

COUNCIL ASSESSMENT REPORT
WESTERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSWES-196 PAN-359350 DA 10.2023.210.1
PROPOSAL	Information and education facility, & Cafe Art (Construction of Bridge Arts Gallery with ancillary cafe and carparking)
ADDRESS	Lot 4 DP 1168208; 74 Meninya Street, Moama NSW 2731
APPLICANT	G Brandrick
OWNER	Bridge Art Project Echuca-Moama Incorporated
DA LODGEMENT DATE	21 August 2023
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 5 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: [community facilities over \$5 million]
CIV	\$9,462,000.00 (including GST)
CLAUSE 4.6 REQUESTS	NIL
LIST OF ALL RELEVANT PLANNING CONTROLS (S4.15(1)(A) OF EP&A ACT)	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>Murray Local Environmental Plan 2011</i> • <i>Murray Development Control Plan 2012</i>
AGENCY REFERRALS	NSW RFS Transport for NSW DPE (Biodiversity and Conservation Division)
TOTAL & UNIQUE SUBMISSIONS	Nil
KEY ISSUES	
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ol style="list-style-type: none"> 1. SEE (Brandrick Architects; August 2023) 2. Updated Plans (Brandrick Architects; October 2023) 3. Car Parking Demand Assessment Report (Trafficworks) 4. Bushfire Hazard Assessment (Harris Environmental Consulting) 5. Cultural Heritage Site Survey Report (Moama LALC) 6. Test of Significance (Hamilton Environmental Services)

	7. Additional Information Provided (Brandrick Architects October 2023)
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	N/A
RECOMMENDATION	Approval with Conditions
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	TBC
PLAN VERSION	Plans 00 to 06 Landscape Plan
ASSESSMENT STATUS	Recommended to be approved subject to conditions of consent
PREPARED BY	Jack Terblanche, Hay Shire Council
DATE OF REPORT	3 November 2023

EXECUTIVE SUMMARY

The proposal seeks consent for an Art Gallery. Specifically, the proposal involves:

- Construction of an Art Gallery and integrated café.
- The building will also include a community room and a storeroom.
- There will be associated landscaping and parking.

The site previously had a building (dwelling house) on it, which has since been demolished. Currently it is vacant, with some native vegetation on the site. The site is at street level on the eastern side, but slopes steeply to the west towards a wetland. The site is located on a commercial street, and is surrounded by mostly retail, professional services and accommodation.

The relevant local environmental plan applying to the site is the Murray Local Environmental Plan 2011 ('the LEP'). The proposed development is consistent with the aims of the Murray LEP 2011. The land is located in the E2 Commercial Centre Zone.

The key issues identified are:

- Traffic and Parking – Access and egress to the parking area (located below the building) is in a forward direction for passenger vehicles, but not for service vehicles. Giving the low frequency and hours of service vehicles, it is deemed to be acceptable for service vehicles to reverse into the parking area. Transport for NSW has given conditions for the development, which was all included. It should also be noted that the development is on a bus route and cycle path.
- Biodiversity – The proposed development will necessitate the removal of some native vegetation, including 11 trees. The canopy of these trees will be 373m². Due to the limited size, there being no understory, and the site being disturbed due to the previous building works and demolition, the impact on biodiversity seems minimal. The proposed development is located within proximity of a wetland, and it will have a

minimal impact on the wetland.

- Flooding – The proposal is in a flood prone area. The main rooms (excluding a storeroom) is located above the 1% AEP. The building is designed in such a way that the floodwaters can move between the piles.
- Bushfire – The proposed development is in a bushfire prone area, with the building designed to have a BAL40 façade to the west, and BAL29 to the rest of the building. The Rural Fire Service has provided extensive conditions to the development, which were all included.

The proposed development fills the gap in an otherwise activated commercial street. It addresses the streetscape, is inviting to pedestrians, and adheres to Crime Prevention Through Environmental Design (CPTED) principles. The development does not have a carpark fronting the street, which makes for better design than some surrounding premises.

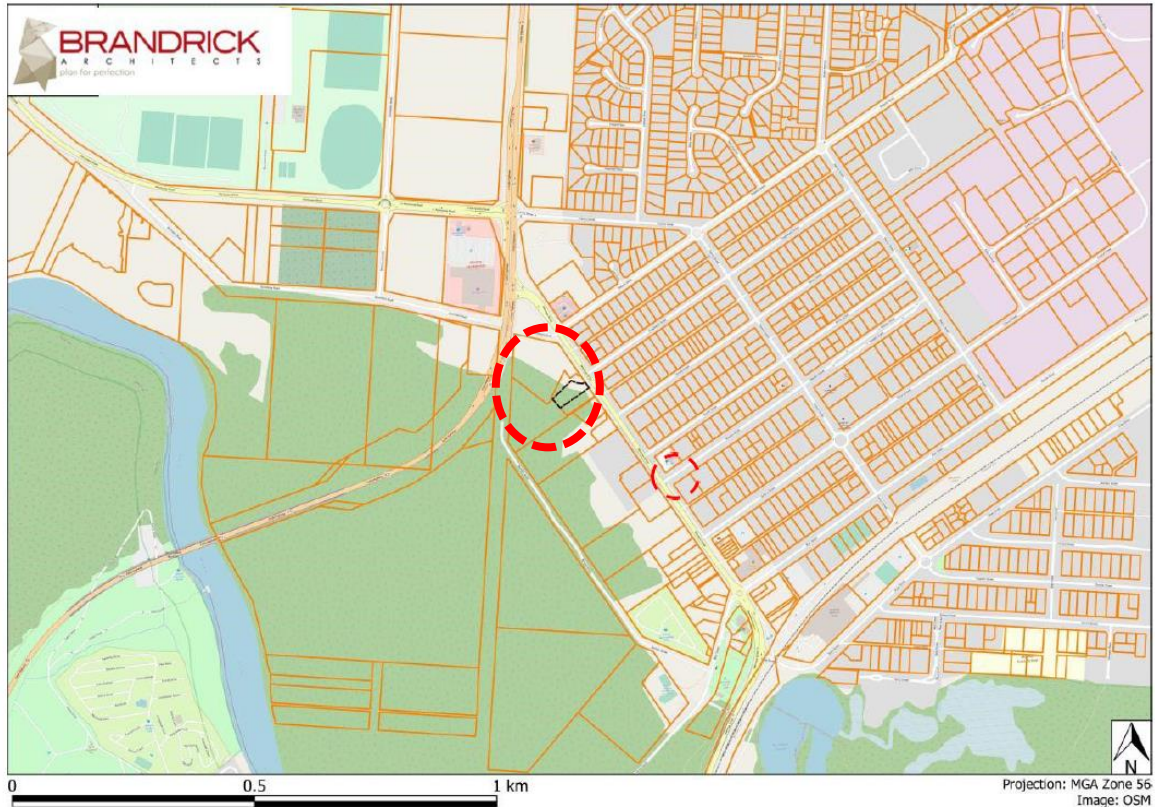
The proposed development has no negative social impacts that are foreseen, and there will be positive economic impact due to direct employment, and the potential sale of local arts. The development can provide a significant contribution to the activation of the precinct.

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised by departments and the key issues identified in this report, it is considered that the application can be supported.

1. THE SITE AND LOCALITY

1.1 The Site

The subject land to which this application relates is described as Lot 4 in DP 1168208 and addressed as 74 Meninya Street Moama. The subject land is located within the main commercial precinct of Moama. The land is earmarked as a major component in the Meninya Street redevelopment being undertaken by the Murray River Council.



1.2 The Locality



The proposed development is a piece of vacant land, with the following surrounding land uses:

- Motel
- Medical Services
- Residential
- Commercial
- Natural area

The property is located on Meninya Street, which is an arterial route into Moama. There are cycle routes and public transport on this route.

The site has a steep slope to the southwest, that leads into a floodprone natural area.

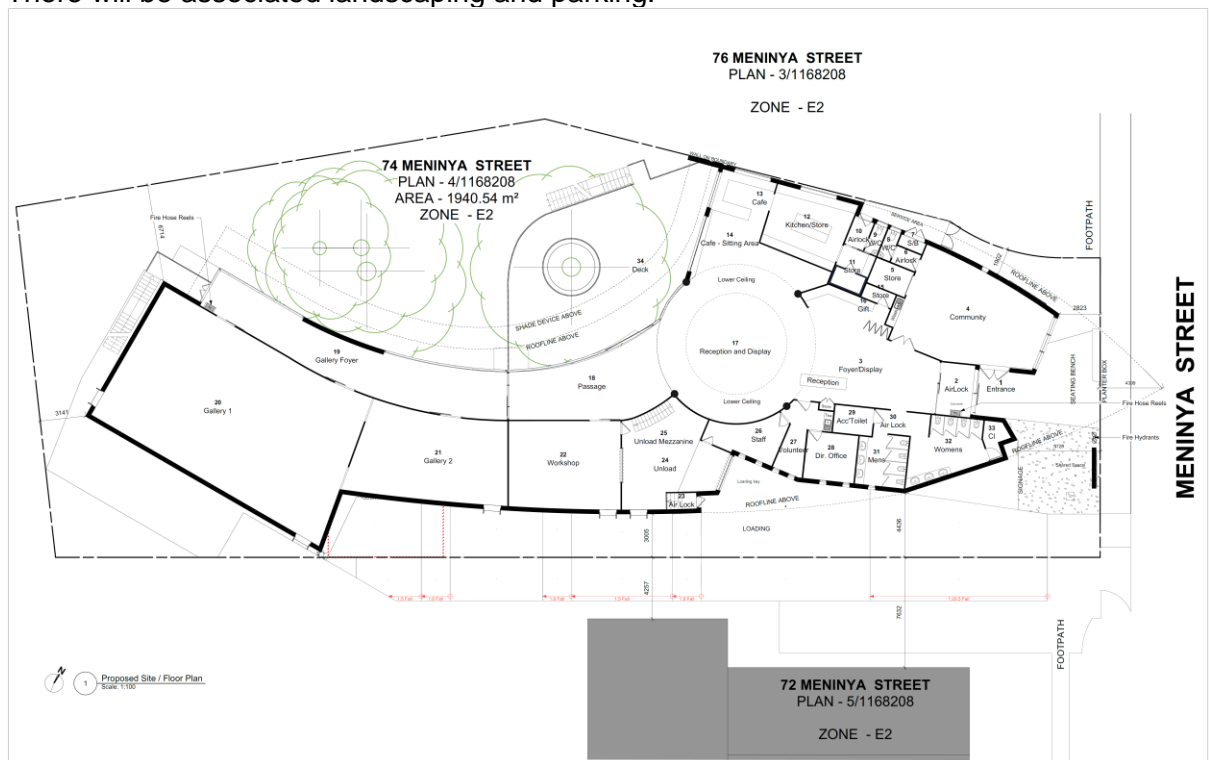
2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for an Art Gallery.

Specifically, the proposal involves:

- Construction of an Art Gallery and integrated café.
- The building will also include a community room and a storeroom.
- There will be associated landscaping and parking.



