NOTE 2: The final indexed 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.

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.6 Prior to the release of Construction Certificate for each stage 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.

NOTE1: 'Water management work' is defined in s283 of the Water Management Act to mean a 'water supply work', 'drainage work', 'sewage work' or 'flood work'. These terms are defined in that Act.

NOTE 2: Riverina Water is responsible for issuing compliance certificates and imposing requirements relating to water supply works for development in the Council's area. 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:

- $1,769 per one bedroom dwelling in the relevant stage,
- $2,654 per two bedroom dwelling in the relevant stage,
- $3,538 per three bedroom or larger dwelling in the relevant stage, and
- $50,487 for the commercial floor area (payable in Stage 3A/3B only)

There is a base credit of $3,538 per dwelling for the four existing dwellings applicable in Stage 3C.

There is a base credit of $32,039 for the existing commercial space on the site applicable in Stage 3A/3B.

The Section 64 Sewer contribution (updated by the CPI of 139.7/100.5) required to be paid is:

- $2,459 per one bedroom dwelling in the relevant stage,
- $3,689 per two bedroom dwelling in the relevant stage
- $4,918 per three bedroom dwelling in the relevant stage, and.
- $70,179 for the commercial floor area (payable in Stage 3A/3B only)

The current credit is $4,918 per dwelling for the four existing dwellings applicable in Stage 3C.

The current credit for the existing commercial space on the site is $44,536 applicable in Stage 3A/3B.

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.7 Prior to the release of the Construction Certificate for Stage 3A/3B, a Pedestrian Access and Mobility Plan (PAMP) showing a pedestrian access strategy to/from and within the site, shall be submitted to Council, to the satisfaction of the General Manager or delegate. The PAMP shall ensure that pedestrian linkages to/from Morgan St, car parking areas (including within the service road and on adjoining land) and the Active Travel network are included in the development and that these linkages provide clearly defined and easily accessible access for all users. Consideration should be given to any measures required in relation to the underground car park access, loading bays, and turning bays to improve pedestrian safety.

NOTE: The pedestrian crossing indicated on the plans may not meet warrants in this location and alternative treatments should be considered to facilitate pedestrian movements across the Morgan St service road.

C.8 Prior to the release of the Construction Certificate for each stage, detailed plans of all works in the road reserve proposed to be carried out in conjunction with the stage

shall be submitted to Council, for approval, to the satisfaction of the General Manager or delegate. This shall include:

(a) Any signage, linemarking and works including for any on street loading bays and turning bays.

(b) In Stage 3A/3B signage to prohibit right turns from the Morgan Street service road to Morgan Street via the new access point between the two roadways, and to restrict vehicle movements at this access point to exit only.

(c) In Stage 3A/3B signage to control and direct the direction of traffic within the service road.

(d) In Stage 3A/3B, any measures in the approved PAMP.

NOTE: Any plan which includes a Traffic Control Device, subject to delegations, may require referral to, and approval by the Local Transport Forum (LTF) prior to installation. Other signage or linemarking may require notification to the LTF after installation. Council will advise, which matters, if any need to be reported to the LTF in the sign off of this condition.

The LTF meet approximately every six weeks. Therefore to avoid delays in the event that a referral to the Local Transport Forum is required, the timing of meetings should be taken into consideration in preparing your works schedule.

C.9 Prior to the release of the Construction Certificate for each stage, a Construction Management Plan (CMP), shall be submitted to Council, to the satisfaction of the General Manager or delegate.

The CMP shall include details for parking of trades/workers/construction vehicles, material storage areas, site access arrangements (including site access control), delivery arrangements, noise and vibration management, dust and mud mitigation, site security, and complaint management (including methods for residents to raise concerns directly with the site manager).

The CMP shall be a document prepared exclusively for the purpose of this condition, addressing the matters highlighted in this condition, and shall not form part of a more extensive document that includes matters beyond the scope of Council, such as workplace safety.

C.10 Prior to the issue of a Construction Certificate for each stage, a pre-construction dilapidation report shall be prepared by a suitably qualified person. The report shall include clear photos and descriptions of all existing public infrastructure adjacent to the subject site. A copy of the dilapidation report shall be submitted to and shall be approved by Council, to the satisfaction of the General Manager or delegate.

C.11 Prior to the issue of a Construction Certificate for stage 3A/3B:

(a) Amended plans shall be submitted to Council, to the satisfaction of the General Manager or delegate, extending the shop front glazing on Building 3B along the Morgan Street frontage of the building, generally consistent with the shop front glazing to Morgan Street provided on Building 3A.

(b) Plans shall be submitted to Council, to the satisfaction of the General Manager or delegate, demonstrating compliance with the minimum ceiling height

requirements of 4C1 of the Apartment Design Guide.

(c) Amended plans shall be submitted to Council, to the satisfaction of the General Manager or delegate, demonstrating direct vehicular access to the residential waste room in Building 3B, or alternatively, submission, to the satisfaction of the General Manager or delegate, detailing how waste collection from the residential waste room in Building 3B will occur.

(d) Plans and details shall be submitted to Council, to the satisfaction of the General Manager or delegate, of signage (such as TfNSW sign R5-33) to be placed on the site to restrict access to the two service lanes to the maximum sized vehicles for which swept paths have been demonstrated.

(e) A Flood Emergency Response Plan (FERP) for the development shall be submitted to Council, to the satisfaction of the General Manager or delegate. The FERP shall (as a minimum):

- Set out protocols and procedures for the site in the event of both riverine and local catchment flooding to minimise the risk to occupants of the land, including persons moving onto and off the site;
- Set out protocols to prevent entry into the basement car park during a flood event (both riverine and local catchment), from both within the buildings, and from offsite, up to and including a PMF event; and
- Cover all development on the site (Stage 3A/3B) and shall include measures to ensure occupants (including any short stay occupants) are aware of these arrangements.

