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**ITEM 30 - DEVELOPMENT APPLICATION 2024/0131 FOR TWO LOT TWO
LOT SUBDIVISION OF 1093 MITCHELL HIGHWAY, ORANGE - LOT 200 DP
1305199**

REPORT IN BRIEF

Reason For Report	For the determination of council
Policy Implications	Nil
Budget Implications	Nil
IPR Linkage	3.1.1.1a - Receive and assess Development Applications.
Annexures	1. DA 2024-0131 2 LOT SUBDIVISION CONDITIONS ↓
File Number	\\Development Applications\DEVELOPMENT APPLICATION\2024\03-2024-0131 - 1825324

RECOMMENDATION

THAT Development Application 2024/0131 for a two lot subdivision of land described as Lot 200 DP 1305199 and known as 1093 Mitchell Highway, Orange, be granted consent subject to the conditions attached.

DEPUTY GENERAL MANAGER - CABONNE SERVICES REPORT

ADVISORY NOTES

Record of voting

In accordance with s375A of the Local Government Act 1993, a division is required to be called when a motion for a planning decision is put at a meeting of council or a council committee. A division under s375A of the Act is required when determining this planning application.

Political Disclosures

In accordance with s10.4 of the Environmental Planning and Assessment Act 1979, a person making a planning application to council is required to disclose political donations and gifts made within 2 years prior to the submission of the application and concluding when the application is determined.

In accordance with s10.4 of the Environmental Planning and Assessment Act 1979, a person making a public submission to council in relation to a planning application made to Council is required to disclose political donations and gifts made within 2 years prior to the submission being made and concluding when the application is determined.

Political donations and gifts (if any) to be disclosed include:

- All reportable political donations made to any local councillor or council,

- All gifts made to any local councillor or employee of the council.

Nil planning application disclosures have been received.

Nil public submission disclosures have been received.

SUMMARY

The following report provides an assessment of the development application submitted for a two lot subdivision of proposed Lot 100 in a subdivision of land described as Lot 200 DP 1305199, being 1093 Mitchell Hwy, Orange.

The application has been referred to council for determination as there were 15 written submission (14 objections) submitted from the neighborhood notification process. It is recommended that the application be approved subject to the conditions of consent.

Applicant: Matt Forsyth
Owner: Windera East Pty Ltd
Proposal: Subdivision)
Location: Lot 200 DP 1305199, 1093 Mitchell Hwy, Orange,
Zone: R5 Large Lot Residential

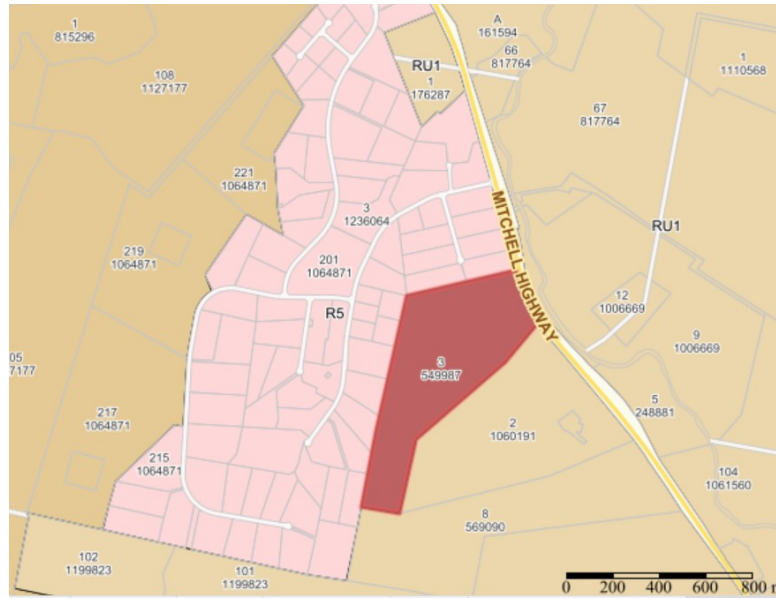
THE PROPOSAL

Council's consent is sought for a two subdivision of Lot 200 DP 1305199, 1093 Mitchell Hwy, Orange. The application seeks approval to carry out a subdivision to create a 2.1ha ha allotment around an existing dwelling, with a 33.6ha residual allotment. The existing access and service arrangements from the Mitchell Highway are to remain in the current configuration with a ROW to be created over the residual allotment to encompass the existing access and driveway to the dwelling.

Existing lots	Area	Purpose
Lot 200	35.38ha	Dwelling, outbuildings and grazing land. Access from Mitchell hwy.

Proposed lots	Area	Purpose
200	33.62	Vacant land
201	2.15ha	Dwelling – vehicle access from Mitchell Hwy.

Site Maps



Site location



Proposed subdivision



Aerial image of site

PREVIOUS APPROVALS

- DA 2000/341 – 19 lot subdivision that created part of the subject lot
- 2008/1068 – CDC for a dwelling
- 2021/0239 – boundary adjustment

- 2024/123 – boundary adjustment

- DA 2002/0191 – two lot subdivision to subdivide the existing dwelling from the residual farmland. The application was refused as it did not comply with the rural subdivision standards.

- DA 2005/0227 – two lot subdivision to subdivide the existing dwelling from the residual farmland. The application was refused (by a recission motion) as the proposed subdivision did not comply with the rural subdivision standards. Rezoning of the subject land was being discussed with the proponent as the preferred pathway by both council and the Dept of Planning
- 2021/0239 – boundary adjustment - withdrawn

- DA 2024/0123 – boundary adjustment between Lot 403 and Lot 3 to provide a connection to Winderera Drive – withdrawn

MATTERS FOR CONSIDERATION

Section 1.7 - Application of Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994*

Section 1.7 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) identifies that Part 7 of the *Biodiversity Conservation Act 2016* (BC Act) and Part 7A of the *Fisheries Management Act 1994* have effect in connection with terrestrial and aquatic environments. The proposal does not involve an aquatic environment. As such, only the Biodiversity Conservation Act, 2016 requires consideration.

There are four triggers known to insert a development into the Biodiversity Offset Scheme (i.e. the need for a BDAR to be submitted with a DA):

- Trigger 1: development occurs in land mapped on the Biodiversity Values Map (OEH) (clause 7.1 of BC Regulation 2017),
- Trigger 2: development involves clearing/disturbance of native vegetation above a certain area threshold (clauses 7.1 and 7.2 of BC Regulation 2017),
- Trigger 3: development is otherwise likely to significantly affect threatened species (clauses 7.2 and 7.3 of BC Act 2016), and
- Trigger 4: development proposed to occur in an Area of Outstanding Biodiversity Value (clause 7.2 of BC Act 2016). No areas are known to occur in the LGA.

Comment:

The land does not appear on the NSW Biodiversity Map, and the proposal does not involve clearing of native vegetation. Part of proposed Lot 100 is mapped by the CLEP 2012 as having Ecological Endangered Conservation (EEC) biodiversity being Blakely's Red Gum - Yellow Box open-woodland of the tablelands. The proposal is not likely to significantly affect threatened species because no land clearing is proposed.

The development does not trigger the need for a Biodiversity Development Assessment Report under the Biodiversity Conservation Act 2016.

Section 4.14 Bushfire

The land is mapped as being 'bushfire prone land' as per *Cabonne Council Bush Fire Prone Land Map*, certified by NSW Rural Fire Service Commissioner on 21 June 2022. The EP&A Act requires council to be satisfied that the development conforms to the specifications and requirements of *Planning for Bush Fire Protection 2019* (PBP 2019) prepared by the NSW Rural Fire Service (RFS).

Comment: A bushfire report was supplied to support the proposed by Integrated Consulting, this was referred the RFS and a section 100B has been issued, conditions from the 100b will form part of the conditions of consent.

Section 4.15

Section 4.15 of the *Environmental Planning and Assessment Act 1979* requires council to consider various matters, of which those pertaining to the application are listed below.

PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT

s4.15(1)(a)(i)

Cabonne Local Environmental Plan 2012

Part 1 - Preliminary

Clause 1.2 - Aims of Plan

The broad aims of the LEP are set out under subclause 2.

- (a) *to encourage development that complements and enhances the unique character and amenity of Cabonne, including its settlements, localities, and rural areas,*
- (b) *to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Cabonne in a manner that allows present and future generations to meet their needs by implementing the principles of ecologically sustainable development,*
- (c) *to facilitate and encourage sustainable growth and development that achieves the following—*
 - (i) *contributes to continued economic productivity, including agriculture, business, tourism, industry and other employment opportunities,*
 - (ii) *allows for the orderly growth of land uses while minimising conflict between land uses within the relevant zone and land uses within adjoining zones,*
 - (iii) *encourages a range of housing choices and densities in planned urban and rural locations that is compatible with the residential and rural environment and meets the diverse needs of the community,*
 - (iv) *promotes the integration of land uses and transport to improve access and reduce dependence on private vehicles and travel demand,*
 - (v) *protects, enhances and conserves agricultural land and the contributions that agriculture makes to the regional economy,*
 - (vi) *avoids or minimises adverse impacts on drinking water catchments to protect and enhance water availability and safety for human consumption,*
 - (vii) *protects and enhances places and buildings of environmental, archaeological, cultural or heritage significance, including Aboriginal relics and places,*
 - (viii) *protects and enhances environmentally sensitive areas, ecological systems, and areas that have the potential to contribute to improved environmental, scenic or landscape outcomes.*

The application is considered to be consistent with the aims of the Plan as discussed in the body of this report.

Clause 1.6 - Consent Authority

This clause establishes that, subject to the Act, council is the consent authority for applications made under the LEP.

Clause 1.7 - Mapping

The subject site is identified on the LEP maps in the following manner:

Land zoning map	Land zoned R5
Lot size map	Minimum lot size 2ha
Heritage map	Not a heritage item Not within a heritage conservation area
Terrestrial Biodiversity Map	Has biodiversity sensitivity on the subject land
Flood planning map	Not within a flood zone
Natural resource – karst map	Not within a karst area
Drinking water catchment map	Not within a drinking water catchment area
Riparian land and watercourse map,	Not affected by riparian and watercourse map
Groundwater vulnerability map	Is affected by groundwater vulnerability
Land reservation acquisition map	Not applicable

Those matters that are of relevance are addressed in detail in the body of this report.

Clause 1.9A - Suspension of Covenants, Agreements and Instruments

This clause provides that covenants, agreements and other instruments which seek to restrict the carrying out of development do not apply with the following exceptions.

- covenants imposed or required by council
- prescribed instruments under Section 183A of the *Crown Lands Act 1989*
- any conservation agreement under the *National Parks and Wildlife Act 1974*
- any trust agreement under the *Nature Conservation Trust Act 2001*
- any property vegetation plan under the *Native Vegetation Act 2003*
- any biobanking agreement under Part 7A of the *Threatened Species Conservation Act 1995*
- any planning agreement under Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*.

Council is not aware of the title of the subject property being affected by any of the above.