The Proposed Development

2.2 Background

The development application was lodged on 21 August 2023. A chronology of the development application since lodgement is outlined in the table below

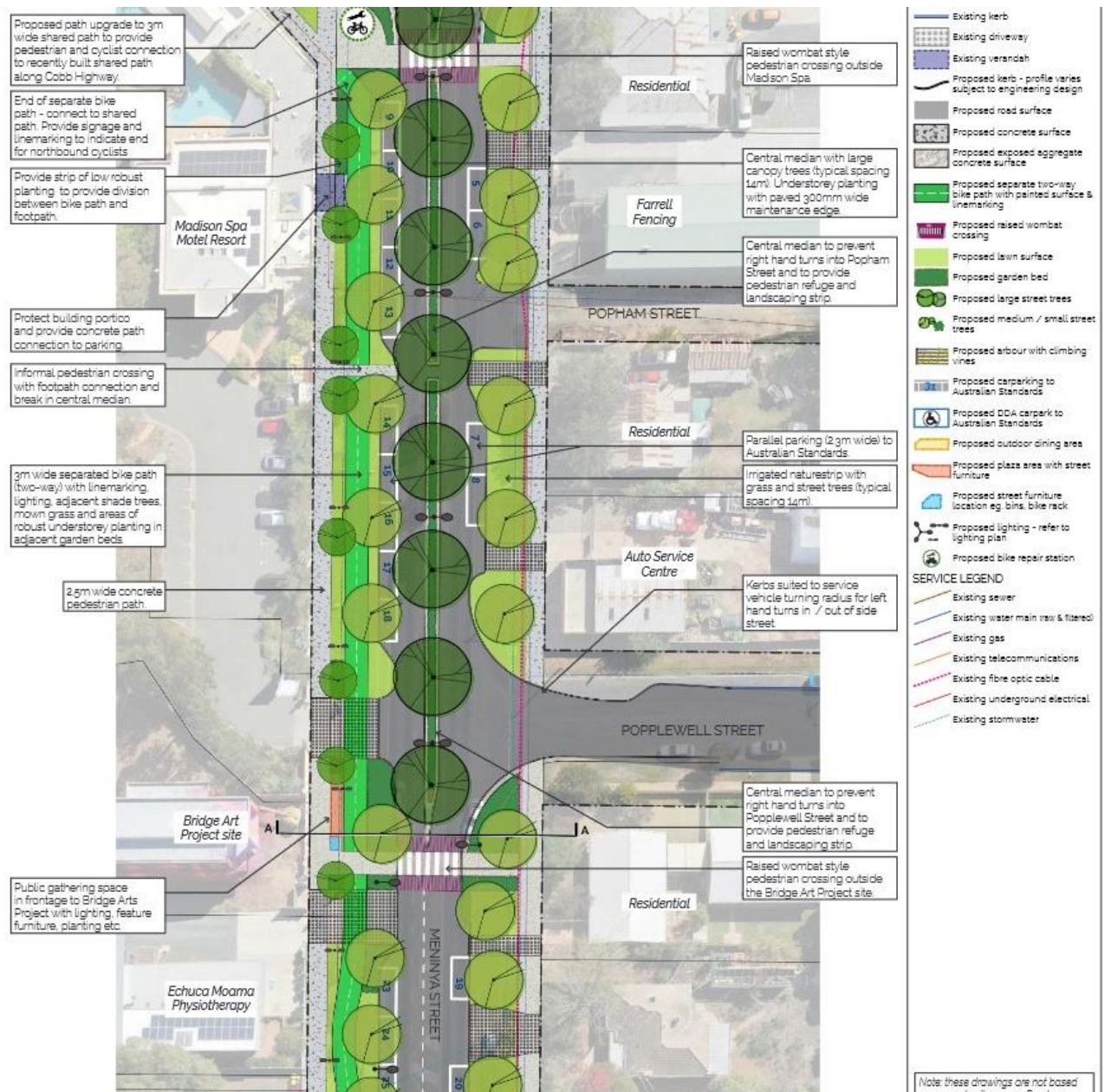
Date	Event
25 August 2023	Exhibition of the application
25 August 2023	DA referred to external agencies
10 October 2023	Panel briefing

2.3 Site History

The site had a dwelling approved, which was partially constructed, and then demolished.

The site forms part of Murray River Council's Meninya Streetscape Design Project and is designated as the Bridge Arts Precinct. Details of the plan are copied below, and full details can be found at:

<https://yoursay.murrayriver.nsw.gov.au/meninya-st-moama>



In the above plan the site is noted as a “Public gathering space” with “lighting, feature furniture, planting etc”. There is a pedestrian crossing proposed to provide access to the site.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

(a) *the provisions of —*

(i) *any environmental planning instrument, and*

(ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

(iii) *any development control plan, and*

(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*

(iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

(v) *(Repealed)*

that apply to the land to which the development application relates,

(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,*

(c) *the suitability of the site for the development,*

(d) *any submissions made in accordance with this Act or the regulations,*

(e) *the public interest.*

These matters are further considered below.

3.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments and DCP's are relevant to this application:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Planning Systems) 2021;
- Murray Local Environmental Plan (LEP) 2011; and
- Murray Development Control Plan 2012.

State Environmental Planning Policy (Biodiversity and Conservation) 2021;

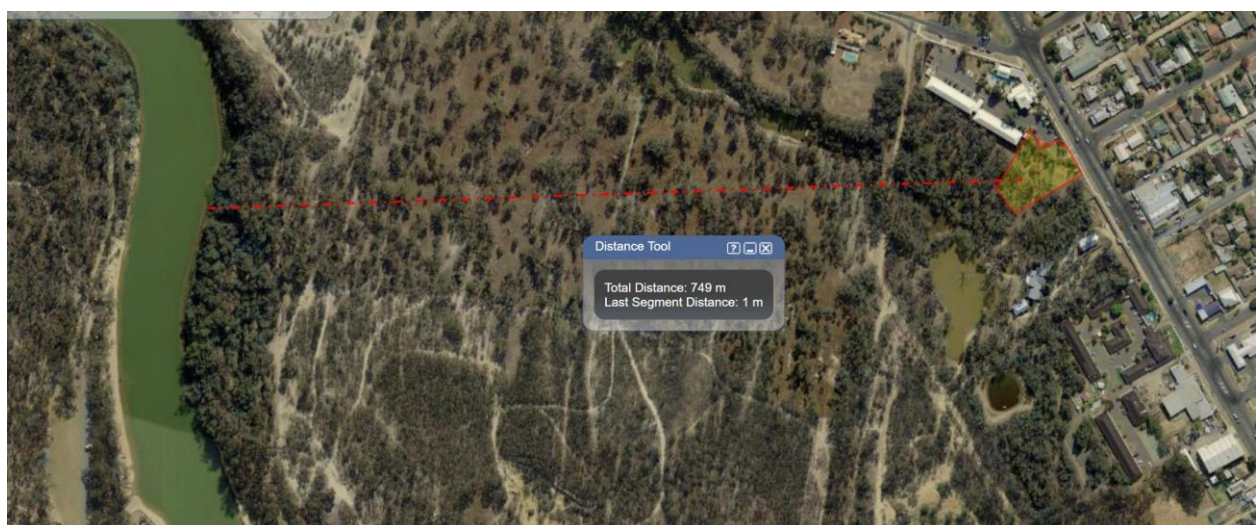
The subject site is mapped as River Murray land under the State Environmental Planning Policy (Biodiversity and Conservation) 2021. Chapter 5 River Murray Lands apply to the land in question. The SEPP has general and specific principles that need to be taken into account in the assessment. Comment are included in the extracts from the SEPP below:

5.8 General principles

When this Part applies, the following must be taken into account—

- (a) the aims, objectives and planning principles of this Chapter,*
- (b) any relevant River Management Plan,*
- (c) any likely effect of the proposed plan or development on adjacent and downstream local government areas,*
- (d) the cumulative impact of the proposed development on the River Murray.*

The proposed development conforms to the General Principles. The development will have a negligible impact on the adjacent and downstream local government areas, and the building design will contribute to having a relatively small ecological footprint. It needs to be kept in mind that the proposed development is approximately 750 m from the bank of the Murray River.



Distance of the development from the river (<https://maps.six.nsw.gov.au/>)

5.9 Specific principles

When this Part applies, the following must be taken into account—

Access

- * The waterway and much of the foreshore of the River Murray is a public resource. Alienation or obstruction of this resource by or for private purposes should not be supported.*
- * Development along the main channel of the River Murray should be for public purposes. Moorings in the main channel should be for the purposes of short stay occupation only.*
- * Human and stock access to the River Murray should be managed to minimise the adverse impacts of uncontrolled access on the stability of the bank and vegetation growth.*

The proposed development is private land, with access being currently limited. The proposed development will rather open up access to the site through being a public use. The development is located away from the main channel. There will be no impact on the stability of the bank and vegetation growth of the river bank, as the proposed development is not close to the bank.

Bank disturbance

- * Disturbance to the shape of the bank and riparian vegetation should be kept to a minimum in any development of riverfront land.*

The proposed development is not close to the bank, and the disturbance of vegetation is at a minimum.

Flooding

- * Where land is subject to inundation by floodwater—*
 - (a) the benefits to riverine ecosystems of periodic flooding,*
 - (b) the hazard risks involved in developing that land,*
 - (c) the redistributive effect of the proposed development on floodwater,*
 - (d) the availability of other suitable land in the locality not liable to flooding,*
 - (e) the availability of flood free access for essential facilities and services,*
 - (f) the pollution threat represented by any development in the event of a flood,*
 - (g) the cumulative effect of the proposed development on the behaviour of floodwater, and*
 - (h) the cost of providing emergency services and replacing infrastructure in the event of a flood.*
- * Flood mitigation works constructed to protect new urban development should be designed and maintained to meet the technical specifications of the Department of Water Resources.*

Part of the land will be inundated by floodwater. The proposed development is raised above the 1% AEP flood level, with only parking and a store room located under this level. The applicant is aware that this room can be flooded. The hazards to the land include the aforementioned flooding and bushfires. The proposed building is in bushfire prone land as well as flood prone land. In reality it is unlikely that the building will be occupied during either bushfire and flood, so the potential loss of life is probably unlikely.

Land degradation

- * Development should seek to avoid land degradation processes such as erosion, native vegetation decline, pollution of ground or surface water, groundwater accession, salination and soil acidity, and adverse effects on the quality of terrestrial and aquatic habitats.*

The development conforms to this. Due to the previous development on the land, the land is

already disturbed.

Landscape

** Measures should be taken to protect and enhance the riverine landscape by maintaining native vegetation along the riverbank and adjacent land, rehabilitating degraded sites and stabilising and revegetating riverbanks with appropriate species.*

The land is not close to the riverbank. The adjacent land will have a minimal impact due to the small footprint of the development.

River related uses

** Only development which has a demonstrated, essential relationship with the river Murray should be located in or on land adjacent to the River Murray. Other development should be set well back from the bank of the River Murray.*

** Development which would intensify the use of riverside land should provide public access to the foreshore.*

The proposed development is set well back from the riverbank.