(f) An amended plan, incorporating electric vehicle charging facilities for residents, and opportunities to increase capacity in future, to the satisfaction of the General Manager or delegate.

C.12 Prior to the release of the Construction Certificate for Stage 3C:

(a) Amended plans, to the satisfaction of the General Manager or delegate, shall be submitted to Council for approval, showing the front fences of the townhouse to Murray Street and the side fence to Morgan Street, no greater than 1800mm in height.

(b) Details of the front fence panels, including aperture and overall openness percentage, to the satisfaction of the General Manager or delegate, shall be submitted to Council for approval. The fence shall be generally consistent with the approved plans in terms of overall openness.

(c) Amended plans, to the satisfaction of the General Manager or delegate, shall be submitted to Council for approval, showing the dividing walls between each townhouse, in the front setback area, no greater than 1800mm in height. Note, the wall may rise generally with the level of the adjacent steps, so that it tapers up and retains 1800mm in height at the front face of the dwellings.

C.13 On completion of demolition of existing buildings, concrete slabs and associated structures in each stage (both Stage 3C and Stage 3A/3B) but prior to any construction works, or the release of a Construction Certificate for each stage, further site contamination investigation which includes soil sampling, must be undertaken to address the uncertainty identified in the Detailed Site Investigation. The further investigation must take the form of a Supplementary Detailed Site Investigation and

must be prepared by an environmental consultant certified under a NSW EPA recognised scheme.

The investigation and report must be undertaken in accordance with relevant NSW EPA Guidelines including, but not limited to "Consultants reporting on contaminated land: Contaminated land guidelines." The investigation must also meet the requirements of the National Environment Protection Measure - Assessment of Site Contamination (NEPM).

The Supplementary Detailed Site Investigation must include an assessment of the suitability of the land for the proposed land use and outline remedial measures that may be required to ensure the site is suitable for the proposed use. The Supplementary Detailed Site Investigation Report must be submitted to Council, to the satisfaction of the General Manager or delegate, prior to the commencement of any works beyond demolition, and prior to the release of the Construction Certificate for each stage.

C.14 Following the completion and reporting of the Supplementary Detailed Site Investigation in each stage, if the Supplementary Detailed Site Investigation identifies the need for remediation works, or in the opinion of the General Manager or delegate, remediation works are required, a Remedial Action Plan must be prepared by an environmental consultant certified under a NSW EPA recognised scheme to address the results and outcomes of the supplementary detailed investigation.

The Remedial Action Plan, must be submitted to Council, to the satisfaction of the General Manager or delegate, prior to construction and issue of any Construction Certificate for both Stage 3C and 3A/3B.

C.15 If remediation works are required, the site must be remediated in each stage in accordance with the Remedial Action Plan developed for each stage.

On completion of remedial works in each stage, a Validation Report must be prepared by an appropriately qualified, experienced and certified environmental consultant in accordance with relevant NSW EPA guidelines including, but not limited to, the NSW EPA Guidelines "Consultants reporting on contaminated land: Contaminated land guidelines."

The certified environmental consultant must be certified under a NSW EPA recognised scheme.

The Validation Report must verify that the site (as it relates to that stage) has been remediated in accordance with the Remedial Action Plan and also verify that the site is suitable for the proposed development.

The Validation Report must be reviewed by a NSW EPA accredited site auditor and a Section A1 Site Audit Statement provided, verifying that the site is suitable for commercial and industrial use. The Validation Report and Site Audit Statement must be proved to Council, to the satisfaction of the General Manager or delegate, within 60 days of the completion of the remediation works and prior to Construction and issue of the Construction Certificate for the relevant stage.

C.16 Pursuant to section 4.17(1)(b) and (5) of the Environmental Planning and Assessment Act 1979, Condition C.1 of DA23/0340 shall be modified to amend the approved plans so the car park layout on Lot 1 DP 203835 (187 Morgan Street) is consistent with the plans submitted under this Development Application.

(1) Plans, to the satisfaction of the General Manager or delegate, shall be

submitted to Council, to supersede drawing DA0110 “Car Park Proposed” and drawing DA0120 “Car Park Details” approved under C.1 of DA23/0340, with replacement drawings showing the same detail, altering the layout for Lot 1 DP 203835 (187 Morgan Street) is consistent with the details and plans submitted under this Development Application.

(2) Following advice of the satisfaction of part (1) of this condition, submission of a clearly identified draft notice, to the satisfaction of the General Manager or delegate, prepared in accordance with Clause 67 of the Environmental Planning and Assessment Regulation 2021.

(3) Following advice of the satisfaction of part (2) of this condition, submission of a notice (consistent with the draft in part (2), as amended as per any advice from Council), to the satisfaction of the General Manager or delegate, prepared in accordance with Clause 67 of the Environmental Planning and Assessment Regulation 2021.

C.17 Prior to the issue of each Construction Certificate, the plan relevant to that stage must clearly identify the structural pavement design for any internal driveway/vehicular accessway within the development site, and any works proposed in the Morgan Street service road and carpark. The Construction Certificate plans must specify that the pavement to be constructed as a concrete or asphalt sealed pavement accompanied by a Pavement Design Report, prepared and certified by a suitably qualified Civil/Geotechnical engineer demonstrating compliance with Council’s Engineering Guidelines for Development & Subdivision and AUSTROADS standards and taking into account existing site subgrade conditions for approval as part of the Construction Certificate documentation. The plans shall be submitted to Council for approval, to the satisfaction of the General Manager or delegate.