Part 2 - Permitted or Prohibited Development

Clause 2.1 - Land Use Zones and Land Use Table

The subject site is located within the R5 zone. The proposed development is defined as 'subdivision' under the LEP 2012 and is permitted with consent in this zone, and this application is seeking consent.

Clause 2.3 - Zone Objectives

The objectives for land zoned R5 and assessment of consistency are as follows:

R5 Large Lot Residential Zone Objectives	Comments
<i>To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.</i>	The proposed subdivision enables an additional housing allotment.
<i>To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.</i>	The subject area is zoned for large lot residential use. The area is not identified for urban development.
<i>To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.</i>	The subdivision does not increase demand for services or facilities.
<i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i>	The subdivision is unlikely to result in land use conflict within the surrounding R5 zone.

2.6 Subdivision—consent requirements

- (1) Land to which this Plan applies may be subdivided, but only with development consent.

Notes—

1 If a subdivision is specified as exempt development in an applicable environmental planning instrument, such as this Plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.

2 Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is complying development.

- (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.

Note—

The definition of *secondary dwelling* in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.

This clause provides permissibility for the proposed subdivision.

Part 3 - Exempt and Complying Development

The application is not exempt or complying development.

Part 4 - Principal Development Standards

Clause 4.1 - Minimum Subdivision Lot Size

This clause requires the subdivision of land to be equal to or greater than the size nominated for the land under the Minimum Lot Size Map.

In relation to this site, the map nominates a minimum lot size of 2ha. The smallest lot proposed by the application is 2ha.

Part 5 - Miscellaneous Provisions

5.16 Subdivision of, or dwellings on, land in certain rural, residential or conservation zones

- (1) The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the rural, residential or conservation zones concerned (particularly between residential land uses and other rural land uses).
- (2) This clause applies to land in the following zones—
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape,
 - (c) Zone RU3 Forestry,
 - (d) Zone RU4 Primary Production Small Lots,
 - (e) Zone RU6 Transition,
 - (f) Zone R5 Large Lot Residential,
 - (g) Zone C2 Environmental Conservation,
 - (h) Zone C3 Environmental Management,
 - (i) Zone C4 Environmental Living.
- (3) A consent authority must take into account the matters specified in subclause (4) in determining whether to grant development consent to development on land to which this clause applies for either of the following purposes—
 - (a) subdivision of land proposed to be used for the purposes of a dwelling,
 - (b) erection of a dwelling.
- (4) The following matters are to be taken into account—
 - (a) the existing uses and approved uses of land in the vicinity of the development,
 - (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,
 - (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),

- (d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).

The subdivision will not impact upon adjacent large lot residential allotments.

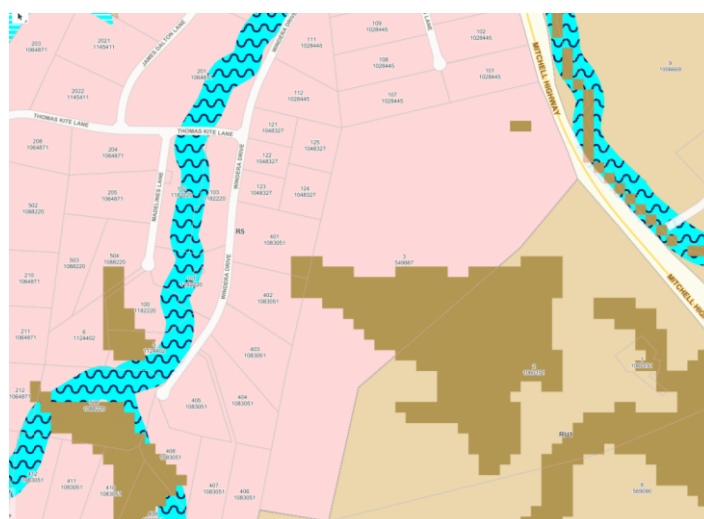
6.3 - Terrestrial Biodiversity

This clause seeks to maintain terrestrial biodiversity and requires that consent must not be issued unless the application demonstrates whether or not the proposal:

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

Additionally, this clause prevents consent being granted unless Council is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) *if that impact cannot be reasonably 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 proposal is located on land that has been identified on the Terrestrial Biodiversity Map as partially comprising “Biodiversity Sensitivity” land. The CLEP 2012 biodiversity map identifies part of Lot 3 as containing Endangered Ecological Community vegetation being Blakely's Red Gum - Yellow Box open-woodland of the tablelands. The proposed development of the site is located

clear of sensitive areas. Additionally, vehicular access to the development is clear of the sensitive areas.

In this regard the proposal has been designed in a manner that seeks to avoid adverse consequences. The management of the proposal can be conditioned to further protect the environmental functions and values of the land.

Accordingly, the proposal is unlikely to fragment, diminish or disturb the biodiversity structure, ecological functions or composition of the land and does not reduce habitat connectivity with adjoining sensitive areas.

6.4 - Groundwater Vulnerability

This clause seeks to protect hydrological functions of groundwater systems and protect resources from both depletion and contamination. Large areas of the LGA, including the subject site, are identified with "Groundwater Vulnerability" on the Groundwater Vulnerability Map. This requires that Council consider:

- (a) *whether or not the development (including any onsite storage or disposal of solid or liquid waste and chemicals) is likely to cause any groundwater contamination or have any adverse effect on groundwater dependent ecosystems, and*
- (b) *the cumulative impact (including the impact on nearby groundwater extraction for potable water supply or stock water supply) of the development and any other existing development on groundwater.*

Furthermore, consent may not be granted unless Council is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) *if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact,*
- (c) *if that impact cannot be minimised - the development will be managed to mitigate that impact.*



The proposal is not anticipated to involve the discharge of toxic or noxious substances and is therefore unlikely to contaminate the groundwater or related

ecosystems. The proposal does not involve extraction of groundwater and will therefore not contribute to groundwater depletion. The design and siting of the proposal avoids impacts on groundwater and is therefore considered acceptable.

Clause 6.8 - Essential Services

Clause 6.8 applies and states:

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) storm water drainage or on-site conservation,*
- (e) suitable road access.*

In consideration of this clause, all utility services are available to the existing dwelling land are adequate for the proposal. No adjustments to essential services are required by the subdivision proceeding.

STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

Pursuant to Clause 4.6 *Contamination and remediation to be considered in determining development application:*

- (1) A consent authority must not consent to the carrying out of any development on land unless:*
 - (a) it has considered whether the land is contaminated, and*
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The subject site is not known to have been used for any potentially contaminating land uses as listed under Table 1 of the contaminated land planning guidelines. Therefore, council considers that the subject site is suitable for the proposed development without the need for further investigations or remediation.

**State Environmental Planning Policy (Biodiversity and Conservation)
2021**

Chapters 3 and 4 Koala Habitat Protection 2020 and 2021

Cabonne Shire Council is identified within the SEPP Koala Habitat Protection schedule as having koala habitat. A BioNet search did not reveal any sighting of koalas in the locality.

It is considered that the proposed development has low or no direct impact upon koalas and their habitat for the following reasons:

- The subject land does not comprise core koala habitat
- The proposed development will not result in the clearing of native vegetation.
- The development does not trigger the Biodiversity Offsets Scheme threshold under the Biodiversity Conservation Act 2016.

In this regard, the proposal is considered to satisfy the requirements of the SEPP and a Koala Plan of Management is not required in this instance.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure – Division 5 Electricity Transmission or Distribution

2.48 Determination of development applications—other development

- (1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—
 - (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,
 - (b) development carried out—
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or
 - (ii) immediately adjacent to an electricity substation, or
 - (iii) within 5m of an exposed overhead electricity power line,
 - (c) installation of a swimming pool any part of which is—
 - (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or
 - (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,
 - (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.
- (2) Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must—

- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.
- (3) Subsection (2) does not apply to development specified in subsection (1)(b) if the development involves only one or more of the following—
- (a) internal alternations to a building,
 - (b) a change of use of an existing building,
 - (c) a change to the hours of operation specified in the development consent,
 - (d) a subdivision that does not involve construction work.

Comment: The subdivision satisfies the above clause being subdivision that does not require construction work.

PROVISIONS OF ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT THAT HAS BEEN PLACED ON EXHIBITION 4.15(1)(a)(ii)

There are no draft instruments that apply.

DESIGNATED DEVELOPMENT

The proposed development is not designated development.

INTEGRATED DEVELOPMENT

The proposed development is not integrated development.

DARK SKY PLANNING GUIDELINE JUNE 2023

The guideline informs development controls that apply to land for the assessment of significant development within 200km of the Siding Spring Observatory.

A consent authority must also consider the guideline for:

- state-significant development;
- designated development; and
- development specified in State Environmental Planning Policy (Planning Systems) 2021, Schedule 6 (regionally significant development) that is likely to affect the night sky and is within 200 kilometres of Siding Spring Observatory.

Comment: The proposed development is not within 200km of the observatory and not designated, regional or State significant and hence no further consideration under the guideline is required.

PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN s4.15(1)(a)(iii)

Development Control Plan

Development Control Plan 6 – Rural Small Holdings applies to this land. The proposed development is consistent with Part 3 – Guidelines for Subdivision of DCP 6 below:

3.1 Minimum Lot Size

The proposed development satisfies the minimum lot size as set out under Clause 4.1 of Cabonne Local Environmental Plan 2012.

3.2 Services

As noted in the LEP assessment, conditions of consent are attached with regards to services (power, road, access etc.). Reticulated water and sewer are not available to the land, with existing and future dwellings serviced by water tanks and septic systems.

3.3 Fencing

A condition of consent will be imposed requiring the new boundary between the allotments is to be fenced to a dog proof standard in accordance with DCP requirements.

3.6 Bushfire Protection

A bushfire assessment was required as the proposal is creating an additional allotment capable of accommodating a dwelling, this was supplied by Integrated Consulting and was referred the RFS and a section 100B has been issued, conditions from the 100b will form part of the conditions of consent.

PROVISIONS OF ANY PLANNING AGREEMENT s4.15(1)(a)(iiia)

No planning agreements have been entered into with respect to the subject land or proposal.

PROVISIONS PRESCRIBED BY THE 2021 REGULATIONS s4.15(1)(a)(iv)

Demolition of a Building (s61(1))

The proposal does not involve the demolition of a building.

Fire Safety Considerations (s62)

The proposal does not involve a change of building use for an existing building.

Buildings to be Upgraded (s64)

The proposal does not involve the rebuilding, alteration, enlargement or extension of an existing building.

BASIX Commitments (clauses 27 and 75)

A Basix certificate does not apply to the development.