Settlement

** New or expanding settlements (including rural-residential subdivision, tourism and recreational development) should be located—*

(a) on flood free land,

(b) close to existing services and facilities, and

(c) on land that does not compromise the potential of prime crop and pasture land to produce food or fibre.

Not applicable.

Water quality

** All decisions affecting the use or management of riverine land should seek to reduce pollution caused by salts and nutrients entering the River Murray and otherwise improve the quality of water in the River Murray.*

No salts or nutrients will enter the River from the proposed development.

Wetlands

** Wetlands are a natural resource which have ecological, recreational, economic, flood storage and nutrient and pollutant filtering values.*

Land use and management decisions affecting wetlands should—

(a) provide for a hydrological regime appropriate for the maintenance or restoration of the productive capacity of the wetland,

(b) consider the potential impact of surrounding land uses and incorporate measures such as a vegetated buffer which mitigate against any adverse effects,

(c) control human and animal access, and

(d) conserve native plants and animals.

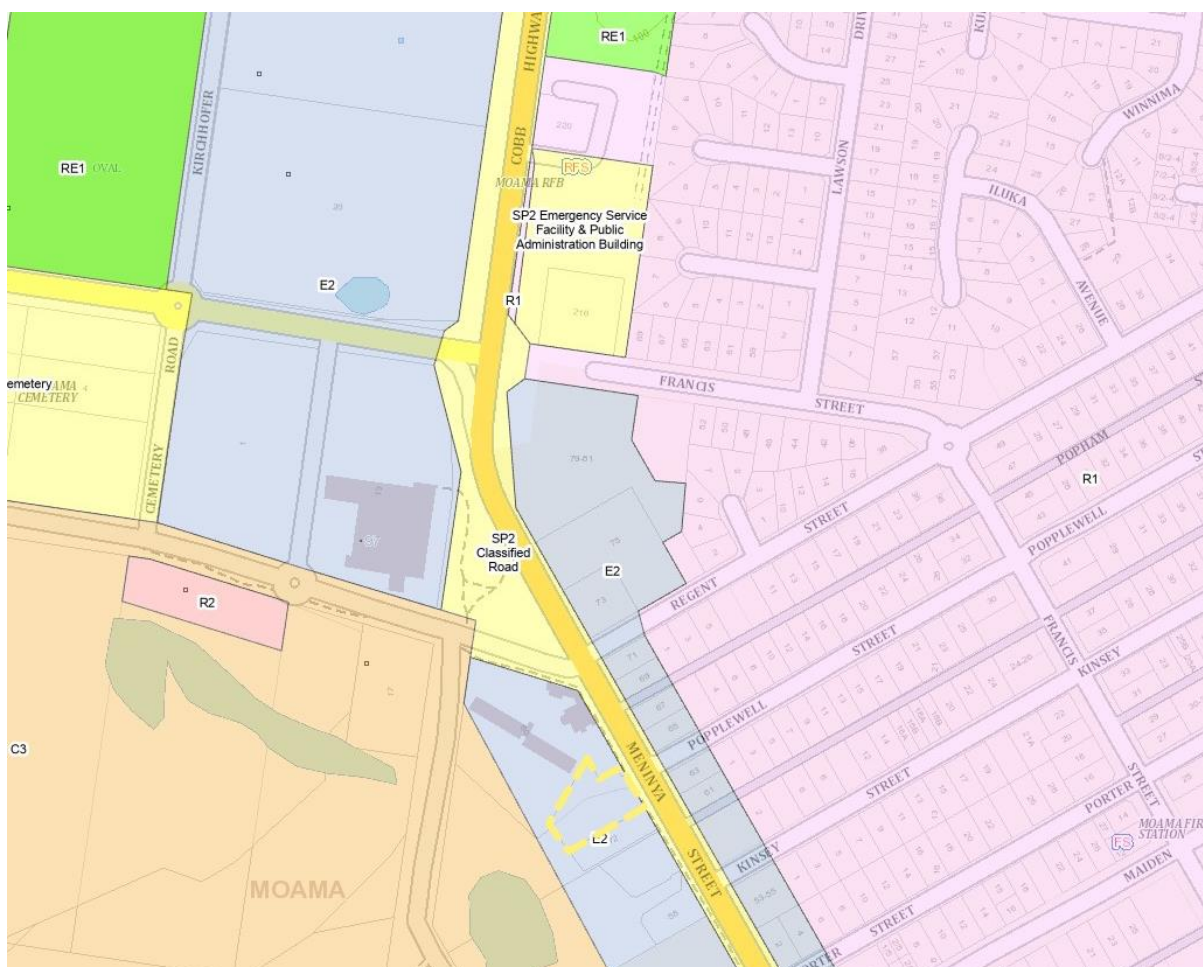
The proposed development will have limited impact on wetlands in the vicinity.

State Environmental Planning Policy (Planning Systems) 2021

State Environmental Planning Policy (Planning Systems) 2021 applies to the proposal as it identifies if development is regionally significant development. In this case, pursuant to section 2.19 of the SEPP, the proposal is a regionally significant development as it satisfies the criteria in Section 5(b) of Schedule 6 of the SEPP as the proposal is development for a *community facility* with a CIV over \$5 million. Accordingly, the Western Regional Planning Panel is the consent authority for the application. It is noted the proposal is not inconsistent with this Policy.

Murray Local Environmental Plan 2011

The relevant local environmental plan applying to the site is the *Murray Local Environmental Plan 2011* ('the LEP'). The proposed development is not specifically inconsistent with the aims of the Murray LEP 2011. The land is located in the E2 Commercial Centre Zone (see the plan below)



The **Objectives** of the E2 Commercial Centre Zone is:

- To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.
- To encourage investment in commercial development that generates employment

opportunities and economic growth.

- *To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.*
- *To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area.*
- *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.*

The proposed development will strengthen the role of the commercial centre as it will attract visitation, pedestrians to a street that needs activation, and will certainly attract cultural activity. The development will be a commercial development that will not only provide direct employment, but also provides a potential income stream offsite, i.e. with local artists. The proposed development addresses the streetscape well, with a permeable and inviting façade, as

can be seen on the right. The proposed development is not set overly far back from the street so that passive observation is limited, the fact that it is set close to the footpath integrates it well with the street. The inviting frontage, the street level entrance and absence of parking in front of the building will create an active and pedestrian friendly street frontage.



The proposed development is **permitted with consent** in the zone, it can be described as a *Community facility* or a *Commercial premises*.

Section 5.21 of the LEP has the following provisions regarding **Flood planning**:

(1) *The objectives of this clause are as follows—*

- (a) *to minimise the flood risk to life and property associated with the use of land,*
- (b) *to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- (c) *to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- (d) *to enable the safe occupation and efficient evacuation of people in the event of a flood.*

(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 riverbanks 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.

Regarding the above provisions:

- The proposed development is compatible with the flood function and behaviour on the land, as the flood waters (which will have limited velocity in the location) will rise and fall under the building, with the exception of a store room that will be inundated.
- There will be no adverse or cumulative impacts on flood behaviour.
- Evacuation of the building will be able to be achieved, as the warning of flooding is usually several weeks, and the water rises slowly.
- The development is unlikely to cause erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses.

Section 7.3 of the LEP has the following provisions regarding **Biodiversity protection**:

(1) The objective of this clause is to maintain aquatic and terrestrial biodiversity by—

(a) protecting native fauna and flora,

(b) protecting the ecological processes necessary for their continued existence,

(c) encouraging the recovery of native fauna and flora and their habitats.

(2) This clause applies to land identified as “Key Fish Habitat” or “Terrestrial Biodiversity” on the Biodiversity Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider whether or not the development—

(a) is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

(b) is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

(c) has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and

(d) is likely to have any adverse impact on the habitat elements providing connectivity on the land.

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

(a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or

(b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

The applicant has completed a “Test of Significance”, and has found the following:

- The property is not in a declared area of outstanding biodiversity value, not mapped as Vulnerable or Sensitive Regulated Land, and is not mapped as an area of Biodiversity Value.
- The property has been partially cleared of vegetation, but there are some mature remnant River Red Gum, with no indigenous shrub layer across the site.
- The proposed development will include the removal of 11 trees, with a canopy extent of 373m².

The proposed development has a small footprint, with vegetation retained as far as practicable, and a design that does not provide barriers between the development and the natural area to the west of the development. The proposed development has a similar development to the south, and a accommodation development to the north, this development fills the gap in between these to developed sites. Also note that the site did contain a building (now demolished) and is disturbed (see older aerial photo on the right).



Clause 7.4 (**Development of River Front Areas**) of the LEP does not apply, as the proposed development is further than 40m from the top of the bank of the Murray River in the E2 Zone. The same applies for Clause 7.4 (**Riparian land and Murray River and other watercourses**).

Section 7.7 of the LEP has the following provisions regarding **Wetlands**:

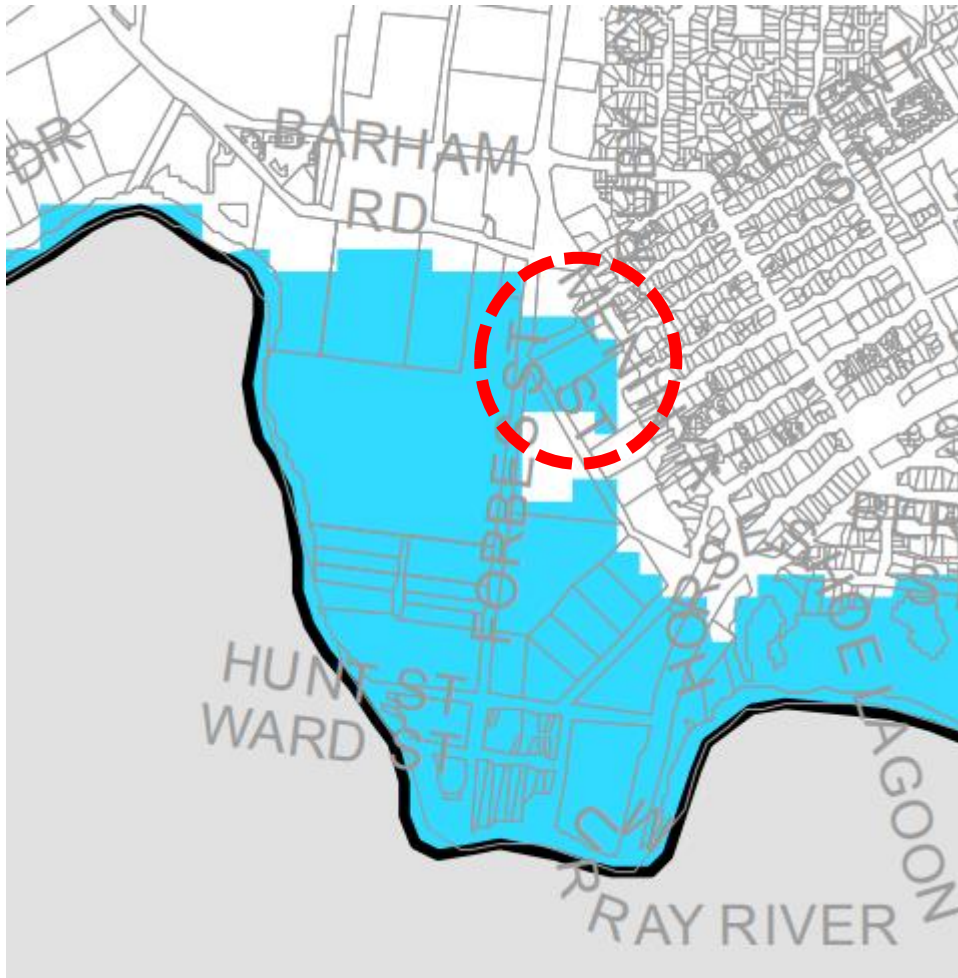
- (1) *The objective of this clause is to ensure that natural wetlands are preserved and protected from the impacts of development.*
- (2) *This clause applies to land identified as “Wetlands and Freshwater Lakes” on the Wetlands Map.*
- (3) *When assessing a development application, the consent authority must consider potential adverse impacts from the proposed development on—*
 - (a) *the growth and survival of native flora and fauna, and*
 - (b) *the condition and significance of the native flora on the land and whether it should be substantially retained, and*
 - (c) *the provision and quality of habitats for indigenous and migratory species, and*
 - (d) *the surface and groundwater characteristics of the site, including water quality, natural water flows and salinity, and*
 - (e) *any wetland in the vicinity of the proposed development, and any proposed measures to minimise or mitigate those impacts.*
- (4) *Before granting consent to development to which this clause applies the consent authority must be satisfied that—*
 - (a) *the development is sited, designed and managed to avoid potential adverse environmental impacts, or*