C.18 Prior to the issue of each Construction Certificate sewer plans shall be submitted to Council for approval. The plans shall detail extension of sewer mains to service the development. Any upgrade or augmentation of existing sewer mains to cater for the increased load generated from the development shall be taken into account in the design.

C.19 Prior to the issue of each Construction Certificate stormwater plans shall be submitted to Council for approval. Stormwater mains shall be designed in accordance with Council’s Engineering Guidelines for Development & Subdivision. Overland flow paths shall be indicated on the plans for storm events which exceed the capacity of the stormwater system.

C.20 Prior to the issue of each Construction Certificate, the plans must clearly identify vehicle crossovers within the road reserve to be constructed in accordance with Council’s standard drawing for an industrial/commercial vehicular crossing (Drawing EDS 02.09) contained within the Engineering Guidelines for Subdivisions and Development Standards.

C.21 Prior to the issue of each Construction Certificate, engineer’s certification shall be submitted to Council, to the satisfaction of the General Manager or delegate.

The certification shall be from a qualified structural/civil engineer stating that the building if constructed in accordance with the plans and specifications to which the Construction Certificate relates, will not sustain structural damage from the force of flowing floodwaters or from impact of debris associated with the floodwaters in a 1:100 year flood event.

C.22 Prior to the release of each Construction Certificate, plans shall be submitted with the Construction Certificate shall identify a minimum finished floor level for the habitable

components of the buildings and dwellings of 300mm above the 1% Annual Exceedance Probability flood event, given in metres AHD. The relevant level is 179.50m AHD.

The plans shall also certify the building will be of flood resilient design in accordance with the NSW Reconstruction Authorities Flood Resilient Design Guide.

C.23 Prior to the release of the Construction Certificate for Stage 3A/3B, plans submitted to Council, to the satisfaction of the General Manager or delegate, showing the underground car park protected from inundation in a 1% Annual Exceedance Probability flood event (plus 300mm). The relevant level of protection required to be achieved is 179.50m AHD.

C.24 Prior to the release of the Construction Certificate for Stage 3C, a Street Tree masterplan showing the location of all proposed street trees, and the stage they are proposed to be delivered in, shall be submitted for approval by the General Manager or delegate.

C.25 Prior to the release of Construction Certificate for each stage, revised and detailed construction plans for the landscape treatments relevant to the stage shall be submitted for approval, to the satisfaction of the General Manager or delegate.

Detailed plans are to show all landscape treatments that include but are not limited to entry treatments, signage, tree planting, furniture, shrub planting, turfing, signage, paths, pavement treatments etc.

The detailed plans should take into account the need for the plaza area to be a space for residents and visitors to play, relax and interact.

A Plant Schedule indicating all plant species, pot sizes, spacings and numbers to be planted within the development shall be submitted. The concept landscape plan submitted with the Development Application shall be reviewed against the Council Landscape Guidelines, and amended to ensure species selection generally consistent with the Guidelines. Plant species are to be identified by full botanical name. All plants proposed are to be detailed in the plant schedule.

Requirements before the commencement of any works

C.26 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 contactor’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.27 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.28 Prior to the commencement of works for each stage, a Construction Certificate must be obtained, pursuant to Section 6.7 of the Environmental Planning and Assessment Act 1979, as amended, from Council or an Accredited Certifier.

Demolition works to facilitate Detailed Site Investigations and remediation works can commence in the absence of a Construction Certificate, subject to a Construction Management Plan under Condition C.9 being approved, and all prior to commencement of works conditions being complied with.

C.29 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.

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

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 the Principal Certifying Authority prior to application for an Occupation Certificate for the development.

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

All reasonable steps must be taken to ensure that dust from the construction and demolition activities on site is kept to a minimum. This includes wetting down disturbed soils and providing adequate cover.

C.30 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

A plan illustrating these measures shall be submitted to, and approved by, Council. The approved erosion and sediment control measures must be in place prior to earthworks commencing.

All vehicles involved with the construction and/or demolition process and departing the property with demolition material, spoil, debris and loose material must have their loads covered before entering the public road. Suitable measures shall be in place to ensure that sediment is not tracked onto the roadway by vehicles leaving the site. This may require the installation of an all-weather temporary driveway for all construction vehicles accessing and leaving the site.

It is an offence to allow, permit or cause materials to pollute waters.

C.31 No works are to take place to any services without prior written approval from the relevant authority.

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

C.32 Prior to works commencing in the Road Reserve a pre-start meeting shall be held with Council's Development Engineer. Contact Council's Development Engineer on 1300 292 442.

C.33 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.34 Prior to the issue of any Complying Certificate for the concrete floor slab for each building approved under this consent, the Principal Certifying Authority shall receive documentation from a registered surveyor certifying that the floor of each building's habitable rooms (and in the case of Building 3A, in addition, any berm or embankment protecting the underground car park) will have a finished floor level (or in the case of any car park protection, a finished level) that is 300mm above the inundation level caused by the 1:100 ARI flood event at the location of the development. The required floor level is 179.50m AHD.

NOTE: It is recommended that prior to commencement of any works, a registered surveyor establish an appropriate benchmark on the site from which construction levels can be conveyed. The surveyor should then confirm the floor level once formwork is in place and ready for the pouring of the floor slabs.

C.35 Required pruning maintenance to Council street trees shall be carried out by Council or an approved contractor of Council at full cost to the applicant. Council is to be notified of any contractor prior to the commencement of works.