THE LIKELY IMPACTS OF THE DEVELOPMENT s4.15(1)(b)

Impacts	Satisfactory	Not Satisfactory	Not Relevant	Comments + conditions to ensure satisfactory
Context & setting				The proposed subdivision is not inconsistent with the pattern of surrounding development.
Traffic, access and parking				Existing vehicle access ways servicing the dwelling is to be retained from the Mitchell Highway. A ROW is to be created over the internal driveway in favour of the 2ha allotment.
Utilities & Servicing				No adjustments are required to utility services.
Biodiversity				No tree clearing is proposed as part of this application.
Natural hazards - flooding, bushfire etc.				The subject land is identified as bushfire prone. A s100B authority has been issued. And requires mitigation measures this will form part of the conditions of consent
Cumulative Impacts				Adverse cumulative impacts considered unlikely for the reasons set out above.

THE SUITABILITY OF THE SITE s4.15(1)(c)

The proposed development is located in the R5 Large Lot Residential zone and is permissible with the consent of council. The suitability of the site has been addressed in the above sections of the report. The development of the site will not create significant adverse impacts on the context and setting of the area. Additionally, the development of the site will not detrimentally affect the adjoining land and is unlikely to lead to land use conflict.

ANY SUBMISSIONS MADE IN ACCORDANCE WITH THE ACT s4.15(1)(d)

The development application was exhibited from the 3 May until 21 May 2024. By the conclusion of the notification period council received 15 submissions, of which 14 were opposing the proposal. The applicant was provided opportunity to provide comment on the submissions and a written response was provided to council.

Issues	Council Response
Submission 1	
Concern that future development of the subject land will create traffic issues off Winderera Drive.	The development application submitted is for a two lot subdivision with existing access off Mitchell Highway to be retained and utilized by both proposed allotments.

	No access is proposed from Windera Dr.
Submission 2	
Querying the boundaries shown on the subdivision plan and described as Lot 100 DP 1304633	This allotment was created under exempt development provisions
Submission 3	
Paragraph 6 of the SoEE states that the proposed right of carriageway will later be able to be extinguished based on reliance on the presumed / and not yet approved or reasonably considered legal access via Windera Drive. This statement is written as <i>"will be extinguished as access will become available from the dedicated road"</i> . This undeniably implies the applicant, regardless of any yet to be provided traffic study or any reasonable consideration of adverse impacts to neighbouring residents' that council is expected to simply "rubber stamp" the applicants' future plans to create a public access road via Windera Drive without any real consideration of the many concerns Windera residents have raised both previously in writing and in meetings with councillors. This same presumption is noted in section f) Traffic generation and capacity of existing road system - whereby it states <i>" Proposed lot 200 is to be restricted in development and access until a formal access arrangement is dedicated and constructed from Windera Drive"</i>	The access to both lots will remain from the Mitchell Highway. Further development is the subject of a separate subdivision application and is to be merit assessed at a later time.
Submission 4	
This will increase traffic on Windera Drive	The development application does not seek access off Windera Drive. The existing access to the property will remain from the Mitchell highway.
Submission 5	

<p>The future subdivision foreshadowed by these DAs, will lead to permanent increases in traffic volume, noise, and accident risk on Windera Drive.</p>	<p>The development application submitted is for a two lot subdivision and does not require an access road off Windera Dr. The access to the two lot subdivision will be retained from the Mitchell Highway.</p>
<p>Submission 6</p>	
<p>The Department of Planning & Environment - Crown Lands (the department), as adjoining landowner has reviewed the development application in accordance with the principles of Crown land management (s.1.4 <i>Crown Lands Management Act 2016</i>) and offers no objections to the proposed development as no impact to Crown land has been identified.</p>	<p>Submission from crown land stating no objection to the proposal</p>
<p>Submission 7</p>	
<p>Enquiry as to why the submitted plans show the property description as Lot 100 Do 1304633 and seeking clarification id DA 2024/0123 has been approved by council</p>	<p>The Lot and DP quoted related to exempt development registered by the Lands Title Office</p>
<p>Submission 8</p>	
<p>Objection to any further development that generates additional road access and traffic through Windera Drive.</p> <p>Suggesting any future development of East Windera be services via access off the highway and that Windera and East Windera be separate entities.</p>	<p>Access to the two lot subdivision is to be provided from the Mitchell highway at this stage.</p> <p>Further development of Windera East is subject to a separate DA and merit based assessment at a later time.</p>
<p>Submission 9</p>	
<p>Opposed to any proposal requiring additional roads and traffic through Windera and Windera Drive.</p> <p>Any further development of Windera East should include access from the Mitchell Highway separate to the Windera estate.</p>	<p>The development application submitted does not require an access road off Windera Dr. Access is to be retained from the Mitchell highway.</p> <p>Any further development of Windera East will be subject to a separate DA</p>

	and merit based assessment at that time.
Submission 10	
Applauds provision of access from the Mitchell Highway and suggests any further subdivision and development of Windera East should also utilize access from the highway and not connect to Windera Drive.	Noted
Submission 11	
Considers that council is ignoring the current residents of Windera when considering whether or not road access should be granted from Windera Drive. While it is appreciated that the proposal to develop sixteen lots in Windera East is part of Council's longer term strategy for Windera East it is also believe that, in line with this strategy, council should develop access via Horspool Way and not Windera Drive.	Noted
Submission 12	
Current setbacks of 20m should be maintained.	Noted
The proposed removal of the line of trees at the current entrance on Mitchell Highway flies in the face of councils desire to reduce environmental impact of any developments. These trees are a significant feature and should not be allowed to be removed.	The avenue of trees are retained in the two lot subdivision
Thought also must be given to access to bore water, in particular if there is additional demand from building sites and eventually new dwellings. The water table cannot be sustained if more residents are allowed access it. There needs to	Noted

<p>be consideration given to where any future development would procure water from for any building works.</p> <p>Seeks clarification of utility services to be connected to the two lot subdivision</p>	<p>Water supply to the existing dwelling is rainwater tanks, with on site waste disposal via septic system. Electricity and telephone services are also connected to the dwelling. The larger allotment is cable of similar service connects if required</p>
<p>Submission 13</p>	
<p>Opposed to any additional traffic using Windera Dr.</p>	<p>The development application does not require an access road off Windera Drive. The existing access from the Mitchell Highway is to be retained and will service both allotments.</p>
<p>Submission 14</p>	
<p>There is no doubt that more planning has to be done, on both the upgrade of the present Windera Drive, even if this access can be only be regarded as a “back entrance” to Windera East, and the provision or upgrade of the present Windera East Entrance (house entrance) as a "Main Entrance", as this will be a prestigious and expensive residential area which should be provided with more than just a “back entrance” that is already deteriorating under its present use.</p> <p>Two access roads into this new Estate would at least benefit the present Windera in the event of fire, where the one exit is highly inadequate as the only way out for just the one present Windera Estate without considering a number of new developments within Windera East as also dependent on this road.</p>	<p>Noted</p>
<p>Submission 15</p>	

<p>It will be difficult for the people who live in Windera to be able to safely pull out onto Windera Drive if the amount of traffic is doubled by the new subdivision. I believe that the only solution is to use Horspool Way as the entrance to the new subdivision. The threat of fire is also a reason why this should not be approved. Imagine over 200+ people trying to flee a bushfire from one exit. The destruction of viable farming land and habitat for wildlife is also a major concern.</p>	<p>The development application submitted is for a two lot subdivision with retention of the existing access off the Mitchell Highway.</p> <p>Should a development application be submitted for further development it would be subject to separate merit based assessment at that time.</p> <p>Comments noted.</p>
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Response to submissions

The proponent provided a response to submissions, noting the key points raised traffic impacts as the primary concern. It was noted that submissions largely raised concerns relating to the potential for future large lot residential development of the East Windera area. As the DA before council is for a two lot subdivision, with retained access from the Mitchell Highway, the proponent noted that environmental impacts assessed must relate only to the development proposal as submitted. The two lot subdivision will not generate additional traffic, road noise, degradation of road conditions, or substantially increase dwelling permissibility.

SUMMARY

The proposed development is permissible with the consent of council. The proposed development complies with the relevant aims, objectives and provisions of Cabonne Local Environmental Plan 2012 and Development Control Plan 6 Rural Smalling Holdings. A Section 4.15 assessment of the development indicates that the development is acceptable in this instance. Attached is a draft Notice of Approval outlining a range of conditions considered appropriate to ensure that the development proceeds in an acceptable manner.

ITEM 31 - DEVELOPMENT APPLICATION 2025/0038 - CENTRE BASED CHILD CARE FACILITY - 70 RODD STREET, CANOWINDRA

REPORT IN BRIEF

Reason For Report	For the determination of council
Policy Implications	Nil
Budget Implications	Nil
IPR Linkage	3.1.1.1a - Receive and assess Development Applications.

Annexures	1. Conditions DA2025-0038 70 Rodd St Canowindra ↓
File Number	\\Development Applications\DEVELOPMENT APPLICATION\2025\03-2025-0038 - 1825897

RECOMMENDATION

THAT Development Application 2025/0038 for an early education and childcare facility at 70 Rodd Street, Canowindra, being Lot 1 DP 58223, be granted consent subject to the conditions attached.

DEPUTY GENERAL MANAGER - CABONNE SERVICES REPORT

ADVISORY NOTES

Record of voting

In accordance with s375A of the Local Government Act 1993, a division is required to be called when a motion for a planning decision is put at a meeting of council or a council committee. A division under s375A of the Act is required when determining this planning application.

Political Disclosures

In accordance with s10.4 of the Environmental Planning and Assessment Act 1979, a person making a planning application to council is required to disclose political donations and gifts made within 2 years prior to the submission of the application and concluding when the application is determined.

In accordance with s10.4 of the Environmental Planning and Assessment Act 1979, a person making a public submission to council in relation to a planning application made to council is required to disclose political donations and gifts made within 2 years prior to the submission being made and concluding when the application is determined.

Political donations and gifts (if any) to be disclosed include:

- All reportable political donations made to any local councillor or council,
- All gifts made to any local councillor or employee of the council.

Nil planning application disclosures have been received.

Nil public submission disclosures have been received.

SUMMARY

The following report provides an assessment of the development application submitted for a demolition of an existing dwelling and construction of a Centre based child care facility on land described as Lot 1 DP 582237, known as 70 Rodd Street, Canowindra.

The application has been referred to the council for determination as submissions have been received, and the proposal seeks a variation to planning standards.

It is recommended that the application be approved subject to the attached conditions of consent.

Applicant: Robert Wilson
Owner: Gallymont Investments Pty Ltd
Proposal: Stage 1 Demolition of an existing dwelling, and Stage 2 construction of a centre based child care facility
Location: Lot 1 DP 582237, known as 70 Rodd Street, Canowindra
Zone: R1 Residential

PROPOSED DEVELOPMENT

Council's consent is sought for the demolition of an existing dwelling located on the north eastern corner of the intersection of Rodd Street and Belubula Way, Canowindra. Consent is also sought for the construction of a childcare facility on the subject site. The new facility will cater for 52 children per day, with 12 staff across two shifts daily. The business will operate Monday to Friday from 6am to 6.30pm.