(b) where an impact cannot be avoided, and having taken into consideration feasible alternatives, the proposed design, construction and operational management of the development will mitigate and minimise those impacts to a satisfactory extent.

The proposed area is mapped as a Wetland in the LEP (see extract below). The development is however separated from the Wetland, although the proposed development will have an impact on the wetland as an adjacent land use. (see the aerial photo on the right). The proposed development will have minimal impact on the growth and survival of native fauna and flora. The condition of the native flora is already substantially disturbed, and it seems unlikely that the removal 373m² of canopy in trees will have a major impact on indigenous and migratory species. The proposed development will have a minimal impact on surface and groundwater, including water quality, natural water flows and salinity.

From the design it is clear that the development is sited and designed to have minimal environmental impact. The building is designed to be suspended above the natural areas, with low key native landscaping surrounding the building. There are no barriers between the proposed development and the natural landscape, which makes it a more environmentally friendly development than the developments surrounding it.





Extract of Wetlands plan (Site circled in red)

There are no **Heritage items**, **Heritage Conservation areas** or **Archaeological sites** in the immediate vicinity of the proposed development, according to Schedule 5 of the LEP.

3.2 Section 4.15(a)(ii) Proposed Instruments

No relevant proposed instruments apply to the site.

3.3 Section 4.15(a)(iii) Any development control plan

Murray Development Control Plan 2012 applies to the proposal.

Chapter 4 applies, with the following objectives for the zone:

- *to encourage orderly and economic development within the Shire having regard to its commercial and retail needs;*
- *to accommodate the expansion of retail, commercial, professional services and community facilities for local residents in convenient locations within the Shire;*

- to promote pedestrian movement and connectivity within commercial areas;
- to ensure that new commercial development is compatible with the character of the area and enhances the streetscape;
- to promote a variety of uses within the Moama and Mathoura town centres that increases their role as a local centres;
- to enhance and consolidate where possible the retail, cultural and civic uses in Moama centred around the Meninya and Blair Street intersection; and
- to consolidate the retail and commercial functions of the Moama and Mathoura town centre and discourage isolated retail development.

The proposed development conforms to the objectives, as it provides a community development, it promotes pedestrian movement through it's design and accessibility, it enhance the streetscape and fills in the gap in the streetscape, it combines cultural and civic uses with a commercial use, and it is not an isolated retail development. The DCP has further provisions in sections 4.1 to 4.6 that the development conforms to, which includes the following:

- The development is located within the existing commercial centre of Moama.
- The development is easily accessible.
- The building is constructed sufficiently to the front building line.
- The building frontage is inviting at street level.
- There are no large expanse of walls on the strette frontage.
- The development conforms to the principles of Crime Prevention Through Environmental Design.
- The car park has more than 10 spaces, and has sufficient internal landscaping.
- Signage is of a minimum and appropriate.
- Car parking will be available at all times during the business hours of the premises.
- The car parking provides minimal conflicts between pedestrians and vehicles.
- Loading facilities are provided at the rear of the building.

3.4 Section 4.15(a)(iia) Planning Agreements

No relevant proposed instruments apply to the site.

3.5 Section 4.15(1)(a)(iv) - Provisions of Regulations

The regulations have been considered in the assessment of this application. It is considered the application is not inconsistent with the objectives of the regulations.

3.6 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered.

Natural Environment:

- Impact on local fauna and flora will be minimal. This has been sufficiently addressed in the "Test of Significance Report" from the applicant.

- There will be 11 trees removed from the site.
- The proposed development will have a minimal impact on the wetlands to the west.
- The proposed development will not influence the current microclimate of the area.

Built Environment

- As mentioned earlier, the proposed development will have a positive impact on the built environment.
- The proposed development addresses the street and contributes to the streetscape, it fills in a gap in the commercial centre of Moama, and is built to a pedestrian scale.

Social Impact

- There are no negative social impacts envisaged.
- The social impacts will in all probability be positive, the proposed development can have an impact as a meeting place, and as a retail space for local artists.
- There can be a traffic impact on neighbouring residences.

Economic Impact

- The proposed development can have a significant economic effect on the area.
- The proposed development will fill in a vacant and cleared site, which will have a positive economic impact on the precinct.
- The proposed development will create employment and will contain locally created artwork.

3.7 Section 4.15(1)(c) – Suitability for the site for the development

The site is suited to the proposed development, as:

- The proposed development fits in with the current commercial character of the zone, and the future cultural character of the zone.
- The proposed development can contribute to the activation of the precinct.
- The proposed development will have a minimal environmental and traffic impact, but the positive aspects of the development overrides these negatives.

3.8 Section 4.15(1)(d) – Submissions

The proposal was notified in accordance with Council's Public Exhibition requirements from 25 August 2023 until 29 September 2023. No submissions were received. Concurrence and referrals are summarized in the tables below.

Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Referral/Consultation Agencies			
RFS	S4.14 – EP&A Act Development on bushfire prone land	<ul style="list-style-type: none"> • General Compliance • Bush Fire Emergency Management and Evacuation Plan needs to be provided. • An APZ needs to be created on neighbouring lots. • Construction standards is specified in terms of AS3959, NASH and PfBFP 2019. • Landscaping is to be done according to PfBFP 2019. 	Y Included in conditions (See further discussion below) .
DPE BCD	Chapter 5 of SEPP Biodiversity and Conversation	<ul style="list-style-type: none"> • Flood level not clear. • Insufficient information on Biodiversity 	Flood level indicated.
Transport for NSW	S138 - Roads Act 1993 for works in the road reserve.	<p>Comments Provided:</p> <ol style="list-style-type: none"> 1. "Vehicular access to the subject site and 72 Meninya Street from Meninya Street shall be via the existing shared driveway only. The shared driveway is to be with a minimum width of 6 metres to provide for 2-way movement. Splitting of the driveway is to occur within the subject site and will require the creation of rights of carriageway to allow for continued legal access. A covenant is to be created, with the Council empowered to uplift, over the subject allotments restricting vehicular access to Meninya Street in accordance with this requirement. 2. The driveway shall be line marked to delineate the ingress and egress traffic lanes to define 2-way traffic movement. Associated directional 	Y Included in conditions

		<p>linemarking shall be installed and maintained in accordance with Australian Standards.</p> <p>3. Pedestrian access into the site shall be provided separate to the vehicle driveways and shall cater for all forms of pedestrian mobility. Landscaping and/or fencing shall be provided along the frontage of the site to Meninya Street to direct pedestrians to the defined pedestrian access point.</p> <p>4. Any landscaping, fencing or signage to be provided within the site or along the boundary with any adjoining road reserve is to be designed and maintained to provide safe sight distance to pedestrians for motorists entering and exiting the site to minimise conflict in accordance with AS2890.1-2004 "Off-street car parking".</p>	
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Council Referrals

The development application has been referred to various Council officers for technical review as outlined in the below table.

Officer	Comments	Resolved
Traffic	<p>"Driveway location/Access requirements.</p> <ul style="list-style-type: none"> The arrangement to have the service vehicle reverse into the site is not supported. The swept path plans must demonstrate the service vehicle being able to enter and exit the site in a forward direction. <p>Assessment of location of services.</p> <ul style="list-style-type: none"> No services plan. Applicant to provide existing and proposed services plan for assessment. Council's mapping indicates the development has access via Meninya St to all required services but this should still be confirmed with a services plan. <p>Please confirm if submitted Maneuverability plans comply with relevant standards.</p> <ul style="list-style-type: none"> See comments above regarding access. " 	<p>Partly.</p> <p>Due to the nature and size of the site it will be detrimental to the design to create a turning radius for service vehicles. Landscaping and established trees will have to be removed.</p> <p>The frequency of service vehicle visits, as well as the hours it will operate, will have limited traffic impact.</p> <p>The site is located on a public</p>

		<p>transportation route and on a bike path.</p> <p>The applicant submitted a "Car Parking Demand Assessment Report", that found the parking provided in the proposed development to be adequate.</p>
Trade Waste	<p>"The café will require a trade waste agreement which can be assessed at the CC stage. The information provided with the DA plans is not sufficient to determine conditions for the required agreement."</p>	<p>Yes. Conditioned</p>
Flooding	<ul style="list-style-type: none"> • " Site is flood prone as illustrated by the 1% AEP Flood Depth Plot (Figure 7-7, Water Technology (09/2022) Flood Study Report, Draft). The mapping has no allowance for 0.5m freeboard. • It is appropriate that the Architect show sections. At least the longitudinal section with floor and ground levels AHD. • Please show the 1% AEP Flood Level and the 1% AEP + Freeboard Level on the cross- and longitudinal sections. 	<p>Yes, additional information has been provided by the applicant.</p>

Bushfire Protection

The RFS provided the following conditions:

General Conditions

1. The development proposal is to generally comply with the following plans/documents except where amended by the conditions of this Bush Fire Safety Authority.

- *The plan titled "Proposed Site/Floor Plan, drawn by Brandrick Architects, Project No: 2021-673, Drawing No: P 02 1, Drawing Date: 29/01/2021"*
- *The bush fire assessment prepared by "Harris Environmental Consulting, Ref: 6124BF, Dated 30/06/2023"*

Emergency Management and Evacuation Plan

2. A Bush Fire Emergency Management and Evacuation Plan must be prepared in accordance with Table 6.8d of Planning for Bush Fire Protection 2019 and be consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan. The plan must also include the following:

- *a mechanism for the early relocation of occupants on days when adverse fire weather is notified or adverse fire activity occurs in the local government area in which the development operates;*
- *contact details for the local Rural Fire Service office;*
- *procedures for coordinated evacuation of the site in consultation with local*

emergency services.