Pruning shall be carried out in accordance with Australian Standards AS 4373-2007 Pruning of Amenity Trees.

C.36 Tree removal works shall be carried out by an approved contractor at full cost to the person carrying out the development. Council is to be notified of contractor details prior to the commencement of works.

Tree removal consent only applies to this proposed development. If the development is not commenced the subject street tree/s shall be retained on the road reserve.

Tree stump/s shall be removed below ground level to a depth of 300mm and surface area reinstated to prevent potential injury. Dial before you dig shall be undertaken before the removal of tree/s stumps to prevent damage to underground services.

C.37 No trees shall be removed from the site unless they have been clearly identified and marked on the approved plans for removal, or approval has otherwise been granted by Council.

C.38 A Tree Protection Zone (TPZ) shall be constructed for all existing trees to be retained within the development (including the English Elm adjacent to the site at 80 Murray St), as relevant to the stage of construction, in accordance with Australian Standards - AS 4970-2009 Protection of Trees on Development Sites.

Construction of Tree Protection Zones shall be completed and inspected by Council's Supervisor of Tree Planning and Management, prior to the commencement of any site works. Contact can be made by phoning 1300 292442 during normal business hours.

Tree Protection Zone fencing shall not be relocated or disrupted once established. TPZ fences shall remain in place until the end of construction.

C.39 All street trees in proximity to works being carried, and that are to be retained, are to be isolated from the work site. Prior to the commencement of works in each stage, temporary fencing, with a minimum height of 1.8 metres, shall be installed to surround the entire tree. The fencing shall not extend beyond the kerb or footpath, with these areas are to remain obstruction free for the duration of works.

C.40 Prior to the commencement of works , an Activity Approval is required under Section 68, Part B - 4, 5 and 6, of the Local Government Act 1993 for any public infrastructure sewer / stormwater works, where that work is proposed to be carried out on private or Council owned land. Works that require a Section 68 (PUBLIC) approval include:

i) Extension and connection of stormwater pipes serving the development to Councils stormwater system

ii) Extension of sewer mains to service the development. Any upgrade or augmentation of sewer mains to cater for the increased load generated from the development shall be at full cost to the developer.

iii) Provision of a sewer spur to each townhouse in Stage 3C, and any redundant spurs decommissioned

NOTE 1: Works carried out under an approved Section 68 prior to a Development Consent and/or Construction Certificate being issued are subject to change and are at the applicant's risk.

C.41 NOTE 2: Prior to the commencement of works a bond may be required to be lodged with Council for public infrastructure works. Refer to Council's Section 68 Activity Approval Application Guide for detail. 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.

C.42 Prior to works or activities commencing within the road reserve, approval under Section 138 of the Roads Act 1993 is required from Council.

A written application for Consent to Work on a Road Reserve is required to be submitted to and approved by Council. This shall include the preparation of a certified Temporary Traffic Management Plan (TTP) and submission of engineering plans for the works.

It should be noted that work in the existing road reserve can only commence after the plan has been submitted and approved and then only in accordance with the submitted TTP. Please contact Council's Activities in Road Reserves Officer on 1300 292 442.

Requirements during construction or site works

C.43 No construction materials, plant or equipment relating to work authorised by this consent are to be placed or stored within the road reserve during the period in which work authorised by this consent will be carried out without the prior written approval of the Council.

C.44 If an excavation associated with the erection/demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

a) must preserve and protect the building from damage, and

b) if necessary, must underpin and support the building in an approved method, and

c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the building being erected/demolished.

NOTE 1: The owner of the adjoining allotment of land is not liable for any part of the cost of the work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

NOTE 2: For the purposes of this condition allotment of land includes a public road or any other public place.

C.45 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.46 The demolition must be carried out in accordance with the provisions of Australian Standard AS2601-2025: 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.47 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 NSW Environment and Heritage Guidelines.

C.48 All earthworks, filling, building, driveways or other works, must be designed and constructed (including stormwater drainage if necessary) so that stormwater impacts on adjoining properties are no greater than the impacts identified in the Flood Impact Assessment, Revision B, and prepared by Northrop, and dated 18/10/24.

C.49 No fill shall be imported to the site. Any excavated material removed from the site shall be classified and must only be taken to a site approved for the receipt of such material.

C.50 The following requirements of Essential Energy must be complied with:

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

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

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

C.51 If unexpected soil and/or groundwater contamination is encountered during any works, all work associated with that task must cease and the situation must be promptly evaluated by a suitably qualified environmental consultant. The contaminated soil and/or groundwater must then be managed under the supervision of the supervising environmental consultant, in accordance with the Unexpected Finds Protocol provided in the Remedial Action Plan and relevant NSW Environment Protection Authority (EPA) guidelines.

Prior to recommencement of works, if unexpected contaminated soil or groundwater is treated and/or managed onsite; the supervising environmental consultant must verify that the situation was appropriately managed in accordance with relevant NSW EPA guidelines. The verification documentation must be provided to the satisfaction of the NSW EPA accredited site auditor, prior to the recommencement of any works.

C.52 Prior to the carrying out of any works that require pre-approval from the Local Transport Forum (LTF) (as advised by Council in the approval of Condition C.8), the applicant must notify Council's Local Transport Forum (LTF) representative of the proposed works, and obtain the approval of the LTF to carry out the works.

NOTE: The LTF meet approximately every six weeks. Contact with Council's Senior Traffic Operations Engineer can be made by phoning 1300 292442 during normal business hours.