The single storey construction will be face brick, aluminum windows and corrugated sheet roofing with a roof pitch of 22.5 degrees

The proposed building will have a floor area of approx. 449m² and is to be 5.5m at the apex of the roof. The building is to be located 4m from the western boundary, 1 m from the northern boundary, 12.795m from the eastern boundary and 7.279m to the proposed southern Belubula Way frontage.

A car park area is provided along the eastern boundary of the allotment, with parking for nine (9) vehicles, including one (1) disabled parking bay. Access is to be provided off Belubula Way and is approx. 34 m from the intersection with Rodd Street. Access to the centre's reception area is from the car park.

Stage 1

Demolition of an existing dwelling on the subject site. The existing dwelling contains asbestos and the building materials containing asbestos are to be removed by a licensed contractor to an appropriate disposal facility.



Figure 1 Existing dwelling to be demolished

Stage 2

The child care centre will comprise:

- 20.850m x 24.630m building (GFA of 449m²)
- Reception area
- Office
- Kitchen
- Staff Room
- Activity rooms
- Storeroom
- Amenities
- Outdoor play and grassed area
- 9 car parking including disabled space

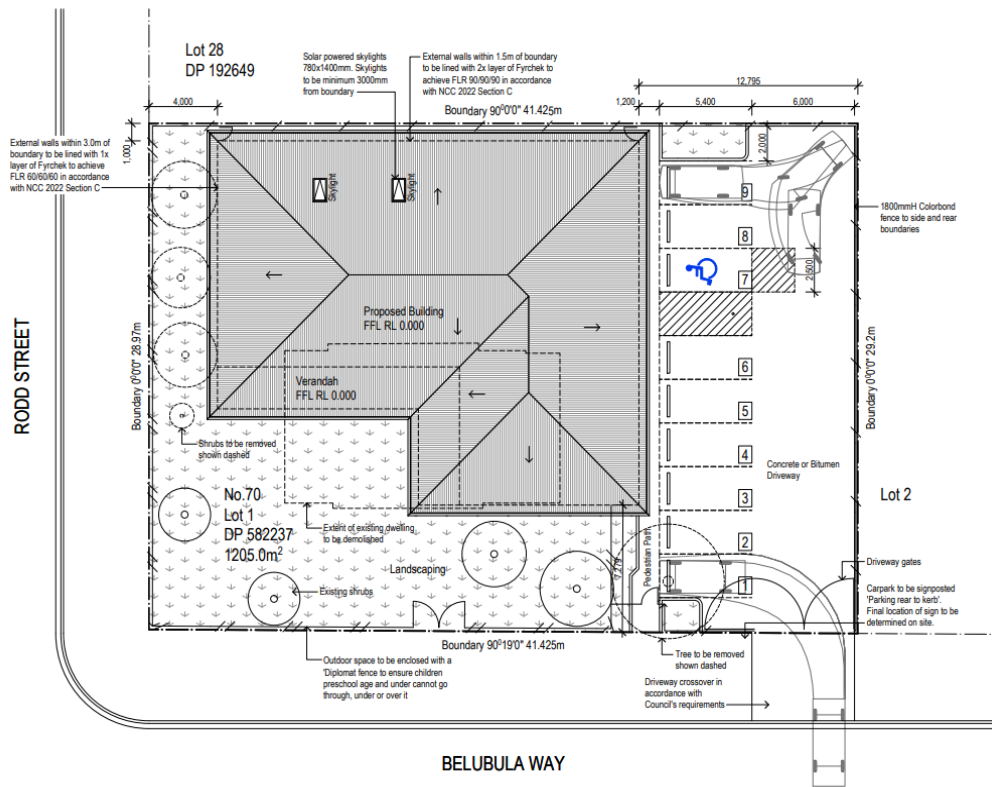


Figure 2: Proposed child care centre



Figure 3 : Elevations

SITE

The lot is a rectangular shape, it is located on the NE corner of Rodd Street & Belubula Way, Canowindra.

AERIAL IMAGE



PREVIOUS APPROVALS

- 19/1975 Subdivision approval

MATTERS FOR CONSIDERATION

Section 1.7 - Application of Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994*

Section 1.7 Section 1.7 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) identifies that Part 7 of the *Biodiversity Conservation Act 2016* (BC Act) and Part 7A of the *Fisheries Management Act 1994* have effect in connection with terrestrial and aquatic environments. The proposal does not involve an aquatic environment. As such, only the Biodiversity Conservation Act, 2016 requires consideration.

There are four triggers known to insert a development into the Biodiversity Offset Scheme (i.e. the need for a BDAR to be submitted with a DA):

- Trigger 1: development occurs in land mapped on the Biodiversity Values Map (OEH) (clause 7.1 of BC Regulation 2017),
- Trigger 2: development involves clearing/disturbance of native vegetation above a certain area threshold (clauses 7.1 and 7.2 of BC Regulation 2017),
- Trigger 3: development is otherwise likely to significantly affect threatened species (clauses 7.2 and 7.3 of BC Act 2016), and

- Trigger 4: development proposed to occur in an Area of Outstanding Biodiversity Value (clause 7.2 of BC Act 2016). No areas are known to occur in the Cabonne LGA.

Comment:

The land does not occur on the NSW Biodiversity Map [Trigger 1]

The proposal does not involve clearing of native vegetation [Trigger 2]

The proposal is not likely to significantly affect threatened species because the is limited clearing [Trigger 3]

The development proposed is to occur in an Area of Outstanding Biodiversity Value (clause 7.2 of BC Act 2016). No areas are known to occur in the LGA.(Trigger 4)

The development does not trigger the need for a Biodiversity Development Assessment Report under the Biodiversity Conservation Act 2016.

Section 4.14 Bushfire

The land is not mapped as being 'bushfire prone land' as per *Cabonne Council Bush Fire Prone Land Map*, certified by NSW Rural Fire Service Commissioner on 21 June 2022.

Section 4.15

Section 4.15 of the *Environmental Planning and Assessment Act 1979* requires Council to consider various matters, of which those pertaining to the application are listed below.

**PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT
s4.15(1)(a)(i)**

Cabonne Local Environmental Plan 2012

Part 1 - Preliminary

Clause 1.2 - Aims of Plan

The broad aims of the LEP are set out under subclause 2.

- to encourage development that complements and enhances the unique character and amenity of Cabonne, including its settlements, localities, and rural areas,*
- to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Cabonne in a manner that allows present and future generations to meet their needs by implementing the principles of ecologically sustainable development,*
- to facilitate and encourage sustainable growth and development that achieves the following—*

- (i) *contributes to continued economic productivity, including agriculture, business, tourism, industry and other employment opportunities,*
- (ii) *allows for the orderly growth of land uses while minimising conflict between land uses within the relevant zone and land uses within adjoining zones,*
- (iii) *encourages a range of housing choices and densities in planned urban and rural locations that is compatible with the residential and rural environment and meets the diverse needs of the community,*
- (iv) *promotes the integration of land uses and transport to improve access and reduce dependence on private vehicles and travel demand,*
- (v) *protects, enhances and conserves agricultural land and the contributions that agriculture makes to the regional economy,*
- (vi) *avoids or minimises adverse impacts on drinking water catchments to protect and enhance water availability and safety for human consumption,*
- (vii) *protects and enhances places and buildings of environmental, archaeological, cultural or heritage significance, including Aboriginal relics and places,*
- (viii) *protects and enhances environmentally sensitive areas, ecological systems, and areas that have the potential to contribute to improved environmental, scenic or landscape outcomes.*

The application is considered to be consistent with the aims of the Plan as discussed in the body of this report.

Clause 1.6 - Consent Authority

This clause establishes that, subject to the Act, council is the consent authority for applications made under the LEP.

Clause 1.7 - Mapping

The subject site is identified on the LEP maps in the following manner:

Land zoning map	Land zoned R1 Residential
Lot size map	Minimum lot size 500m2
Heritage map	Not a heritage item Not within a heritage conservation area
Terrestrial Biodiversity Map	No biodiversity sensitivity on the subject land
Flood planning map	Not within a flood zone
Natural resource – karst map	Not within a karst area

Drinking water catchment map	Not within a drinking water catchment area
Riparian land and watercourse map	Not affected by riparian and watercourse map
Groundwater vulnerability map	Is affected by groundwater vulnerability
Land reservation acquisition map	Not applicable

Those matters that are of relevance are addressed in detail in the body of this report.

Clause 1.9A - Suspension of Covenants, Agreements and Instruments

This clause provides that covenants, agreements and other instruments which seek to restrict the carrying out of development do not apply with the following exceptions.

- covenants imposed or required by council
- prescribed instruments under Section 183A of the *Crown Lands Act 1989*
- any conservation agreement under the *National Parks and Wildlife Act 1974*
- any trust agreement under the *Nature Conservation Trust Act 2001*
- any property vegetation plan under the *Native Vegetation Act 2003*
- any biobanking agreement under Part 7A of the *Threatened Species Conservation Act 1995*
- any planning agreement under Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*.

Council is not aware of the title of the subject property being affected by any of the above.

Part 2 - Permitted or Prohibited Development

Clause 2.1 - Land Use Zones and Land Use Table

The subject site is located within the R1 Residential zone. The proposed development is defined as 'Centre-based child care facilities' under the LEP 2012 as follows:

centre-based child care facility means—

(a) a building or place used for the education and care of children that provides any one or more of the following—

- (i) long day care,
- (ii) occasional child care,
- (iii) out-of-school-hours care (including vacation care),
- (iv) preschool care, or

(b) an approved family day care venue (within the meaning of the *Children (Education and Care Services) National Law (NSW)*),

Note—

An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the *Children (Education and Care Services) National Law (NSW)*) is provided.

but does not include—

(c) a building or place used for home-based child care or school-based child care, or

(d) an office of a family day care service (within the meanings of the *Children (Education and Care Services) National Law (NSW)*), or

(e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or

(f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or

(g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or

(h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

The proposed development is permitted with consent in this zone, and this application is seeking consent.

Clause 2.3 - Zone Objectives

The objectives for land zoned R1 Residential and assessment of consistency are as follows:

R1 General Residential Zone Objectives	Comments
<i>To provide for the housing needs of the community.</i>	The development is a child care facility, whilst it will not provide housing needs it will provide a service to the community
<i>To provide for a variety of housing types and densities.</i>	The Proposed development is a child care facility
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	This facility provides day to day needs of the local residents and surrounding communities

2.5 Additional permitted uses for particular land

(1) Development on particular land that is described or referred to in Schedule 1 may be carried out—

(a) with development consent, or

(b) if the Schedule so provides—without development consent,

in accordance with the conditions (if any) specified in that Schedule in relation to that development.

- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

2.7 Demolition requires development consent

The demolition of a building or work may be carried out only with development consent.

Note—

If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without development consent.

Part 3 - Exempt and Complying Development

The application is not exempt or complying development.

Part 4 - Principal Development Standards

No principal development standards are applicable to the proposed development.

Part 5 - Miscellaneous Provisions

No miscellaneous provisions are applicable to the proposed development.