A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information prior to the occupation of the development.

APZs on adjoining land

3. Prior to the issue of a Construction Certificate, under Section 88B of the Conveyancing Act 1919, a restriction shall be placed on neighbouring Lot 3 DP 1168208, Lot 2 DP 1168208 & Lot 5 DP 1168208 in accordance with Figures 10, 11, 12 & 13, pages 17, 18 & 19 of the report titled "Harris Environmental Consulting, Ref: 6124BF, Dated 30/06/2023", burdening the portion of these lots required as an Asset Protection Zone (APZ) for the benefit of the subject development. This APZ shall be maintained as outlined within section 3.2.5 and Appendix 4 of "Planning for Bushfire Protection 2019". The restriction will cease to apply once development on the neighbouring allotment is obligated to maintain an Asset Protection Zone over the same area of land. The restriction shall be worded to ensure this extinguishment is triggered. The name of authority empowered to release, vary, or modify any instrument must be Murray River Council.

Asset Protection Zones

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

APZs within subject site

4. From the commencement of building works and in perpetuity, the entire property must be managed as an inner protection area in accordance with Appendix 4.1.1 of Planning for Bush Fire Protection 2019.

Construction Standards

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

5. New construction to the entire roof, subfloor and western, southern and north-western facades, as depicted in Figure 14 of the report titled "Harris Environmental Consulting, Ref: 6124BF, Dated 30/06/2023", must comply with Sections 3 and 8 (BAL 40) Australian Standard AS3959-2018 Construction of buildings in bushfire-prone areas or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of Planning for Bush Fire Protection 2019.

6. New construction to the remaining external, exposed facades, as depicted in Figure 14 of the report titled "Harris Environmental Consulting, Ref: 6124BF, Dated 30/06/2023", must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 Construction of buildings in bushfire-prone areas or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019.

7. New fences and gates must comply with Section 7.6 of Planning for Bush Fire Protection 2019. New fences and gates are to be made of either hardwood or non-combustible material. Where a fence or gate is constructed within 6m of a dwelling or in areas of BAL-29 or greater, they must be made of non-combustible material only.

Access - Internal Roads

The intent of measure is to provide safe operational access for emergency services personnel in suppressing a bush fire while residents are accessing or egressing an area.

8. Access roads for the proposal must comply with the following requirements of Table 6.8b of Planning for Bush Fire Protection 2019:

- *SFPP access roads are two-wheel drive, all-weather roads;*
- *access is provided to all structures;*
- *traffic management devices are constructed to not prohibit access by emergency services vehicles;*
- *access roads must provide suitable turning areas in accordance with Appendix 3; and*
- *one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression*
- *hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression;*
- *hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005; and*
- *there is suitable access for a Category 1 fire appliances to within 4m of the static water supply where no reticulated supply is available.*

Water and Utility Services

The intent of measure is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

9. The provision of water, electricity and gas must comply with the following in accordance with Table 6.8c of Planning for Bush Fire Protection 2019:

- *reticulated water is to be provided to the development where available;*
- *fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419;*
- *hydrants are and not located within any road carriageway;*
- *fire hydrant flows and pressures comply with the relevant clauses of AS 2419;*
- *all above-ground water service pipes are metal, including and up to any taps;*
- *where practicable, electrical transmission lines are underground;*
- *where overhead, electrical transmission lines are proposed as follows:*
 - *lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and*
 - *no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.*
- *reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;*
- *reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 - The storage and handling of LP Gas, the requirements of relevant authorities, and metal piping is used;*
- *all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;*
- *connections to and from gas cylinders are metal; polymer-sheathed flexible gas supply lines are not used; and*

- above-ground gas service pipes are metal, including and up to any outlets.

Should hydrants not be located on site, the following requirements are to be satisfied:

10. The provision of water must comply with the following in accordance with Table 6.8c of Planning for Bush Fire Protection 2019:

- 10,000 litres of static water supply for firefighting purposes must be provided for each occupied building where no reticulated water is available
- an outlet for firefighting purposes is located within the IPA or non-hazard side and away from the structure
- 65mm Storz connection with a ball valve is fitted to the outlet,
- the ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material,
- underground tanks have an access hole of 200mm to allow tankers to refill, direct from the tank,
- a hardened ground surface for truck access is supplied within 4m of the water outlet or access hole,
- above-ground tanks are manufactured from concrete or metal,
- raised tanks have their stands constructed from non combustible material or bush - fire-resisting timber. The bush fire-resisting timbers are Silvertop Ash, Blackbutt, Red or River Gum, Spotted Gum, Red Ironbark, Kwila (Merbau) or Turpentine,
- unobstructed access can be provided at all times,
- underground tanks are clearly marked,
- tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters,
- all exposed water pipes external to the building are metal, including any fittings,
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack,
- any hose and reel for firefighting connected to the pump must be 19mm internal diameter,
- fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005,
- A Static Water Supply (SWS) sign must be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
 - Markers must be fixed in a suitable location to be highly visible, and
 - Markers should be positioned adjacent to the most appropriate access for the water supply.
- all exposed water pipes external to the building are metal, including any fittings;
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack; any hose and reel for firefighting connected to the pump must be 19mm internal diameter.

Landscaping Assessment

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

11. *Landscaping within the required asset protection zone must comply with Appendix 4 of Planning for Bush Fire Protection 2019. In this regard, the following principles are to be incorporated:*

- *A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;*
- *Planting is limited in the immediate vicinity of the building;*
- *Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);*
- *Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;*
- *Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;*
- *Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;*
- *Avoid planting of deciduous species that may increase fuel at surface/ground level (i.e. leaf litter);*
- *Avoid climbing species to walls and pergolas;*
- *Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;*
- *Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and*
- *Low flammability vegetation species are used.*

The proposed development is in bushfire prone land, and there is a high likelihood of the building being impacted if there is any bushfire in the vicinity. It is assumed that the risk to life is low, in case of bushfire the building will probably be unoccupied, or occupants can evacuate to the east in Meninya Street. The RFS conditions are included in the conditions.

The proposed development relies on APZ's on adjoining land. Planning for Bushfire Protection 2019 states the following:

An APZ imposed by a development consent condition must be maintained for the lifetime of the development, unless modified by a subsequent consent. In order to guarantee that an APZ can be managed in perpetuity, APZs should be contained within the overall development site and not on adjoining lands.

APZs on adjoining land are not encouraged. Where an APZ is proposed on adjoining land, a guarantee must be provided that the land will be managed in perpetuity. In order to achieve this, the land should have an easement under the Conveyancing Act 1919 s.88B to ensure: surety of APZ and the correct management prescriptions; and that management occurs in a binding legal agreement in perpetuity. These situations shall be assessed on their merits.

In such circumstances, the proponent will need to obtain written confirmation from the relevant parties that the easement will continue in perpetuity and that the land subject to the easement will be maintained in a suitable manner. In all cases, the owner of adjoining land must provide written consent for the easement, which shall be lodged with the DA.

Generally the owner/occupier of the land who has benefited from the easement shall be responsible for maintaining the APZ. Where an APZ easement has been established to the benefit of a community title, it shall be maintained in accordance

with a Plan of Management.

Neither the NSW RFS nor a council has the power to impose an APZ on an adjoining landowner for new development. It is therefore the developer's responsibility to negotiate with adjoining land owner/s as part of the DA process. Easements should not be considered where the adjoining land is used for a public purpose and where vegetation management is not likely or cannot be legally granted (eg, National Park, bushland reserve, critical habitat, 'coastal wetlands' or 'littoral rainforests' mapped in the Coastal Management SEPP).

In circumstances where an APZ is proposed on adjoining land, it will be considered as a performance based solution. In addition, the NSW RFS cannot be considered a party to the easement.

The applicant provided an agreement to the easement for the neighboring owners. This will be conditioned.

3.9 Section 4.15(1)(e) - Public interest

The proposed development is in the public interest. The development will have a minimal environmental impact, and the traffic impact will be manageable. The proposed development will have a positive impact on the streetscape, it can have a positive economic impact, and can greatly contribute to the character of the precinct. The proposed development is not at odds with the land use pattern for the area. The proposed development can have a positive social impact, and will enhance the public safety by providing more passive observation on the street. The proposed development is consistent with the aims and objectives of both the LEP and DCP.

4. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

5. RECOMMENDATION

That the Development Application DA 10.2023.210.1 the construction of a Art Gallery on Lot 4 DP 1168208 ; 74 Meninya Street be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the draft conditions of consent attached to this report at Attachment A.

6. ATTACHMENTS

Attached is the Draft Conditions of Consent in Attachment A. Supporting documentation is available on the Planning Portal:

- A. Draft Conditions of Consent

ATTACHMENT A

A. Planning conditions

General Conditions which must be fulfilled

1. Approved plans

The development must be carried out in accordance with the plans and information submitted to and approved by Council. All conditions of consent must be fulfilled at the expense of the Applicant.

Plan No/ Document Title	Revision No.	Author/Drawn By	Date	Drawing Number
P 005	5	Brandrick Architects, Site Plans, Floor Plans, Elevations Pages 1 of 7	2/11/2023	

2. Hours of operation

The hours of operation for the business are:

a) Mondays to Sundays, inclusive of Public Holidays: 24 Hours

Reason: To ensure the development occurs as assessed by Council.

3. Number of people on premises

The maximum number of persons (staff and customers/patrons) permitted on the premises will be assessed and determined as part of the required Construction Certificate in accordance with the Building Code of Australia. Once the maximum number of persons is determined, this number will form part of the Development Consent conditions and must be adhered to during the life of the development.

Reason: To ensure compliance with the Building Code of Australia.

4. Essential fire safety measures

In granting this consent, Council requires the essential fire safety measures, as determined by the Principal Certifier upon assessment of the Construction Certificate, to be installed and maintained to comply with the requirements of the Building Code of Australia. Prior to the issue of an Occupation Certificate the owner must cause the Council to be given a fire safety certificate. The fire safety certificate must state in relation to each essential fire safety measure implemented in the building or on the land on which the building is situated:

- The measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so; and
- As at the date of the assessment the measure was found to be capable of functioning at a standard not less than required by the Schedule attached to the Construction Certificate.

Note: Annual Fire Safety Statements must be submitted to Council and to the Commissioner of Fire and Rescue NSW (FRNSW) (<https://www.fire.nsw.gov.au/page.php?id=9418>) within each twelve-month period certifying the maintenance standard of the Essential Fire Safety Measure installed on the property. Please see the following link for further information regarding notification to FRNSW (<https://www.fire.nsw.gov.au/page.php?id=9157>).

Reason: To comply with the [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Regulation 2021](#).

5. Protection of vegetation

There must be no clearing of any vegetation (including within Council's road reserve) outside of the approved building footprint.

Reason: To comply with the [Biodiversity Conservation Act 2016](#).