C.53 Any upgrades or alterations to existing Council infrastructure required as a result of the development shall be at the full cost of the applicant. Contact Council's Development Engineer to confirm what approval is required prior to commencing work on any Council infrastructure. Such work includes (but is not limited to) upgrade or connection to sewer or stormwater mains, and alteration of stormwater pits and sewer manhole levels.

C.54 A temporary security fence shall be provided to the perimeter of the site to prevent public access during the construction phase. The temporary security fence shall not be erected in the Council road reserve without an approved Section 138 Permit.

C.55 Where works involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where excessive dust generation is occurring due to high winds and/or dry conditions it may be necessary to temporarily cease operations.

C.56 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

C.57 If any Aboriginal object is discovered and/or harmed in, on or under the land, all work must cease immediately and the area secured so as to avoid further harm to the Aboriginal object. NSW Environment and Heritage shall be notified as soon as practicable on 131 555, providing any details of the Aboriginal object and its location, and no work shall recommence at the particular location unless authorised in writing by NSW Environment and Heritage.

C.58 Trees indicated on the submitted plans for removal, shall be removed from the site in accordance with the proposed development. Further consent is not required for removal of the subject trees in conjunction with this development.

The approved works shall be executed so as to comply with 'Safework NSW Tree work (arboriculture)'

Any works associated with tree removal shall be carried out in Accordance with Australian Standards - AS 4373-2007, Pruning of Amenity Trees.

All tree stumps shall be removed below ground level and the surface area reinstated to prevent potential injury.

All waste material from the subject tree/s shall be removed from site in conjunction with clearing.

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

C.59 Prior to issue of each Occupation Certificate the redundant kerb laybacks in Murray and Morgan Streets relevant to that stage shall be replaced with conventional barrier kerbing, and Council's footway rehabilitated, in accordance with Council's Engineering Guidelines for Subdivisions and Developments.

C.60 Prior to issue of an occupation certificate the building number must be displayed in a position clearly visible from the street in letters having a height of not less than 75 mm. The number must be visible against the background on which it is placed.

C.61 Prior to the issue of each Occupation Certificate, a maintenance bond equal to 5% of the total cost of civil works shall be paid. The bond shall be held for the duration of the maintenance period until the works are accepted Out of Maintenance.

C.62 Street trees shall be planted by Council following the payment of the fee under this condition.

Alternatively, street trees, consistent with the plan approved under Condition C.24 shall be planted by a Council approved contractor.

Prior to the release of the Occupation Certificate for each stage:

(1) Payment of the relevant fee per tree, as set out in Council's Fees and Charges, shall be paid to Council, for street tree planting works to be carried out by Council; or

(2) Payment of a bond, to be held by Council for two years, equivalent to the fee that would be payable under part (1), shall be paid to Council, for street tree works carried out by a Council approved contractor.

If trees are to be planted by a Council approved contractor the following information is to be submitted to Council for approval, to the satisfaction of the General Manager or delegate, prior to the release of the Occupation Certificate:

(a) Company trading name

(b) Contractor's license number

(c) Relevant experience of company

(d) Relevant qualifications of key staff undertaking the works

Planting by a contractor can only occur during the next available planting season (May-August).

C.63 Prior to the release of any Occupation Certificate for Stage 3C:

1. Lots 1-4 DP 20847 (66-72 Murray Street) shall be consolidated (with evidence of the registration of the Plan of Consolidation with NSW Land Registry Services submitted to Council, to the satisfaction of the General Manager or delegate).

   Alternatively, if an alternate consolidation/subdivision of the land has been approved by Council, that in the opinion of the General Manager or delegate satisfactorily addresses any land tenure issues, evidence of the registration of that plan, to the satisfaction of the General Manager or delegate.

2. A right of way in favour of Lot 1 DP 550746 (185 Morgan Street), and with Council empowered to uplift, shall be registered over the entirety of the service driveway to the rear of the townhouses. Evidence of the registration of the right of way shall be submitted to Council, to the satisfaction of the General Manager or delegate.

   Alternatively, if in the opinion of the General Manager or delegate, suitable alternative arrangements have been approved and are in place, which ensure enduring access for Buildings 3A and 3B over the driveway, the General Manager or delegate may advise in writing that compliance with this condition is not required.

3. A restriction as to user, requiring that the front fence panels maintain an aperture and overall openness that is no less than the fence approved under condition C.12, unless agreed to in writing by the General Manager or delegate.

C.64 Prior to the release of any Occupation Certificate for Stage 3A/3B:

1. Reciprocal rights of way, burdening and in favour of, Lot 1 DP 550746 (185 Morgan Street) and Lot 1 DP 203835 (187 Morgan Street), with Council empowered to uplift, shall be registered over the entirety of the access route through the car park, and the service driveway west of Building 3A. Evidence of the registration of the right of way shall be submitted to Council, to the satisfaction of the General Manager or delegate.

   Alternatively, if in the opinion of the General Manager or delegate, suitable alternative arrangements have been approved and are in place (including the consolidation of the two subject lots), which ensure enduring access for Buildings 3A and 3B, and vehicles using the carpark, over both driveways, the General Manager or delegate may advise in writing that compliance with this condition is not required.

2. A right of way, burdening Lot 1 DP 550746 (185 Morgan Street) and Lot 1 DP 203835 (187 Morgan Street), and benefiting Lots 1-4 DP 20847 (66-72 Murray Street) (or any consolidated or child lots resulting from a consolidation or subdivision of that land) with Council empowered to uplift, shall be registered over the entirety of the access route through the car park on Lot 1 DP 203835, and the service driveway on Lot 1 DP 550746 west of Building 3A. Evidence of the registration of the right of way shall be submitted to Council, to the satisfaction of the General Manager or delegate.