Part 6 - Additional Local Provisions

6.2 - Stormwater Management

This clause applies to all land in the RU5 Village zone and all land in residential and employment zones, and requires that Council be satisfied that the proposal:

- (a) *is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting onsite infiltration of water*
- (b) *includes, where practical, onsite stormwater retention for use as an alternative supply to mains water, groundwater or river water; and*
- (c) *avoids any significant impacts of stormwater runoff on adjoining downstream properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

The proposal has been designed to connect to existing stormwater connection. It is therefore considered that the post development runoff levels will not exceed the predevelopment levels.

6.4 - Groundwater Vulnerability

This clause seeks to protect hydrological functions of groundwater systems and protect resources from both depletion and contamination. Large areas of the

LGA, including the subject site, are identified with "Groundwater Vulnerability" on the Groundwater Vulnerability Map. This requires that Council consider:

- (a) *whether or not the development (including any onsite storage or disposal of solid or liquid waste and chemicals) is likely to cause any groundwater contamination or have any adverse effect on groundwater dependent ecosystems, and*
- (b) *the cumulative impact (including the impact on nearby groundwater extraction for potable water supply or stock water supply) of the development and any other existing development on groundwater.*

Furthermore, consent may not be granted unless council is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) *if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact,*
- (c) *if that impact cannot be minimised - the development will be managed to mitigate that impact.*



The proposal is not anticipated to involve the discharge of toxic or noxious substances and is therefore unlikely to contaminate the groundwater or related ecosystems. The proposal does not involve extraction of groundwater and will therefore not contribute to groundwater depletion. The design and siting of the proposal avoids impacts on groundwater and is therefore considered acceptable.

Clause 6.8 - Essential Services

Clause 6.8 applies and states:

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the

proposed development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) storm water drainage or on-site conservation,*
- (e) suitable road access.*

In consideration of this clause, water will be supplied via connection Central Tablelands Water. Electricity is available to the site, and sewer is also available. Stormwater will be connected to existing drainage. Vehicular access is provided off Belubula Way. Connections to water, sewer, electricity, stormwater and access will form part of the conditions of consent.

The site has vehicular access to Belubula Way, and a car park is proposed to be provided on site, with nine (9) car parking spaces to be provided. As Cabonne does not have a local policy establishing car parking requirements, the proponent has applied a car parking rate based on the requirements of Bathurst Regional Council's car parking DCP. The cited rate is one space per 9 children and generated a requirement for 6 spaces. By Comparison Orange City Council's car parking DCP requires car parking at the rate of one space per 4 children. Blayney Council's DCP establishes a rate of one space per 10 children plus one space per 2 employees. Based on the Blayney example, the proposed development generates a need for 11.2, or 12, car parking spaces on site.

The proponent is seeking approval for the provision of 9 off street car parking spaces. The site does not incorporate a drop off/ pick up zone. Overflow parking is to be accommodated within the existing street network, especially as the development site is a corner allotment with frontage to two streets. The council's development engineer has highlighted the use of Belubula Way by heavy traffic and requires a no parking zone be installed outside the proposed premises (potentially along both sides of the roadway). This will have the effect of on-street parking being utilized in Rodd Street, and further along Belubula Way.

It is noted that the AS/NZ standard for provision of car parking for a child care centre is as follows:

Parking

Off-street parking must be provided at the rate of one space for every four children in attendance.

Given the short length of stay (the RTA's surveys found an average length of stay of 6.8 minutes), parking must be provided in a convenient location, allowing safe movement of children to and from the centre.

Consideration could be given to reducing the parking required if convenient and safe on-street parking is available (e.g. indented parking bays), provided that the use of such parking does not adversely affect the amenity of the adjacent area.

Conditions of consent have been drafted requiring provision of parking in accordance with the Australian Standard.

STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

Pursuant to Clause 4.6 *Contamination and remediation to be considered in determining development application*:

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
 - (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A soil contamination report was submitted for the proposal, there were some contaminants found, however the site was approved by that consultant as suitable for the proposed development.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Under clause 23 of the Education SEPP, the guideline must be considered for development applications for centre-based child care facilities. For the purposes of implementation and interpretation, the guideline is not intended to be, and should not be applied as a set of strict development standards. Parts 2 and 3 of the guideline set out the design principles and an array of design and planning matters for consideration when preparing and determining development applications. Part 4 of the guideline sets out the relevant requirements of the National Regulations and provides design guidance and advice on how the requirements may be achieved. Part 4 also contains the National Quality Framework Assessment Checklist. Council DCP controls relating to building height, side and rear setbacks, and car parking rates will continue to apply to proposed developments.

Chapter 2 Infrastructure – Division 17 Roads and Traffic

2.118 Development on proposed classified road

- (1) Consent for development for any of the following purposes on land reserved for the purposes of a classified road (but before the land is declared to be a classified road) may be granted only with the concurrence of TfNSW—
 - (a) subdivision that results in the creation of an additional lot with dwelling entitlements,
 - (b) development with an estimated development cost greater than \$185,000,

- (c) development for the purpose of dwellings that are, or any other building that is, to be held under strata title.
- (2) Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must—
- (a) give written notice of the application to TfNSW within 7 days after the application is made, and
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.
- (3) In deciding whether to grant concurrence to proposed development under this section, TfNSW must take the following matters into consideration—
- (a) the need to carry out development for the purposes of a classified road or a proposed classified road,
 - (b) the imminence of acquisition of the land by TfNSW,
 - (c) the likely additional cost to TfNSW resulting from the carrying out of the proposed development.
- (4) The consent authority must give TfNSW a copy of the determination of the application within 7 days after the determination is made.
- (5) The consent authority may grant consent to development to which this section applies without the concurrence of TfNSW if—
- (a) the consent authority has given the chief executive officer notice of the development application, and
 - (b) 21 days have passed since giving the notice and the chief executive officer has not granted or refused to grant the concurrence.

2.122 Traffic-generating development

- (1) This section applies to development specified in Column 1 of the Table to Schedule 3 that involves—
- (a) new premises of the relevant size or capacity, or
 - (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.
- (2) In this section, **relevant size or capacity** means—
- (a) in relation to development on a site that has direct vehicular or pedestrian access to any road (except as provided by paragraph (b))—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or
 - (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.
- (3) A public authority, or a person acting on behalf of a public authority, must not carry out development to which this section applies that this Chapter provides may be carried out without consent unless the authority or person has—
- (a) given written notice of the intention to carry out the development to TfNSW in relation to the development, and

- (b) taken into consideration any response to the notice that is received from TfNSW within 21 days after the notice is given.
- (4) Before determining a development application for development to which this section applies, the consent authority must—
 - (a) give written notice of the application to TfNSW within 7 days after the application is made, and
 - (b) take into consideration—
 - (i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and
 - (ii) the accessibility of the site concerned, including—
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
 - (iii) any potential traffic safety, road congestion or parking implications of the development.
- (5) The consent authority must give TfNSW a copy of the determination of the application within 7 days after the determination is made.

This was referred to TFNSW for Clauses 2.118 and 2.122 and council advised that no further action was required.

Chapter 3 Educational Establishments and Child Care Facilities

3.58 Traffic-generating development

- (1) This section applies to development for the purpose of an educational establishment—
 - (a) that will result in the educational establishment being able to accommodate 50 or more additional students, and
 - (b) that involves—
 - (i) an enlargement or extension of existing premises, or
 - (ii) new premises,on a site that has direct vehicular or pedestrian access to any road.
- (2) Before determining a development application for development to which this section applies, the consent authority must—
 - (a) give written notice of the application to Transport for NSW (**TfNSW**) within 7 days after the application is made, and
 - (b) take into consideration the matters referred to in subsection (3).
- (3) The consent authority must take into consideration—
 - (a) any submission that TfNSW provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and
 - (b) the accessibility of the site concerned, including—
 - (i) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
 - (ii) the potential to minimise the need for travel by car, and

- (c) any potential traffic safety, road congestion or parking implications of the development.
- (4) The consent authority must give TfNSW a copy of the determination of the application within 7 days after the determination is made.

This was referred to TfNSW for Clause 3.58 and TfNSW has advised that no further action is required.

The below clauses have been addressed by the developer:

3.22 Centre-based childcare facility - concurrence of Regulatory Authority required for certain development

- (1) This section applies to development for the purpose of a centre-based childcare facility if (a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or (b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.
- (2) The consent authority must not grant development consent to development to which this section applies except with the concurrence of the Regulatory Authority.
- (3) The consent authority must, within 7 days of receiving a development application for development to which this section applies—
- (a) forward a copy of the development application to the Regulatory Authority, and
 - (b) notify the Regulatory Authority in writing of the basis on which the Authority's concurrence is required and of the date it received the development application.
- (4) In determining whether to grant or refuse concurrence, the Regulatory Authority is to consider any requirements applicable to the proposed development under the Children (Education and Care Services) National Law (NSW).
- (5) The Regulatory Authority is to give written notice to the consent authority of the Authority's determination within 28 days after receiving a copy of the development application under subsection (3).

- The indoor and outdoor space requirements of the facility have been designed in accordance with 'Childcare Planning Guidelines' and the 'Education and Care Services National Regulation'.

3.24 Centre-based childcare facility in certain zones—additional matters for consideration by consent authorities

- (1) The object of this section is to minimise land use conflicts with existing developments on surrounding land and to ensure the safety and health of people using or visiting a centre-based childcare facility on land in a prescribed zone.

(2) The consent authority must consider the following matters before determining a development application for development for the purpose of a centre-based childcare facility on land in a prescribed zone –

- (a) whether the proposed development is compatible with neighbouring land uses, including its proximity to restricted premises, sex services premises or hazardous land uses,
- (b) whether the proposed development has the potential to restrict the operation of existing industrial land uses,
- (c) whether the location of the proposed development will pose a health or safety risk to children, visitors or staff.

(3) The matters referred to in subsection (2) are in addition to any other matter that the consent authority must consider before determining a development application for development for the purpose of a centre-based childcare facility.

(4) In this section prescribed zone means any of the following land use zones –

- (a) Zone E4 General Industrial,
- (b) Zone E5 Heavy Industrial,
- (c) Zone IN1 General Industrial,
- (d) Zone IN2 Heavy Industrial.

- The proposed development site is located in the R1 General Residential land use zone. The proposed development is not anticipated to have negative effects on surrounding developments, industry or pose a health and safety risk to children, staff or visitors.

3.25 Centre-based childcare facility - floor space ratio

(1) Development consent must not be granted for the purposes of a centre-based childcare facility in Zone R2 Low Density Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1.

(2) This section does not apply if another environmental planning instrument or a development control plan sets a maximum floor space ratio for the centre-based childcare facility.

- The proposed development site is located in the R1 General Residential land use, therefor not applicable.