6. Aboriginal Cultural Heritage

- No Aboriginal objects may be harmed without an approval from Heritage NSW under the *National Parks and Wildlife Act 1974*.
- If any Aboriginal object(s) are discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the Proponent must:
 - o Not further harm the object(s);
 - o Immediately cease all work at the particular location;
 - o Secure the area to avoid further harm to the Aboriginal object(s);
 - o Notify Heritage NSW as soon as practical by calling 131 555 or emailing: info@environment.nsw.gov.au, providing any details of the Aboriginal object(s) and its location;
 - o Not recommence any work at the particular location unless authorised in writing by Heritage NSW.
- If harm to Aboriginal objects cannot be avoided, an application for an Aboriginal Heritage Impact Permit (AHIP) must be prepared and submitted to Heritage NSW before work may continue.
- If skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and Heritage NSW contacted.

It is the responsibility of the Proponent to ensure the development is consistent with the [Due diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales](#). All reasonable precautions must be taken to prevent damage to Aboriginal objects.

Reason: To protect Aboriginal heritage and to ensure compliance with the [National Parks and Wildlife Act 1974](#).

7. Soil

A suitable soil chemical analysis and investigation report is required if any evidence of contamination on the subject site is found during works. If any evidence of contamination is found, all works at the location must cease immediately. If remediation works are required, works must not recommence on the subject site until Council is satisfied any required remediation techniques have been appropriately completed.

Reason: To ensure the subject site is not contaminated.

8. Loading and unloading

All loading and unloading associated with the development must be carried out within the site.

Reason: To ensure such operations do not interfere with use of the adjoining roadway and/or footpath.

9. Noise control

The emission of noise associated with the use of the premises including the operation of any mechanical plant and equipment must comply with all standards outlined in the [Noise Policy for Industry 2017](#) (NSW EPA) & [A Guide to the Noise Policy for Industry](#) (NSW EPA).

In the event the use exceeds permitted levels, the person in control of the premises must arrange for an acoustic investigation to be carried out by an accredited acoustic engineer and implement those measures to reduce noise to acceptable levels. Additional ongoing mitigations will be required to be installed and maintained for the life of the development.

Reason: To protect the amenity of the area and to comply with the [Protection of the Environment Operations Act 1997](#) and [Noise Policy for Industry 2017](#).

10. Amenity protection

The approved development must not adversely affect the amenity and environment of the neighbourhood in any way including:

- i. The appearance of any buildings, works or materials used.
- ii. The parking or movement of motor vehicles.
- iii. The transporting of materials or goods to or from the site.
- iv. Noise, air and water discharges from the site.
- v. Electrical interference.
- vi. The storage and handling of garbage, fuels, chemicals, pesticides, gasses, waste products or other materials.
- vii. Emissions or discharges into the surrounding environment including, from wastewater, sediment, dust, vibration, odours or other harmful products.

Note: The Applicant must notify, at the earliest opportunity, Murray River Council of any incident which has caused, or threatens to cause, material harm to the environment. For any other incident associated with the development, the Applicant must notify Murray River Council as soon as practicable after the Applicant becomes aware of the incident. Within 7 days of the date of the incident, the Applicant must provide Murray River Council with a detailed report on the incident, and such further reports as may be requested.

Reason: To protect the amenity of the adjoining area.

11. Security

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

Reason: To ensure the use of the property does not detrimentally affect neighbouring properties.

12. Signage

The Business Identification Signage must be maintained in a presentable and satisfactory state of repair. If any deterioration of the development becomes noticeable, the Business Identification signage must be replaced or removed as soon as possible to ensure the visual amenity of the area is maintained.

The level of illumination and/or lighting intensity used to illuminate the sign/s shall comply with AS 1158 and AS 4282.

Reason: To maintain the visual amenity of the adjoining area.

13. Display of Goods on Footpath

No goods are to be displayed outside the confines of the building. At all times, the loading, car parking spaces, driveways and footpaths shall be kept clear of goods and shall not be used for storage purposes.

Reason: To ensure the development occurs as assessed by Council.

14. Storage or Hazardous Goods

Dangerous and hazardous goods shall be stored in accordance with SafeWork NSW requirements, dependant on the quantities stored. Any flammable or combustible liquids shall be stored in accordance with AS 1940 'The Storage and Handling of Flammable and Combustible Liquids'.

Hazardous and/or industrial waste arising from the use shall be removed and/or transported in accordance with the requirements of the EPA and SafeWork NSW.

Reason: To ensure such operations do not interfere with use of the adjoining roadway and/or footpath.

15. Delivery Vehicles Operating Hours

Delivery vehicles to the site shall only occur between the hours of 7.00am – 10.00pm Monday to Saturday and 8.00am – 10.00pm Sunday.

Reason: To ensure such operations do not interfere with use of the adjoining roadway and/or footpath.

16. Parking – Signage (Loading docks)

Proposed parking areas, service bays, truck docks, driveways and turning areas shall be maintained clear of obstructions and be used exclusively for purposes of car parking, loading/ unloading, and vehicle access respectively for the life of the development. Under no circumstances are such areas to be used for the storage of goods or waste materials.

Reason: To ensure such operations do not interfere with use of the adjoining roadway and/or footpath.

17. Liquid Spills

Sufficient supplies of appropriate absorbent materials and other spill prevention and clean-up materials shall be kept on site to recover any liquid spillage. Liquid spills shall be cleaned up using dry methods, by placing absorbent material on the spill and sweeping or shovelling the material into a secure bin. Materials used to clean up shall be disposed of to an appropriately licensed waste facility.

Reason: To ensure no amenity impacts occur as a result of the development.

18. Storage of goods

The storage of goods and materials shall be confined within the building. At no time shall goods, materials or advertising signs be displayed or placed within the designated car parking spaces, landscaped areas or road reserve.

Reason: To ensure such operations do not interfere with use of the adjoining roadway and/or footpath.

19. Storage of Waste Oil

The premises shall contain adequate holding facilities for the reception of waste oil and a contract for the recycling of this oil shall be provided to Council.

Reason: To ensure the development occurs as assessed by Council.

Compliance with Government Department and Council conditions of consent

Environmental Health

20. The Applicant must comply with all comments and requirements outlined in Council's Environmental Health Coordinator correspondence, attached to this Development Consent as Appendix 1.

Reason: To ensure compliance with Australian Standards and ensure the development is carried out as assessed by Council.

Transport for NSW

21. Vehicular access to the subject site and 72 Meninya Street from Meninya Street shall be via the existing shared driveway only. The shared driveway is to be with a minimum width of 6 metres to provide for 2-way movement. Splitting of the driveway is to occur within the subject site and will require the creation of rights of carriageway to allow for continued legal access. A covenant is to be created, with the Council empowered to uplift, over the subject allotments restricting vehicular access to Meninya Street in accordance with this requirement.
22. The driveway shall be line marked to delineate the ingress and egress traffic lanes to define 2-way traffic movement. Associated directional linemarking shall be installed and maintained in accordance with Australian Standards.
23. Pedestrian access into the site shall be provided separate to the vehicle driveways and shall cater for all forms of pedestrian mobility. Landscaping and/or fencing shall be provided along the frontage of the site to Meninya Street to direct pedestrians to the defined pedestrian access point.
24. Any landscaping, fencing or signage to be provided within the site or along the boundary with any adjoining road reserve is to be designed and maintained to provide safe sight distance to pedestrians for motorists entering and exiting the site to minimise conflict in accordance with AS2890.1-2004 "Off-street car parking". The Applicant must comply with all comments and requirements outlined in TfNSW correspondence.

Reason: To ensure compliance with TfNSW requirements.

NSW Rural Fire Service

General Conditions

25. The development proposal is to generally comply with the following plans/documents except where amended by the conditions of this Bush Fire Safety Authority.
- The plan titled "Proposed Site/Floor Plan, drawn by Brandrick Architects, Project No: 2021-673, Drawing No: P 02 1, Drawing Date: 29/01/2021"
 - The bush fire assessment prepared by "Harris Environmental Consulting, Ref: 6124BF, Dated 30/06/2023"

Emergency Management and Evacuation Plan

26. A Bush Fire Emergency Management and Evacuation Plan must be prepared in accordance with Table 6.8d of Planning for Bush Fire Protection 2019 and be consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan. The plan must also include the following:
- a mechanism for the early relocation of occupants on days when adverse fire weather is notified or adverse fire activity occurs in the local government area in which the development operates;
 - contact details for the local Rural Fire Service office;
 - procedures for coordinated evacuation of the site in consultation with local emergency services.

A copy of the Bush Fire Emergency Management and Evacuation Plan should be

provided to the Local Emergency Management Committee for its information prior to the occupation of the development.

APZs on adjoining land

27. Prior to the issue of a Construction Certificate, under Section 88B of the Conveyancing Act 1919, a restriction shall be placed on neighbouring Lot 3 DP 1168208, Lot 2 DP 1168208 & Lot 5 DP 1168208 in accordance with Figures 10,11,12 & 13, pages 17,18 & 19 of the report titled "Harris Environmental Consulting, Ref: 6124BF, Dated 30/06/2023", burdening the portion of these lots required as an Asset Protection Zone (APZ) for the benefit of the subject development. This APZ shall be maintained as outlined within section 3.2.5 and Appendix 4 of "Planning for Bushfire Protection 2019". The restriction will cease to apply once development on the neighbouring allotment is obligated to maintain an Asset Protection Zone over the same area of land. The restriction shall be worded to ensure this extinguishment is triggered. The name of authority empowered to release, vary, or modify any instrument must be Murray River Council.

APZs within subject site

28. From the commencement of building works and in perpetuity, the entire property must be managed as an inner protection area in accordance with Appendix 4.1.1 of Planning for Bush Fire Protection 2019.

Construction Standards

29. New construction to the entire roof, subfloor and western, southern and north-western facades, as depicted in Figure 14 of the report titled "Harris Environmental Consulting, Ref: 6124BF, Dated 30/06/2023", must comply with Sections 3 and 8 (BAL 40) Australian Standard AS3959-2018 Construction of buildings in bushfire-prone areas or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of Planning for Bush Fire Protection 2019.
30. New construction to the remaining external, exposed facades, as depicted in Figure 14 of the report titled "Harris Environmental Consulting, Ref: 6124BF, Dated 30/06/2023", must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 Construction of buildings in bushfire-prone areas or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019.
31. New fences and gates must comply with Section 7.6 of Planning for Bush Fire Protection 2019. New fences and gates are to be made of either hardwood or non-combustible material. Where a fence or gate is constructed within 6m of a dwelling or in areas of BAL-29 or greater, they must be made of non-combustible material only.

Access - Internal Roads

32. Access roads for the proposal must comply with the following requirements of Table 6.8b of Planning for Bush Fire Protection 2019:
- SFPP access roads are two-wheel drive, all-weather roads;
 - access is provided to all structures;
 - traffic management devices are constructed to not prohibit access by emergency services vehicles;
 - access roads must provide suitable turning areas in accordance with Appendix 3; and
 - one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure

accessibility to reticulated water for fire suppression

- hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression;
- hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005; and
- there is suitable access for a Category 1 fire appliances to within 4m of the static water supply where no reticulated supply is available.