   Alternatively, if in the opinion of the General Manager or delegate, suitable alternative arrangements have been approved and are in place (including the consolidation of all lots), which ensure enduring access for the residents, tenants, visitors of Building C, over the car park and service driveways, the General Manager or delegate may advise in writing that compliance with this condition is not required.

3. An easement for parking, burdening Lot 1 DP 203835 (187 Morgan Street) and benefiting Lot 1 DP 550746 (185 Morgan Street) and Lots 1-4 DP 20847 (66-72 Murray Street) (or any consolidated or child lots resulting from a consolidation or subdivision of that land), with Council empowered to uplift, shall be registered over all parking spaces in Lot 1 DP 203835 (187 Morgan Street). The easement shall require the car park is available for use by residents, tenants, visitors and customers of any premises on Lot 1 DP 550746 or Lots 1-4 DP 20847 (or any consolidated or child lots resulting from a consolidation or subdivision of that land) and that the availability of parking spaces is not reduced.

   Alternatively, if in the opinion of the General Manager or delegate, suitable alternative arrangements have been approved and are in place (including the consolidation of the subject lots), which ensures ongoing access to the car park for residents, tenants, visitors and customers of any premises in Buildings 3A, 3B, or 3C the General Manager or delegate may advise in writing that compliance with this condition is not required.

C.65 A post construction report, prepared by a suitably qualified person, shall be prepared at the completion of construction of each stage. This report is to ascertain whether the construction created any structural damage to adjoining infrastructure.

The report shall include a comparison with the pre-construction dilapidation report required by these conditions and have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure.

The report shall be submitted to and shall be approved by Council, to the satisfaction

of the General Manager or delegate, prior to the release of the Occupation Certificate for each stage.

Unless the consent holder and the applicable authority agree otherwise, the Applicant must:

a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development; and

b) relocate, or pay the full costs associated with relocating any infrastructure needs to be relocated as a result of the development.

C.66 Prior to the issue of each Occupation Certificate, all works external to the site and relevant to that stage (in the opinion of the General Manager or delegate), including any works including any works in the road reserve to facilitate access to the site for pedestrians and vehicles, including:

- any turning or loading bays,
- any works approved under the PAMP,
- Signage to direct and control the movement of vehicles (including any loading bay, no entry and no right turn signage)

Shall be completed or installed, to the satisfaction of the General Manager or delegate.

For any works that require notification to the Local Transport Forum (as advised by Council in the approval of Condition C.8) at the completion of the works, the applicant must notify Council's LTF representative that the works have been completed in accordance with the requirements of the approved plans. The notification must occur as soon as practicable after the works have been completed as there is a requirement to report all works to the LTF no later than three months after completion.

NOTE: The LTF meet approximately every six weeks and require copies of the approved plans and evidence of completion. Contact with Council's Senior Traffic Operations Engineer can be made by phoning 1300 292442 during normal business hours.

C.67 Prior to the issue of the Occupation Certificate for Stage 3A/3B, an 'Ongoing Landscape and Building Maintenance Plan' shall be submitted to Council, to the satisfaction of the General Manager or delegate. The ongoing maintenance plan shall make enforceable commitments regarding the maintenance/cleaning of the building, landscaping and public and semi-public areas, including:

a. routine cleaning and litter collection,
b. sweeping,
c. graffiti removal,
d. replacement and repair of broken furniture/equipment/facilities in plaza areas,
e. the cleaning and maintenance of the water play area,
f. the pruning, weeding and general maintenance of landscape areas,
g. the replacement of dead plants, and

h. the general clean and tidy maintenance and keeping in good condition all public spaces and external facades.

The plan shall detail minimum standards for maintenance contracts and shall specify that such a contract is in place at all times for the maintenance of external facades and landscaping, or otherwise, clearly state who is responsible for maintenance.

Maintenance of the external facades of the building and publicly accessible areas shall occur in accordance with the measures set out in the approved 'Ongoing Landscape and Building Maintenance Plan' unless otherwise agreed to, in writing, by the General Manager or delegate. Furthermore, the plan may be amended from time-to-time, with the consent of the General Manager or delegate.

For the avoidance of doubt, the plan may be amended in future so that it is inconsistent with the requirements of (a), (b), (c), (d), (e), (f), (g) and/or (h), if in the opinion of the General Manager or delegate, circumstances have changed due to contemporary practices not envisaged at the time of this consent.

NOTE: This plan shall not seek to manage general building maintenance, building safety or upkeep, and only relates to the general cleanliness and presentation of external facades and landscaping.

C.68 Prior to the release of the Occupation Certificate for Stage 3A/3B, a restriction as to user shall be registered on the land that requires that external maintenance of the building facades and publicly accessible areas on the site shall occur in accordance with the measures set out in the approved 'Ongoing Landscape and Building Maintenance Plan' (as amended from time to time), unless otherwise agreed to, in writing, by the General Manager or delegate. Prior to the registering of the Restriction, details shall be submitted to Council, for approval, to the satisfaction of the General Manager or delegate.

C.69 Prior to the release of the Occupation Certificate for Stage 3A/3B, an amended 'Loading and Operational Waste Management Plan' shall be submitted to Council for approval, to the satisfaction of the General Manager or delegate, for the entirety of the buildings (including commercial tenancies). The amended plan shall include provisions such as:

a. Requiring an agreement be in place for the collection of skip bins, and that individual wheelie bin/kerb side collection will not occur.

b. Requiring that general waste, recycling bins, and FOGO bins will be available for use by all residents and tenants (including facilities for sorting and collection in each apartment).

c. A waste collection frequency consistent with waste storage capacity provided on site.

d. The maximum sized vehicle to service any part of the development.

e. General arrangements for deliveries, loading and unloading on the site and adjacent loading bays.