3.27 Centre-based childcare facility - development control plans

(1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based childcare facility –

- (a) operational or management plans or arrangements (including hours of operation),
- (b) demonstrated need or demand for childcare services,
- (c) proximity of facility to other early education and care facilities,
- (d) any matter relating to development for the purpose of a centre-based childcare facility contained in –

- (i) the design principles set out in Part 2 of the Child Care Planning Guideline, or
- (ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).
- (2) This section applies regardless of when the development control plan was made.

Response below in regard to the above TI SEPP clauses 3.22, 3.24, 3.25 and 3.27 by the developer:

- The proposed development has been designed in accordance with 'Childcare Planning Guidelines'. The proposed development will integrate within the existing streetscape and will provide quality childcare services to the community.

PROVISIONS OF ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT THAT HAS BEEN PLACED ON EXHIBITION 4.15(1)(a)(ii)

No draft plans apply.

DESIGNATED DEVELOPMENT

The proposed development is not designated development.

INTEGRATED DEVELOPMENT

Section 4.46 of the EP&A Act states that development requiring consent and another activity approval is defined as "Integrated Development".

The proposed development is integrated development, as concurrent approval is required from TfNSW pursuant to Clauses 2.118, 2.122 and 3.58 of the TI SEPP. TfNSW advised there was no action required.

DARK SKY PLANNING GUIDELINE JUNE 2023

The guideline informs development controls that apply to land for the assessment of significant development within 200km of the Siding Spring Observatory.

A consent authority must also consider the guideline for:

- state-significant development;
- designated development; and
- development specified in State Environmental Planning Policy (Planning Systems) 2021, Schedule 6 (regionally significant development) that is likely to affect the night sky and is within 200 kilometres of Siding Spring Observatory.

Comment: The proposed development is not within 200km of the observatory and not designated, regional or State significant and hence no further consideration under the guideline is required.

PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN s4.15(1)(a)(iii)

No DCP applies to the subject land.

SECTION 7.12 DEVELOPMENT CONTRIBUTIONS PLAN

Section 7.12 Development Contributions levy apply to the development see calculation below.

Contribution Type	Proposed Cost of Development	Levy Percentage	Total Contribution	Contribution Rate remains current until 31 March 2025
Section 7.12 Contribution	\$1,120,00.00	1% 200k and above	\$11,200.00	Prior to Construction Certificate

PROVISIONS OF ANY PLANNING AGREEMENT s4.15(1)(a)(iiia)

No planning agreements have been entered into with respect to the subject land or proposal.

PROVISIONS PRESCRIBED BY THE 2021 REGULATIONS s4.15(1)(a)(iv)

Demolition of a Building (s61(1))

The proposal involves the demolition of an existing dwelling. A condition is attached requiring the demolition to be carried out in accordance with *Australian Standard AS2601 - 1991: The Demolition of Structures*.

Fire Safety Considerations (s62)

The proposal involves a change of building use from the previous residential use of the site. Council is satisfied that the fire protection and structural capacity of the proposed building is appropriate for the proposed new building use. Relevant conditions are attached.

Buildings to be Upgraded (s64)

The proposal does not involve the rebuilding, alteration, enlargement or extension of an existing building.

BASIX Commitments (s27 and s75)

BASIX is not applicable to the proposed development. A Section J energy efficiency statement will be required with the Construction Certificate application.

THE LIKELY IMPACTS OF THE DEVELOPMENT s4.15(1)(b)

Impacts	Satisfactory	Not Satisfactory	Not Relevant	Comments + conditions to ensure satisfactory
Context & setting	x			The proposed child care centre is not inconsistent with the mixed land use pattern of surrounding development. It has a set back from the front boundary of 7.2m and provides for parking onsite for staff and visitors to the premises
Site design	x			The design of the building will integrate into the mixed use streetscape that contains residential and commercial premises.
Bulk, privacy & overshadowing	x			The proposed development is located 1mtr from the northern boundary. A residential dwelling is located adjacent to this boundary. The rear of the facility is along the fence line and adjacent to a residence. There is no overshadowing or privacy concerns.
Private open space	x			Ample private open space is available on site for the proposed development and child care facility.
Setbacks & Building Envelopes	x			The setback from the primary boundary is required to be 8m. The subject land is a corner block and the architectural design of the proposed building sets the primary frontage off Belubula Way at 7.2m. The 0.8m variation to the 8m standard is acceptable, and the development plans were notified to adjoining neighbours for comment – with no objections received relating to the building's design.
Landscaping	x			The site is to be landscaped with a Pittosporum tenuifolium hedge to be established along the west and southern boundaries to provide privacy and a barrier to road and pedestrian views and noise. Grassed areas and active play areas are to be provided, the latter covered by shade sails. Boundary security fencing is to be 1.8m height

Impacts	Satisfactory	Not Satisfactory	Not Relevant	Comments + conditions to ensure satisfactory
Streetscape	x			The existing older style dwelling is to be demolished and a single storey, purpose built premises is to replace it. The proposed building has been designed to integrate into the largely residential streetscape.
Traffic, access and parking	x			The development proposes off street parking to the eastern side of the premises off Belubula Way. Nine (9) car parking spaces are to be provided onsite parking. On street parking is also to be utilized. Conditions of consent will apply to the on-site parking.
Utilities & servicing	x			All utilities are available to site and will form part of the conditions of consent. The premises will provide for eight (8) toilets and seven (7) handwash basins
Water quality & stormwater	x			The development will use existing stormwater drainage
Soils & soil erosion	x			Soil and erosion mitigation will form part of the conditions of consent
Flora & fauna - biodiversity	x			Five existing ornamental shrubs and small trees are to be removed from the site. The area surrounding the proposed building is to be landscaped to accommodate a grassed area and an outdoor play area.
Waste	x			A Waste Management Plan will be conditioned as part of the consent to ensure proper disposal of waste and recycling where possible during construction. A waste storage area is to be provided at the northern edge of the car park area.
Noise & vibration	x			Some impacts are expected during the construction stage. Conditions are attached with regards to work hours to ensure impacts are within reasonable limits.
Natural hazards - flooding, bushfire etc.			x	NA

Impacts	Satisfactory	Not Satisfactory	Not Relevant	Comments + conditions to ensure satisfactory
Safety, security & crime prevention	x			Overall, the proposal meets the 'Crime prevention through environmental design' CPTED principles with regards to surveillance, access control, and general space management
Social and economic Impacts	x			Adverse impacts are considered unlikely. Possible positive impacts resulting from additional housing supply, and job opportunities during construction stage.
Signage	x			Any proposed business identification signage will be condition to comply with the TI SEPP
Public Domain	x			The proposed development is unlikely to have an adverse impact upon the broader community for the reasons set out above.
Cumulative Impacts	x			Adverse cumulative impacts are considered unlikely for the reasons set out above.

THE SUITABILITY OF THE SITE s4.15(1)(c)

The proposed development is located in the R1 General Residential zone and is permissible with the consent of council. The suitability of the site has been addressed in the above sections of the report. The development of the site will not create significant adverse impacts on the context and setting of the area. Additionally, the development of the site will not detrimentally affect the adjoining land and is unlikely to lead to land use conflict.

ANY SUBMISSIONS MADE IN ACCORDANCE WITH THE ACT s4.15(1)(d)

The proposed development is defined as "advertised development" under the provisions of the *Cabonne Council Community Participation Plan 2019 (CPP)*. The application was advertised for the prescribed period of 14 days and at the end of that period four (4) submissions were received opposing the proposed development. The submissions are summarised as follows:

Submission	Comments
Submission 1 Nine (9) lot parking area for vehicle proposed, is insufficient space for onsite parking lot	Car parking is to be designed and provided to satisfy the Australian Standard

<p>The location of the site is unsafe due to the traffic around the proposed development</p> <p>Car parking alongside Belubula Way creates risk for children crossing and potentially people parking on private land with potential to destroy lawns</p>	<p>The site and the surrounding road network can accommodate the proposed development. Conditions of consent have been drafted to address traffic management. Vehicles will not be parking on private land or on road verges. Adequate on-site and kerb side parking will be available.</p>
<p>Submission 2</p> <p>Safety concerns due to the location of the facility, and the traffic around the development</p> <p>Concerned about noise levels from the proposed facility</p> <p>Concerned about environmental impacts of green space and trees. Construction of the facility will cause increased pollution and have impact upon the quality of life for residents</p>	<p>The site is able to accommodate the proposed use.</p> <p>The operation of the site is daylight only and is unlikely to breach noise guidelines</p> <p>The proposed development incorporated landscaped outdoor space. Construction of any site may cause short term inconvenience to adjoining properties. Hours of construction are regulated and will be subject to development conditions</p>
<p>Submission 3</p> <p>Concerned the location of the development is a safety concern due to proximity to highway.</p> <p>Concerned facility will increase traffic congestion and noise impacting the community</p> <p>Suggests an alternate location</p>	<p>The boundary to Rodd St is to incorporate a security fence and a hedge to provide a visual and noise buffer to the road.</p> <p>Traffic generated by the development can be accommodated within the existing road system</p>
<p>Submission 4</p> <p>Concerned about location of facility and traffic around the proposed development</p>	<p>As above</p>

Response to submissions

The proponent was provided with copies of the submissions and has provided further comment as follows:

The car park design has been designed in accordance with A2890.1 Off Street Parking Code. In lieu of council not having parking ratios, a ratio of 1 space per 10 children has been adopted from Bathurst Regional Council's current DCP.

Using this ratio would require a total of 6 on-site car parking spaces. 9 on-site vehicle parking spaces have been provided. Drop off and Pick up times are short and the on-site parking facilities can accommodate the expected increase.

An acoustic assessment has been completed at a larger childcare centre in a built up residential area (same owner) and the same recommendations have been adopted for boundary fence treatment at the subject site. Proposed boundary fencing between neighbouring properties include 1800mm High Colorbond (minimum 0.46mm BMT). Acceptable forms of construction include Colorbond (minimum 0.46mm BMT), lapped and capped timber, Hebel Powerpanel, masonry or retaining wall fence combination. No significant gaps should remain in the fence to allow the passage of sound below the recommended height. Other construction options are available if desired, providing the fence or wall is impervious and of equivalent or greater surface mass than the above options.

Childcare work to improve the environment with commitments to sustainability and teaching children how to look after country. Recycling, gardening, composting, and planting a sustainable garden.

Development Engineer

Council's development engineer reviewed the development proposal and provided the following comment:

Both frontages to the property have kerb and gutter, with a full width bitumen seal. Concrete foot paving is present along the Rodd Street frontage.

It is noted that the anticipated drop-off/ pick-up times to occur mostly in the mornings and afternoons. The number of car parking spaces provided must be in accordance with the relevant Australian Standards.

Nine on-site carparking spaces have been provided (including a disabled parking space). Vehicles using the on-site carpark will need to enter and exit in a forward direction. As such, vehicle turning paths will need to be provided to ensure that vehicles can enter and exit carparking space numbers 1 and 9 via a three point turn.