Water and Utility Services

33. The provision of water, electricity and gas must comply with the following in accordance with Table 6.8c of Planning for Bush Fire Protection 2019:

- reticulated water is to be provided to the development where available;
- fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419;
- hydrants are and not located within any road carriageway;
- fire hydrant flows and pressures comply with the relevant clauses of AS 2419;
- all above-ground water service pipes are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 - The storage and handling of LP Gas, the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal; polymer-sheathed flexible gas supply lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

Should hydrants not be located on site, the following requirements are to be satisfied:

34. The provision of water must comply with the following in accordance with Table 6.8c of Planning for Bush Fire Protection 2019:

- 10,000 litres of static water supply for firefighting purposes must be provided for each occupied building where no reticulated water is available
- an outlet for firefighting purposes is located within the IPA or non-hazard side and away from the structure
- 65mm Storz connection with a ball valve is fitted to the outlet,
- the ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material,
- underground tanks have an access hole of 200mm to allow tankers to refill, direct from the tank,
- a hardened ground surface for truck access is supplied within 4m of the water outlet or access hole,
- above-ground tanks are manufactured from concrete or metal,
- raised tanks have their stands constructed from non combustible material or bush - fire-resisting timber. The bush fire-resisting timbers are Silvertop Ash, Blackbutt, Red or River Gum, Spotted Gum, Red Ironbark, Kwila (Merbau) or Turpentine,

- unobstructed access can be provided at all times,
- underground tanks are clearly marked,
- tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters,
- all exposed water pipes external to the building are metal, including any fittings,
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack,
- any hose and reel for firefighting connected to the pump must be 19mm internal diameter,
- fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005,
- A Static Water Supply (SWS) sign must be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
 - Markers must be fixed in a suitable location to be highly visible, and
 - Markers should be positioned adjacent to the most appropriate access for the water supply.
- all exposed water pipes external to the building are metal, including any fittings;
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack; any hose and reel for firefighting connected to the pump must be 19mm internal diameter.

Landscaping Assessment

35. Landscaping within the required asset protection zone must comply with Appendix 4 of Planning for Bush Fire Protection 2019. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- Planting is limited in the immediate vicinity of the building;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

Reason: To ensure compliance with NSW RFS requirements.

Conditions which must be fulfilled prior to the release of the Construction Certificate

36. Section 88B Instrument

Prior to the issue of a Construction Certificate, under Section 88B of the Conveyancing Act 1919, a restriction shall be placed on neighboring lots in line with Condition 27 of this consent.

Reason: To ensure compliance with NSW RFS requirements.

37. Section 7.11 and Section 64 charges

The payment of Section 7.11 Development Contributions and Section 64 sewerage and water headworks charges are applicable and must be paid to Council prior to the release of the Construction Certificate. The fees are charged and calculated in accordance with Council's Adopted Fees and Charges at the time the Development Application is determined. See below:

Categorising development into separate uses as per the Murray Shire Council Development Contributions Plan 2011 and 'The Guide'

- The below table separates the floor plan into different uses and applies trip generation accordingly.
- The highlighted columns include a number between "Factories Covered by Light Industry and Office/Commercial. 10.5VPD is halfway between the two categories.

No	Space Name	GFA(m2)	Contributions	VPD/unit	VPD
2	AirLock	8.8	Office	16	1.408
3	Foyer/Display	44.9	Office	16	7.184
4	Community	62	Hybrid	10.5	6.51
5	Store	5.1	Hybrid	10.5	0.5355
6	Airlock	2.2	Hybrid	10.5	0.231
7	S/B	1.4	Hybrid	10.5	0.147
8	W/C	1.9	Hybrid	10.5	0.1995
9	W/C	1.9	Café	60	1.14
10	Airlock	2.8	Café	60	1.68
11	Store	6.9	Café	60	4.14
12	Kitchen/Store	25	Café	60	15
13	Cafe	10.1	Café	60	6.06
14	Cafe - Sitting Area	23.6	Café	60	14.16
15	Store	2.2	Market (see 15)		
16	Gift	11.4	Market (1 stall)		18
17	Reception and Display	91.6	Hybrid	10.5	9.618

18	Passage	51.5	Hybrid	10.5	5.4075
19	Gallery Foyer	68.1	Hybrid	10.5	7.1505
20	Gallery 1	178.1	Hybrid	10.5	18.7005
21	Gallery 2	63.3	Hybrid	10.5	6.6465
22	Workshop	46.9	Light Industry	5	2.345
23	Air Lock	2.3	Light Industry	5	0.115
24	Unload	35.8	Light Industry	5	1.79
25	Unload Mezzanine	28.6	Light Industry	5	1.43
26	Staff	14.5	Office	16	2.32
27	Volunteer	13.4	Office	16	2.144
28	Dir. Office	10.3	Office	16	1.648
29	Acc'Toilet	5.6	Hybrid	10.5	0.588
30	Air Lock	4.3	Hybrid	10.5	0.4515
31	Mens	12.1	Hybrid	10.5	1.2705
32	Womens	21.4	Hybrid	10.5	2.247
33	Cl	3.3	Hybrid	10.5	0.3465
34	Deck	126.5	Hybrid	10.5	13.2825
35	Fire Retreat/ Community	68.3	Hybrid	10.5	7.1715

Total 1056 sq m

Total 161.0675

ET 24.779615

Contribution \$53,523.97

Section 64 Contributions

- Use area for offices and restaurant/café from Section 64 Contributions Plan (*Table 2: Standard ET Figures - Commercial User Categories*)
- $0.01\text{ET}/\text{m}^2 \times 1056\text{m}^2 = 10.56\text{ET}$ for Sewer and Water

	CONTRIBUTION RATE (% OF ET)	CONTRIBUTION AMOUNT (23/24 rates)		
DEVELOPMENT	1 additional lot = 1 ET	SEWER	RAW WATER	FILTERED WATER
	Fee/ET for Moama	\$1,700.00	\$400.00	\$3,650.00
Office/Commerical and Restaurant/Café (1056/m2)	Water ET = 0.01×1056 = 10.56ET Sewer ET = 0.01×1056 = 10.56ET	\$17,952.00	\$4,224.00	\$38,544.00
Total = \$60,720.00				

Total Contributions:

\$53,523.97 + \$60,720 = \$114,243.97

Please see **Fee Invoice 1561** for more information, and please contact Council's Administration for payment.

It is noted Council staff do not have delegation to vary Council's adopted Contributions Policy and any variations are required to be approved by Council. The Applicant may request a review of determination under Section 8.3 of the *Environmental Planning and Assessment Act 1979* within 6 months of the date of this notice. A fee is payable to Council.

The subject Section 7.11 Development Contributions are imposed under the former Murray Shire Council Section 94 Development Contributions Plan 2011, of which is available for inspection at Murray River Council's Moama office, 52 Perricoota Road, Moama NSW 2731, or on Council's website at www.murrayriver.nsw.gov.au.

Reason: To comply with Council's Development Contribution policies.

38. Liquid Trade Waste

A Liquid Trade Waste agreement must be concluded with Council prior to the issue of a Construction Certificate. Please contact Council to obtain an application to discharge Liquid Trade Waste from Council (Note: a fee on application submission will apply).

Reason: To ensure compliance with [Murray River Council Liquid Trade Waste Regulation Policy](#) and State Government requirements.

39. Stormwater drainage

All stormwater runoff from the development must be collected on-site and conveyed to a lawful point of adequate capacity in a manner which is consistent with the latest version of *Australian Standard 3500.3.2021*, and does not impede or direct natural surface water runoff to not result in causing nuisance to adjoining properties. All stormwater construction work must be undertaken in accordance with the approved hydraulic design and calculations approved under the Construction Certificate.

Reason: To ensure stormwater is adequately and appropriately disposed of from the building.

40. Environmental Management Plan

An Environmental Management Plan (EMP) must be prepared and provided to Council for approval to address the manner in which site operations are to be conducted and monitored to ensure that adjoining land uses and the natural environment is not unacceptably impacted upon by the proposal.

The Environment Management Plan shall include but not be necessarily limited to the following measures:

- a) Measures to control noise emissions from the site;
- b) Measures to suppress odours and dust emissions;
- c) Soil and sediment control measures;
- d) Measures to control air emissions that includes odour;
- e) Measures and procedures for the removal of hazardous materials that includes waste and their disposal;
- f) Any other recognised environmental impact; and
- g) Community Consultation.

Reason: To ensure no amenity impacts occur as a result of the development.

41. Long Service Levy

Before the issue of a Construction Certificate, the long service must be paid to the Long Service Corporation of Council under the *Building and Construction Industry Long Service Payments Act* 1986, Section 34, and evidence of the payment must be provided to the Principal Certifier.

Reason: To ensure the long service levy is paid.

Conditions which must be fulfilled prior to the commencement of any works

42. Construction Certificate

A Construction Certificate must be **submitted to and approved by a nominated Certifier** prior to any building works taking place on the subject site. The Construction Certificate must be lodged via the [NSW Planning Portal](#). The Construction Certificate must include a full services plan.

Reason: To comply with the [Environmental Planning and Assessment Act 1979](#).

43. Erosion and sedimentation controls

Erosion and sedimentation controls must be installed and maintained on site in accordance with the approved plan for the duration of construction works. Erosion and sediment controls must be installed in accordance with the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book)(as amended from time to time).

Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

44. Temporary water closet

A temporary water closet accommodation must be provided onsite during construction. This facility must be located onsite to not create a nuisance to any adjoining properties.

Reason: To ensure suitable facilities are provided for workers during construction and to comply with requirements for Work Health and Safety on worksites.

45. Works in road reserve

An application must be made to Council prior to constructing hard surface driveways, footpaths or the like on or over the road reserve. Any works in the road reserve, including landscaping, require approval under the [Roads Act 1993](#). The relevant application must be lodged via the [NSW Planning Portal](#). Please contact Council's Infrastructure Department for more information.

Reason: To comply with the [Roads Act 1993](#).

46. Section 68 Application

An application under Section 68 of the [Local Government Act 1993](#) must be lodged with Council via the [NSW Planning Portal](#) (**application fees apply**) and approved prior to the following works commencing on the site:

- a. To carry out water supply, sewerage and stormwater drainage work in accordance with Part B of Section 68 of the [Local Government Act 1993](#).

Once the Section 68 approval has been granted, before any sanitary plumbing and drainage work or water supply work (up to the point of connection) is commenced, a Notice of Work (NoW) must be submitted to Council 48 hours **prior to works commencing**. On completion of work, the licensed plumber/drainage must apply for an inspection (inspection fees apply) and a Certificate of Compliance (CoC) must be submitted to Council. A Sewer Service Diagram (SSD) must also be provided to Council upon completion of the drainage works.

Reason: To comply with the [Local Government Act 1993](#) and to ensure the installation of plumbing and drainage work is in accordance with Australian Standards and the [Plumbing Code of Australia](#).

Conditions which must be complied with during works and in perpetuity

47. Vehicles during construction

Vehicles must be clean and free of debris prior to leaving the site. Deposited material may be ordered to be removed at the Applicant/operator's expense.

Reason: To ensure sediment is not trafficked onto Council's road network.