Waste collection, loading and deliveries shall occur in accordance with the measures set out in the approved 'Loading and Operational Waste Management Plan', unless otherwise agreed to, in writing, by the General Manager or delegate. Furthermore, the plan may be amended from time-to-time, with the consent of the General Manager or delegate.

For the avoidance of doubt, the plan may be amended in future so that it is inconsistent with the requirements of (a) to (e), if in the opinion of the General Manager or delegate, circumstances have changed due to contemporary loading, delivery and waste management practices not envisaged at the time of this consent.

C.70 Prior to the release of the Occupation Certificate for Stage 3A/3B, a restriction as to user shall be registered on the land that requires that loading, deliveries and waste collection and management on the site shall occur in accordance with the measures set out in the approved 'Loading and Operational Waste Management Plan' (as amended from time to time), unless otherwise agreed to, in writing, by the General Manager or delegate. Prior to the registering of the Restriction, details shall be submitted to Council, for approval, to the satisfaction of the General Manager or delegate.

C.71 Prior to the issue of the Occupation Certificate for Stage 3A/3B:

(a) All landscaping works (including furniture, and the water play area) relevant to that stage (in the opinion of the General Manager or delegate), shall be completed to the satisfaction of the General Manager or delegate.

(b) Details of the division of basement storage between units, and associated compliance with 4G1 of the Apartment Design Guide for total storage space per unit, shall be submitted to Council, to the satisfaction of the General Manager or delegate.

(c) Parking to service the development shall be available for use, including all linemarking and signposting.

(d) Signage to restrict the vehicles beyond the maximum length for which swept paths have been prepared from entering the site, as approved under C.11(d) shall be installed within the site, to the satisfaction of the General Manager or delegate.

(e) Certification, to the satisfaction of the General Manager or delegate, from an appropriately qualified person that all measures to restrict basement carpark access as set out in the Flood Emergency Response Plan have been implemented.

(f) A plan shall be submitted to Council, to the satisfaction of the General Manager or delegate, identifying the allocation of the parking spaces for each unit, and appropriate signage/linemarking to give force to the arrangements. Tandem parking spaces shall only be allocated to a single unit as a pair.

(g) The car park approved under DA23/0340 (as amended) on Lot 1 DP 203835 (187 Morgan Street) shall be constructed, to the satisfaction of the General Manager or delegate.

(h) An Occupation Certificate shall be issued for the entirety of Stage 3C.

C.72 Prior to the issue of each Occupation Certificate, the Principal Certifier must be provided with documentary evidence demonstrating that

- All internal driveway and vehicular access areas and,
- Driveway crossover/s constructed within the road reserve (kerb to property boundary);

have been constructed in accordance with the approved Construction Certificate plans. Where the approved plans include an engineering pavement design, the

documentary evidence must include certification from the engineer that the driveway has been constructed in accordance with the approved pavement design. The Principal Certifier must be satisfied that compliance with this condition has been demonstrated prior to issuing the Occupation Certificate.

C.73 Prior to the issue of any Occupation Certificate for Stage 3C the proposed townhouses are to be adequately serviced.

i) A sewer junction and spur must be provided to each of the townhouses from Councils sewer main.

ii) A stormwater spur from Council's stormwater main shall be provided to each townhouse

The works shall be at the full cost of the developer and must be carried out by a Council approved contractor. Works as Executed (WAE) plans shall be provided in accordance with Council's Guidelines for Subdivision and Developments.

NOTE: A Section 68 approval will be required for the works. The WAE plans shall show the location of the constructed mains/junctions and spurs to confirm they are servicing each townhouse.

C.74 Prior to the issue of each Occupation Certificate for the completed development fees for Civil Works (including road works, stormwater, sewer, concrete works) inspections shall be paid in full. Inspections will be charged in accordance with Council's current Fees and Charges Schedule.

C.75 Prior to release of each Occupation Certificate for the completed development an "into maintenance inspection" must be carried out of the completed works. The maintenance period will last for 6 months, upon which time an "out of maintenance inspection" will be required to ensure the works are acceptable to Council.

C.76 Prior to the issue of each Occupation Certificate, the applicant shall provide to Council a copy of the certification from the registered surveyor required under Condition C.34 regarding the constructed floor level of the buildings, relevant to that stage.

C.77 An Occupation Certificate, must be obtained pursuant to Section 6.9 of the Environmental Planning and Assessment Act 1979, from either Council or an accredited certifying authority, prior to occupation of each building.

In order to obtain this, the "Final Occupation Certificate" form must be completed and submitted to Council with all required attachments - failure to submit the completed Occupation Certificate Application form will result in an inability for Council to book and subsequently undertake Occupation Certificate inspection.

NOTE: The issuing of an Occupation Certificate does not necessarily indicate that all conditions of development consent have been complied with. The applicant is responsible for ensuring that all conditions of development consent are complied with.

C.78 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.79 Prior to the issue of an Occupation Certificate a Water Plumbing Certificate from Riverina Water County Council shall be submitted to Council.

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

C.80 Prior to the issue of an Occupation Certificate for Stage 3A/3B, signs must be erected that clearly indicate to drivers of vehicles, both on and off the subject land, the driveway by which they are to enter or leave the subject land.