Any overflow parking would need to be provided via parking in Rodd Street and Belubula Way. Measurements from aerial images indicate that road widths in Rodd Street and Belubula Way are able to accommodate carparking. While vehicles can park between the edge line and the kerb in Rodd Street, the turning paths of heavy vehicles using the intersection would restrict the parking available in Belubula Way. Vehicle turning paths will need to be shown at the intersection of Rodd Street and Belubula Way to determine parking locations for overflow vehicles. No parking signage will need to be erected in Belubula Way to restrict parking to a safe and compliant distance from the intersection.

Sewer and water are available, and urban addressing is in place.

PUBLIC INTEREST s4.15(1)(e)

The proposed development is considered to be of minor interest to the wider public due to the relatively localised nature of potential impacts.

Cabonne Council has a number of policies that relate to development to ensure that it meets the public interest.

Building Alignment Policy - council's local policy sets the minimum building alignment, within village zones, from the front boundary of the property to the nearest point of the building, shall be eight (8) metres except by council's resolution.

The subject land is a corner allotment, with the principal frontage to be Belubula Way. The proposed building is to be setback 7.2m from the southern boundary. The development proposal was neighbourhood notified and there has been no concern raised regarding the slight variation to the setback policy. It is suggested that the setback variation be accepted.

The proposal is consistent with all relevant policy statements, planning studies, and guidelines.

SUMMARY

The proposed development is permissible with the consent of council. The proposed development complies with the relevant aims, objectives and provisions of Cabonne Local Environmental Plan 2012. A Section 4.15 assessment of the development indicates that the development is acceptable in this instance. Attached is a draft Notice of Approval outlining a range of conditions considered appropriate to ensure that the development proceeds in an acceptable manner.

General Conditions

1 APPROVED PLANS AND SUPPORTING DOCUMENTATION				
Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.				
APPROVED PLANS				
PLAN NUMBER	REVISION NUMBER	PLAN TITLE	DRAWN BY	DATE OF PLAN
21019 DA	2	Proposed Subdivision Windera Way/Mitchell Hwy Windera	MPF Surveying Pty Ltd	5.4.2022
APPROVED DOCUMENTS				
DOCUMENT TITLE	VERSION NUMBER	PREPARED BY	DATE OF DOCUMENT	
STATEMENT OF ENVIRONMENTAL EFFECTS FOR THE PROPOSED SUBDIVISION OF PROPOSED LOT 100 IN DP 1304633 – 1093 MITCHELL HIGHWAY, ORANGE.	Reference 21019-1 Version 1	MPF Surveying	April 2024	
Bushfire report	C	Integrated consulting	4.12.2024	
In the event of any inconsistency between the approved plans and documents, the approved PLANS prevail.				
In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.				
Condition reason: Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development				

2	APPLICATION FOR A SUBDIVISION CERTIFICATE
<p>An application for a Subdivision Certificate must be made on the approved form via the NSW Eplanning Portal. The Subdivision Certificate fees, in accordance with council's adopted schedule of fees and charges, must accompany such application.</p> <p>NOTE: The application must address all those conditions of consent required to be complied with "Prior to the issue of a Subdivision Certificate" with a clear explanation of how that condition has been complied with, together with supplying ALL the relevant information/documents/certificate and/or plans that is required by that condition.</p> <p>The following details shall also be submitted:</p> <p>Original Plan of Subdivision,</p> <p>Evidence that all conditions of Development Consent have been satisfied,</p> <p>Evidence of payment of all relevant fees,</p> <p>The 88B instrument, and</p> <p>All surveyor's or engineer's certification if required by the Development Consent.</p> <p>The application must be one complete, concise package, addressing all those conditions. Failure to provide the abovementioned information in one package, will likely result in the application being refused/rejected and returned to you.</p>	
Condition reason: Reason: To comply with statutory requirements	
3	SUBDIVISION - LOT DESIGN AND PURPOSE
<p>Surveying of the subject land will generally be in accordance with the approved plans.</p> <ul style="list-style-type: none"> • Lot 200 – have been approved for subdivision under Clause 4.1 of the Cabonne Local Environmental Plan 2012, enabling construction of a dwelling house or dual occupancy with lodgement and merit-based assessment of a development application • Lot 201 – have been approved for subdivision under clause 4.1 of the Cabonne Local Environmental Plans 2012 containing a dwelling and enabling construction of a dual occupancy with lodgement and merit-based assessment of a development application 	
Condition reason: Reason: To ensure the subdivision proceeds in accordance with council's consent and that the purpose of the newly created lots are clarified in the context of the Cabonne Local Environmental Plan 2012	
4	CONTAMINATED LAND UNEXPECTED FINDS
<p>In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental scientist appointed to further assess the site.</p>	

	<p>The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Cabonne Council.</p> <p>Note: Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the contaminated land situation and review any new contamination information. The applicant must also adhere to any additional conditions which may be imposed by the accredited site auditor.</p>
	Condition reason: Reason: To ensure compliance with Statutory Requirements

Subdivision Work

Before issue of a subdivision works certificate

5	<p>OBTAINING A SUBDIVISION WORKS CERTIFICATE FOR WORKS</p> <p>A Subdivision Works Certificate must be obtained prior to undertaking works associated with this Development Consent.</p> <p>Condition reason: Reason: Statutory Requirement</p>
6	<p>PROVISION OF PRIVATE ACCESS</p> <p>Access must be provided to all proposed lots in accordance with Councils' Provision of Private Access Specification that is current at the time of application.</p> <p>Council, prior to any Construction Certificate being issued for the development or commencement of any access to the property from the adjoining road, must issue an Access Construction Certificate.</p> <p>A joint inspection with the Principal Certifying Authority is to be held prior to commencing construction of the access. Please telephone Council's Development Engineer on 6392 3200 to arrange a suitable date and time for the inspection.</p> <p>Condition reason: Reason: To ensure that safe and practical access is provided to the subject land</p>

Before issue of a subdivision certificate

7	<p>ERECTION OF RURAL ADDRESS NUMBERS</p> <p>The designated number plate(s) shall be obtained and erected in accordance with the Specifications for Erection of Rural Address Numbers as supplied by council. (Note: These plates are available from council at the fee specified in council's Fees and Charges)</p> <p>Written notification is to be provided to council indicating rural addressing numbers have been erected. This letter is to be supplied to council or Principal Certifying Authority prior to the issue of a Subdivision Certificate.</p>
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	<p>Condition reason: Reason: To ensure each eligible rural property has a suitably erected and clearly visible rural address number in accordance with Standard AS/NZS 4819:2003: Geographic Information – Rural and Urban Addressing</p>
8	<p>FENCING</p> <p>Prior to the release of the Subdivision Certificate the applicant is required to fence the boundaries of the newly created lots to a “dog/stock proof” standard. This requires the fence to have netting, ringlock or hingejoint that goes below ground level, top, middle and bottom wires, as well as two (2) barbed wires above the netting.</p> <p>Condition reason: Reason: To ensure that all animals are retained within each approved Lots</p>
9	<p>GATE SETBACK</p> <p>Access gateways to each proposed lot are to be setback a minimum of 1.5 metres from the boundary fence line.</p> <p>Condition reason: Reason: To ensure traffic entering and leaving the property does not create a risk to traffic using the designated lane</p>
10	<p>PROVISION OF URBAN PROPERTY ADDRESS NUMBER(S)</p> <p>The location of each eligible access will be established and a number allocated based upon measurements taken by the Principal Certifying Authority, which will be in accordance with Standard AS/NZS 4819:2011.</p> <p>The owner of the property is to apply in writing to Council’s Environmental Services Department, requesting an urban property address to be issued.</p> <p>Condition reason: Reason: To provide each eligible property with an urban address number in accordance with Standard AS/NZS 4819:2011: Geographic Information – Rural and Urban addressing</p>
11	<p>REGISTRATION OF EASEMENTS</p> <p>All easements and restrictions required by this consent must nominate Cabonne Council as the authority to release, vary or modify the easements or restrictions.</p> <p>The final plan of subdivision shall show easements over any utility services for water, sewer, and stormwater drainage facilities in favour of Cabonne Council.</p> <p>Condition reason: Reason: Servicing</p>
12	<p>RURAL ADDRESSING</p> <p>The location of each eligible access will be established, and a number allocated based upon measurements taken by the Principal Certifying Authority, which will be in accordance with Standard AS/NZS 4819:2011.</p>

	<p>Prior to the release of the Subdivision Certificate, the owner of the property is to apply in writing to council's Infrastructure Department, requesting an urban property address to be issued.</p>
	<p>Condition reason: Reason: To provide each eligible property with an urban address number in accordance with Standard AS/NZS 4819:2011: Geographic Information – Rural and Urban addressing</p>
<p>1 3</p>	<p>RFS 100B Conditions</p>
	<p><u>All conditions must be in place prior to issue of subdivision certificate relating to;</u></p> <p>Asset Protection zones</p> <p>Construction standard for existing dwelling</p> <p>Access requirements</p> <p>Water and Utility Services</p> <p>Landscape Assessment</p> <p>Asset Protection Zones <i>Intent of measures: to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels the buildings are below critical limits and prevent direct flame contact.</i></p> <p>1. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, asset protection zones must be provided as shown on the APZ Plan at Figure 11 of the report prepared by Integrated Consulting dated 04 December 2024..</p> <p>When establishing and maintaining an inner protection area (IPA) the following requirements apply in accordance with the requirements of Appendix 4 of <i>Planning for Bush Fire Protection 2019</i>:</p> <ul style="list-style-type: none"> ● tree canopy cover should be less than 15% at maturity; ● trees at maturity should not touch or overhang the building; ● lower limbs should be removed up to a height of 2m above the ground; ● tree canopies should be separated by 2 to 5m; ● preference should be given to smooth barked and evergreen trees; ● large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings; ● shrubs should not be located under trees; ● shrubs should not form more than 10% ground cover; and ● clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation. ● grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and

- leaves and vegetation debris should be removed.

Construction Standards

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

2. The existing dwelling on proposed Lot 201 must be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

Access Requirements

Intent of measures: to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

3. Property access roads must comply with the general requirements of Table 5.3b of *Planning for Bush Fire Protection 2019* and the following:

- property access roads are two-wheel drive, all-weather roads;
- minimum 4m carriageway width;
- in forest, woodland and heath situations, rural property access roads have passing bays every 200m that are 20m long by 2m wide, making a minimum trafficable width of 6m at the passing bay;
- a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;
- provide a suitable turning area in accordance with Appendix 3;
- curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;
- the minimum distance between inner and outer curves is 6m; the crossfall is not more than 10 degrees;
- maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads; and
- a development comprising more than three dwellings has access by dedication of a road and not by right of way.

Note: Some short constrictions in the access may be accepted where they are not less than 3.5m wide, extend for no more than 30m and where the obstruction cannot be reasonably avoided or removed. The gradients applicable to public roads also apply to community style development property access roads in addition to the above.

Water and Utility Services

Intent of measures: 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.