48. Waste Containment

Designated waste containment areas must be provided on site and maintained to prevent any windblown litter escaping from the site.

Reason: To comply with the [Protection of the Environment Operations Act 1997](#) and to preserve the environmental health and amenity of the adjoining area.

49. Council property

Any damage or deterioration to any Council property including footpaths, road reserves, or removal of any existing street trees, must be reinstated to its original condition at the Applicant's expense to the satisfaction of Council. Replacement tree(s) must be the same species and size as the one removed.

Reason: To maintain safe access for pedestrians and to protect the amenity of the area.

50. Minimise dust and noise

The Applicant must undertake measures to minimise dust and noise and ensure the impact on neighbouring properties is minimised. The operating noise level of plant and equipment during works must not exceed 5LAeq above the background noise level when measured at the boundaries of the premises. The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise.

Reason: To minimise environmental and amenity impacts and to comply with the [Protection of the Environment Operations Act 1997](#), and to preserve the environmental health and amenity of the adjoining area.

51. Time of work

Work must not commence on the site before 7am on weekdays and Saturdays and 8am on Sundays and public holidays. All works must cease by 8pm on any day.

Reason: To protect the amenity of the area.

52. No pollution of waterways

The Applicant must take all necessary precautions and implement measures to prevent pollution of waterways during construction and operation of the development.

Reason: To comply with NSW EPA requirements.

53. Location of Stockpiles

Stockpiles of soil shall not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies.

Reason: To ensure no contamination of waterways occurs as a result of the development.

54. No obstruction of road reserve permitted

The road reserve must not be obstructed by any materials, vehicles, refuse skips or the like, under any circumstances. All activities including loading/unloading of vehicles associated with this development must be undertaken within the subject site.

Reason: To protect the amenity of the area.

Conditions which must be fulfilled prior to the release of the Occupation Certificate or use of the development

55. Occupation Certificate

The Applicant must not allow or permit the building (or part of the building, in the case of alteration or additions) to be occupied or used, until:

- a) All conditions of this consent have been completed in full;
- b) An application for an Occupation Certificate has been completed and lodged with the Principal Certifier via the [NSW Planning Portal](#); and
- c) The Principal Certifier has issued an Occupation Certificate.

Reason: To comply with the [Environmental Planning and Assessment Act 1979](#).

56. Driveway

Prior to the issue of an Occupation Certificate a commercial standard plain concrete driveway and layback gutter, to Council specifications, must be constructed from the kerb to the property boundary. A separate application must be made to Council for approval to construct the driveway.

Note: Please contact Council's Infrastructure Department to ascertain who undertakes these works.

Reason: To protect Council assets and to comply with the [Roads Act 1993](#).

57. Landscaping

All landscape works must be constructed in accordance with the stamped approved plan. Landscaping must be maintained:

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

If any of the vegetation comprising landscaping dies or is removed, it must be replaced with vegetation of the same species and the same maturity, as the vegetation which died or was removed.

Reason: To ensure the site is appropriately landscaped.

58. Car parking

All areas set aside of access and vehicle parking on the approved construction plans must be constructed to the satisfaction of the Council, including:

- (a) Surfaced with an impervious all-weather seal coat;
- (b) Drained in accordance with an approved stormwater drainage plan;
- (c) Properly illuminated with lighting designed, baffled and located to prevent any adverse effect on adjoining land;
- (d) Measures taken to prevent damage to fences or landscaped areas;
- (e) Provision of traffic control signage or structures as required;
- (f) Provision of signage directing drivers to areas set aside of car parking;

Reason: To ensure there is suitable car parking on the site.

59. Waste receptacle area

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

Reason: To ensure a waste receptacle area is provided.

60. Fire Safety Certificate

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

Note: Annual Fire Safety Statements must be submitted to Council and to the Commissioner of Fire and Rescue NSW (FRNSW) (<https://www.fire.nsw.gov.au/page.php?id=9418>) within each twelve-month period certifying the maintenance standard of the Essential Fire Safety Measure installed on the property. Please see the following link for further information regarding notification to FRNSW (<https://www.fire.nsw.gov.au/page.php?id=9157>).

Reason: To comply with the [*Environmental Planning and Assessment \(Development Certification and Fire Safety\) Regulation 2021*](#).

61. Plan of management

A Plan of Management for the operations of the premises must be submitted to and approved by Council prior to use as a Food and Drink Premise. The purpose of this Plan is to establish performance criteria for various aspects of the operations of the premises to minimise potential for impacts on the amenity of the surrounding neighbourhood. The Plan of Management must address;

- (a) Amenity of neighbourhood;
- (b) Noise;
- (c) Behaviour of patrons and complaint register;
- (d) Deliveries and waste removal and management including periodic litter clean-up;
- (e) Maintenance;
- (f) Security Management Plan;
- (g) Capacity of premises in accordance with BCA requirements including patrons and staff; and
- (h) Use of carpark areas.

Council must be satisfied the above matters are reasonably addressed. Once the Plan of Management has been approved by Council it will form a part of this consent.

Should there be any additional or altered activities/procedures to those specified in the approved plan of management which remain within the scope of the development consent, the plan of management must be appropriately reviewed and submitted to and approved by Council.

Reason: To protect the amenity of the area.

62. Government Agencies

Prior to the release of the Occupation Certificate, evidence must be provided to Council outlining how relevant conditions from Government Agencies listed in the subject DA have been complied with. The evidence must be to the satisfaction of Council and the relevant Government authority.

Reason: To ensure Government Department requirements are met.

63. Practical Completion of Infrastructure

The following infrastructure must be provided to service the development:

- a) **Vehicle access (crossovers).** Formed access to Council specifications must be provided to the site. A separate application must be made to Council for approval to construct any crossover access. Please contact Council's Infrastructure Department for further information.
- b) **Sewer.** The site must be connected into Council's reticulated sewerage system.
- c) **Filtered and Raw Water.** The site must be provided with filtered and raw water supply.
- d) **Stormwater Management.** The site must be provided with appropriate stormwater infrastructure.

All infrastructure must be provided at the Applicant's expense to Council's standards and in accordance with Council's policy.

Reason: To ensure the development is appropriately serviced.

64. Emergency Management Plan

Prior to the issue of the Occupation Certificate, an Emergency Management Plan must be submitted to Council for approval. This plan is to include but is not limited to natural disaster risk management (e.g., bushfire, building fire, flooding etc.).

Reason: To ensure an Emergency Management Plan is developed and approved.

Advice to Applicant

Private covenants may apply

The land subject to this consent may have restrictive private covenants applying to it. It is the responsibility of the Applicant and owner/builder to ensure private covenants are adhered to. In accordance with Section 3.16 of the [Environmental Planning and Assessment Act 1979](#), Council does not enforce or regulate private covenants and therefore accepts no responsibility for checking the compliance of development with such covenants.

Reason: To advise of the details of Section 3.16 Suspension of laws etc by environmental planning instruments of the [Environmental Planning and Assessment Act 1979](#) and Section 1.9A of Council's Local Environmental Plans.

Before You Dig Australia

Underground assets may exist in the area subject to this application. In the interests of health and safety and to prevent damage to third party assets, please contact Before You Dig Australia at www.byda.com.au before excavating or erecting structures. If alterations are required to the configuration, size, form or design of the development upon contacting Before You Dig Australia, an amendment to the development consent (or a new development application) may be necessary.

Individuals owe asset owners a duty of care which must be observed when working in the vicinity of plant or assets on the relevant property by contacting Before You Dig Australia in advance of any construction or planning activities.

Reason: To protect underground assets.

Compliance with conditions

It is the responsibility of the Applicant to check, understand and seek assistance where needed to ensure full compliance with the conditions of this Development Consent. Please contact Murray River Council on 1300 087 004 or admin@murrayriver.nsw.gov.au if there is any difficulty in understanding or complying with any of the above conditions.

Reason: To ensure the Applicant is aware of their obligations.

Compliance with legislation

The development must be in accordance with the relevant provisions and Regulations of the [Biodiversity Conservation Act 2016](#), the [Fisheries Management Act 1994](#), the [Heritage Act 1977](#), the [Local Government Act 1993](#), the [National Parks and Wildlife Act 1974](#), the [Protection of the Environment Operations Act 1997](#), the [Roads Act 1993](#), the [Rural Fires Act 1997](#), the [Water Management Act 2000](#) and all other applicable legislation.

Reason: To comply with relevant legislation.

Offence to pollute waters

The Applicant must take all necessary precautions and implement measures to prevent pollution of waterways during construction and operation of the development. The Applicant should be aware that under Section 120 of the [Protection of the Environment Operations Act 1997](#) it is an offence to pollute waters.

Reason: To advise of NSW Environment Protection Authority requirements.

Disability Discrimination Act 1992

It is the Applicant's responsibility to ensure compliance with the requirements of the [Disability Discrimination Act 1992](#) (DDA). Note: Compliance with the Building Code of Australia (BCA) does not necessarily meet the requirements of the DDA. You are advised to seek advice from the Australian Human Rights Commission (phone (02) 9284 9600) in respect of your application.

Reason: To comply with the [Disability Discrimination Act 1992](#).

Engineering Guidelines

The Applicant must comply with Council's Engineering Guidelines for Subdivisions and Development Standards (as applicable) in conjunction with advice from Council.

Reason: To ensure the development is carried out in accordance with Council's Development Requirements.

Water supply work, sewerage work and stormwater drainage work

Water supply work or sewerage work which is plumbing and drainage work within the meaning of the [Plumbing and Drainage Act 2011](#) must comply with that Act and the regulations under that Act. Any water supply work or sewerage work which is not plumbing and drainage work under that Act, and any stormwater drainage work, must comply with the [Plumbing Code of Australia](#).

Reason: Council and Statutory requirement of [Local Government \(General\) Regulation 2021](#).

Works in road reserve

An application must be made to Council prior to constructing hard surface driveways, footpaths or the like on or over the road reserve. Any works in the road reserve, including landscaping, or the temporary placement of cranes etc. for installation of a moveable dwelling, require approval under Section 138 of the [Roads Act 1993](#). Please contact Council's Infrastructure Department for more information.

Reason: To comply with the [Roads Act 1993](#).

Advertising signs

Advertising signs, unless exempt development, must not be erected, fixed, painted or displayed without prior Council consent. All signs must be designed to complement development on-site and be always maintained in good order and condition.

Reason: To ensure the development is carried out as assessed.

On-site accessible car parking space

Under the Building Code of Australia, there may be a requirement for a minimum of one (1) on-site car parking space to be designed as an accessible car parking space. This requirement will be assessed at the Construction Certificate application stage by the Principal Certifier. If triggered, this on-site accessible car parking space must be designed in accordance with *Australian Standard 2890.6* and the Building Code of Australia.

Reason: To advise the Applicant on-site accessible car parking space(s) may be required to be provided.

On-site toilet(s)

Under the Building Code of Australia, there may be a requirement to provide toilets onsite (including accessible toilets). This requirement will be assessed at the Construction Certificate application stage by the Principal Certifier.

Reason: To advise the Applicant on-site toilets may be required to be provided.