General requirements

C.81 The approved hours of operation for the approved uses of the commercial premises are:

Monday to Saturday	7:00am to 10:00pm
Sundays and Public Holidays	8:00am to 10:00pm

Deliveries, waste collection, and loading is approved during the following hours:

Monday to Saturday	7:00am to 6:00pm
Sundays and Public Holidays	8:00am to 6:00pm

C.82 Should asbestos material be found, it is to be handled, transported and disposed of in accordance with the legislative requirements and standards determined by NSW WorkCover. All weighbridge receipts must be provided to Wagga Wagga City Council, within 14 days of the completion of the demolition/removal.

NOTE 1: All asbestos material needs to be double wrapped in 200µm thick plastic and disposed of at an EPA licensed facility. In this regard it should be noted that Wagga Wagga City Council's Gregadoo Waste Facility is the only EPA licensed facility within the Local Government Area to accept asbestos material. Council's Waste Management Supervisor requires 24 hours notice prior to disposal of this material

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.83 Consent is granted for the use of the Commercial Premises in Building 3A and 3B for the following purposes (as defined by the Wagga Wagga Local Environmental Plan 2010, as relevant):

Office, business and retail premises other than premises that are:
(i) food and drink premises,
(ii) a funeral chapel,
(iii) a funeral home,
(iv) retail premises where firearms within the meaning of the Firearms Act 1996 are sold,
(v) landscaping material supplies,
(vi) a market,
(vii) premises that are a beauty salon or hair dressing salon,
(viii) premises where a skin penetration procedure within the meaning of the Public Health Act 2010 is carried out,
(ix) restricted premises,
(x) a roadside stall,
(xi) sex services premises,
(xii) vehicle sales or hire premises, and

C.84 All loading, deliveries, and waste collection and management shall occur in accordance with the measures set out in the approved 'Loading and Operational Waste Management Plan', unless otherwise agreed to, in writing, by the General Manager or delegate.

C.85 All internal service roads shall be maintained to the satisfaction of the General Manager or delegate. If directed by the General Manager or delegate, the owner of the land on which an internal roads is located shall carry out repairs and maintenance to the satisfaction of the General Manager or delegate.

C.86 No skip bins associated with Buildings 3A and 3B shall be stored external to the building or outside the designated waste rooms.

C.87 The Flood Emergency Response Plan shall be complied with at all times. If any measures to prevent access to the basement become inoperative, all occupants shall be advised, and the measure immediately repaired.

C.88 Parking allocation within the basement carpark shall be consistent with the plan approved under this consent.

C.89 The following minimum number of car parking spaces must be made available on site, or on adjoining land with an appropriate easement, at all times:

Use	Parking Requirement
Shop Top Housing (Residential Apartments) in Building 3A and 3B	142
Ground Floor Commercial Premises in Building 3A and 3B	32
Townhouses	18 (including 16 in the attached garages)
Total	192

The car parks and all associated facilities must be laid out in accordance with Australian Standards AS2890.1.2004, AS2890.2 2018 and AS/NZS2890.6.2022.

C.90 Illumination of the car park must be in accordance with AS 1158.3.1.2020, as amended, lighting for roads and public spaces.

C.91 Provision shall be made for the parking of bicycles on site in accordance with AS 2890.3-2015 “Bicycle parking facilities” is required.

C.92 Wagga Wagga City Councils Engineering Guidelines for Subdivisions and Development shall be referred to for the design of engineering requirements. Any aspect of the design which is not covered in Councils document should reference relevant specifications selected from other sources. Any aspect of the design that is not in accordance or not covered in council's document shall be listed and submitted with the plans for separate approval.

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 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 (clause 69 EP&A Reg 2021)

(1) It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.

(2) It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.

(3) It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with the Building Code of Australia, Volume 1, Part B1 and NSW Part I5.

(4) In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the relevant date.

(5) In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.

(6) This section does not apply-

(a) to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or

(b) to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.

(7) In this section -

relevant date has the same meaning as in the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, section 19.

E.2 Erection of signs (clause 70 EP&A Reg 2021)

(1) This section applies to a development consent for development involving building work, subdivision work or demolition work.

(2) It is a condition of the development consent that a sign must be erected in a prominent position on a 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 certifier for the work, and

(b) showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and

(c) stating that unauthorised entry to the work site is prohibited.

(3) The sign must be-

(a) maintained while the building work, subdivision work or demolition work is being carried out, and

(b) removed when the work has been completed.

(4) This section does not apply in relation to-

(a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or

(b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

E.3 Notification of Home Building Act 1989 requirements (clause 71 EP&A Reg 2021)

(1) This section applies to a development consent for development involving residential building work if the principal certifier is not the council.

(2) It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following-

(a) for work that requires a principal contractor to be appointed-

i. the name and licence number of the principal contractor, and

ii. the name of the insurer of the work under the Home Building Act 1989, Part 6,

(b) for work to be carried out 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 the Home Building Act 1989-the number of the owner-builder permit.

(3) If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.

(4) This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

E.4 Shoring and adequacy of adjoining property (clause 74 EP&A Reg 2021)

(1) This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.

(2) It is a condition of the development consent that 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 on adjoining land from possible damage from the excavation, and

(b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.

(3) This section does not apply if-

(a) the person having the benefit of the development consent owns the adjoining land, or

(b) the owner of the adjoining land gives written consent to the condition not applying.

E.5 Fulfilment of BASIX commitments (clause 75 EP&A Reg 2021)

It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled-

(a) BASIX development,

(b) BASIX optional development, if the development application was accompanied by a BASIX certificate.

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

N/A