4. The provision of water, electricity and gas must comply with the following in accordance with Table 5.3c of *Planning for Bush Fire Protection 2019*:

- A 20,000 litre static water supply tank must be provided for the existing dwelling on proposed Lot 201;
- a connection for firefighting purposes is located within the IPA or non-hazard side and away from the structure;
- 65mm Storz outlet with a ball valve is fitted to the outlet;
- ball valve and pipes are adequate for water flow and are metal;

- supply pipes from tank to ball valve have the same bore size to ensure flow volume;
- 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;
- above-ground tanks are manufactured from concrete or metal;
- raised tanks have their stands constructed from non-combustible material or bush fire-resisting timber (see Appendix F of AS 3959);
- 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 shall be 19mm internal diameter; and
- fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005;
- 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;
- 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.

Landscaping Assessment

Intent of measures: to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.

5. 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 no 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.

General Advice - Consent Authority to Note

Future development applications lodged on lots created within this subdivision may be subject to further assessment under the *Environmental Planning & Assessment Act 1979*.

Condition reason: Statutory Requirement

Ongoing use for subdivision work

No additional conditions have been applied to this stage of development.

General advisory notes

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

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

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

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

RFS 100B

General Advice – Consent Authority to Note Future development applications lodged on lots created within this subdivision may be subject to further assessment under the Environmental Planning & Assessment Act 1979.

Dictionary

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

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

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

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

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

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

Council means CABONNE SHIRE COUNCIL.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

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

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

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

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

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

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

Stormwater drainage system means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,

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

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

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

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

Sydney district or regional planning panel means .

General Conditions

1 APPROVED PLANS AND SUPPORTING DOCUMENTATION				
Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.				
APPROVED PLANS				
PLAN NUMBER	REVISION NUMBER	PLAN TITLE	DRAWN BY	DATE OF PLAN
Bmd23249916	i	Proposed child care centre Robert Wilson 70 Rodd St Canowindra	Brett Moulds Drafting & Design	11.12.2024
APPROVED DOCUMENTS				
DOCUMENT TITLE	VERSION NUMBER	PREPARED BY	DATE OF DOCUMENT	
Statement of environmental effects	C	Brett Moulds	15.9.2024	
Section J report	B	Brett Moulds	28.10.2024	
Soil contamination report	A	Barnsons	4.11.2024	
In the event of any inconsistency between the approved plans and documents, the approved PLANS prevail.				
In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.				
Condition reason: Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development				
2 Erection of signs				
<ol style="list-style-type: none"> 1. This section applies to a development consent for development involving building work, subdivision work or demolition work. 2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out— <ol style="list-style-type: none"> a. showing the name, address and telephone number of the principal certifier for the work, and 				

	<ul style="list-style-type: none"> b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and c. stating that unauthorised entry to the work site is prohibited. <p>3. The sign must be—</p> <ul style="list-style-type: none"> a. maintained while the building work, subdivision work or demolition work is being carried out, and b. removed when the work has been completed. <p>4. This section does not apply in relation to—</p> <ul style="list-style-type: none"> a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or <p>Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</p>
	Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.

Demolition Work

Before demolition work commences

3	<p>Asbestos removal signage</p> <p>Before demolition work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.</p> <p>Condition reason: To alert the public to any danger arising from the removal of asbestos</p>
4	<p>Disconnection of services before demolition work</p> <p>Before demolition work commences, all services, such as water, telecommunications, gas, electricity and sewerage, must be disconnected in accordance with the relevant authority's requirements.</p> <p>Condition reason: To protect life, infrastructure and services</p>
5	<p>Erosion and sediment control plan</p> <p>Before site work commences, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the certifier or Council (where a certifier is not required):</p> <ul style="list-style-type: none"> a. Council's relevant development control plan,

	<p>b. the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and</p> <p>c. the 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure) (dated 2024, as amended from time to time).</p>
	<p>Condition reason: To ensure no substance other than rainwater enters the stormwater system and waterways.</p>
6	<p>Erosion and sediment controls in place</p> <p>Before any site work commences, <the principal certifier or Council (where a principal certifier is not required), must be satisfied the erosion and sediment controls in the erosion and sediment control plan which was provided to the principal certifier OR council (where a principal certifier is not required) are in place. These controls must remain in place until any bare earth has been re-stabilised in accordance with the erosion and sediment control plan.</p> <p>Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>
7	<p>Notice of commencement for demolition</p> <p>At least one week before demolition work commences, written notice must be provided to council and the occupiers of neighbouring premises of the work commencing. The notice must include:</p> <ol style="list-style-type: none"> 1. name 2. address, 3. contact telephone number, 4. licence type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor, and 5. the contact telephone number of council and 6. the contact telephone number of SafeWork NSW (4921 2900). <p>Condition reason: To advise neighbours about the commencement of demolition work and provide contact details for enquiries</p>
8	<p>CONSTRUCTION CERTIFICATE - PRIOR TO THE COMMENCEMENT OF ANY DEMOLITION WORKS</p> <p>Where demolition is associated with the erection of a new structure, or an altered portion of or an extension to an existing building, the demolition of any part of a building is "commencement of building work" pursuant of section 6.6 of the Act. In such circumstance all conditions of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the issue of a Construction Certificate, appointment of a PCA and Notice of Commencement under the Act.</p> <p>Condition reason: Reason: Statutory Requirement</p>
9	<p>DEMOLITION</p> <p>Demolition - General</p> <ul style="list-style-type: none"> •

	<p>1.</p> <p style="padding-left: 20px;">a.</p> <p style="padding-left: 40px;">a. That two (2) working days (i.e. Monday to Friday exclusive of public holidays) prior to the commencement of any demolition work, notice in writing is to be given to the council. Such written notice is to include:</p> <ul style="list-style-type: none"> • The date when demolition will commence; • Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer; • The licence number of the demolisher, and relevant SafeWork NSW licenses, (see minimum licensing requirements in (d) below; and • Copies of the demolisher's current public liability/risk insurance policy indicating a minimum cover of \$20 million.
	<p>1.</p> <p style="padding-left: 20px;">a.</p> <p style="padding-left: 40px;">i.</p> <p style="padding-left: 60px;">a. Demolition of buildings and structures must comply with all current and relevant Australian Standards.</p>
	<ul style="list-style-type: none"> • 1. <li style="padding-left: 20px;">a. <li style="padding-left: 40px;">a. Demolition works are restricted as follows: <ul style="list-style-type: none"> • Monday to Friday inclusive - 7:00am - 6:00pm • Saturday - 8:00am - 1:00pm • Sundays and Public Holidays - No work
	<p>1.</p> <p style="padding-left: 20px;">a.</p> <p style="padding-left: 40px;">i.</p> <p style="padding-left: 60px;">a. At least two (2) working days (i.e. Monday to Friday exclusive of public holidays), the developer or demolition contractor must notify adjoining residents prior to demolition commencing advising the following:</p> <ul style="list-style-type: none"> • The date when demolition will commence; • Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer; and • The telephone number of SafeWork NSW Hotline 13 10 50.
	<p>Demolition Involving the Removal of Asbestos</p> <p>General Information</p>

Homes built or renovated prior to 1987 are likely to contain asbestos. Asbestos is most commonly found within eaves, internal and external wall cladding, ceilings and walls (particularly within wet areas such as bathrooms and laundries), and fences. Unless properly handled, asbestos disturbed or removed during renovations can cause the development of asbestos related diseases, such as asbestosis, lung cancer and mesothelioma.

To ensure work does not cause undue risk please see the following site for further information:

www.asbestosawareness.com.au

Asbestos to be removed by licensed asbestos removalist

All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with SafeWork NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal License which ever applies AND a current SafeWork NSW Demolition License where works involve demolition.

NOTE:

Removal of asbestos by a person who does not hold a Class A or Class B asbestos removal license is permitted if the asbestos being removed is 10m² or less of non-friable asbestos (approximately the size of a small bathroom).

Friable asbestos materials must only be removed by a person who holds a current Class A asbestos license. To find a licensed asbestos removalist please see <https://www.safework.nsw.gov.au/home>

Compliance with applicable Legislation, Policies and Codes of Practice

Asbestos removal works are to be undertaken in accordance with the following:

- NSW Work Health and Safety Act 2011 and Regulation 2017;
- Safe Work Australia Code of Practice for the Management and Control of Asbestos in the Workplace December 2022; and
- SafeWork NSW Code of Practice - How to Safely Remove Asbestos December 2022;

Clearance certificate

Following completion of asbestos removal works undertaken by a licensed asbestos removalist re-occupation of a workplace must not occur until an independent and suitably licensed asbestos removalist undertakes a clearance inspection and issues a clearance certificate.

Notification of asbestos removal works.

	<p>At least two (2) working days (i.e. Monday to Friday exclusive of public holidays), the developer or demolition contractor must notify adjoining residents prior to the commencement of asbestos removal works. Notification is to include, at a minimum:</p> <ul style="list-style-type: none"> • The date and time when asbestos removal works will commence; • The name, address and business hours contact telephone number of the demolisher, contractor and/or developer; • The full name and license number of the asbestos removalist/s; and • The telephone number of SafeWork NSW Hotline 13 10 50 <p>Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance.</p> <p>Barricades</p> <p>Appropriate barricades must be installed as appropriate to prevent public access and prevent the escape of asbestos fibres. Barricades must be installed prior to the commencement of asbestos removal works and remain in place until works are completed.</p> <p>Condition reason: Reason: To ensure compliance with the relevant legislation and to ensure public and work safety</p>
10	<p>PROTECTION OF PUBLIC PLACES</p> <p>The adjoining or adjacent public area is not to be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances unless approved in writing by council.</p> <p>If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected prior to the commencement of any work subject to approval of a Traffic Management Plan.</p> <p>An application to occupy public space is to be submitted to council for approval prior to commencement of works.</p> <p>Where a hoarding is required, an application for hoarding is also to be submitted to and approved by council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of SafeWork NSW, the Principal Certifying Authority and with relevant Australian Standards.</p> <p>Condition reason: Reason: Safety Requirement</p>

11	<p>SITE SAFETY FENCING - DEMOLITION ONLY</p> <p>Erect site fencing to a minimum height of 1.8m complying with SafeWork NSW Guidelines, to exclude public access to the site throughout the demolition. The fencing must be erected before the commencement of any demolition work and maintained.</p> <p>The site shall be maintained in a clean and orderly condition during demolition works.</p> <p>Hoardings</p> <p>If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with SafeWork NSW requirements must be obtained including:</p> <ul style="list-style-type: none"> • Payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and council's Schedule of Fees and Charges before the commencement of work; and • Provision of a Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council. <p>Condition reason: Reasons: Statutory Requirement and health and safety</p>
During demolition work	
12	<p>Discovery of relics and Aboriginal objects</p> <p>While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:</p> <ol style="list-style-type: none"> a. the work in the area of the discovery must cease immediately; b. the following must be notified <ol style="list-style-type: none"> i. for a relic – the Heritage Council; or ii. for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the <i>National Parks and Wildlife Act 1974</i>, section 85. <p>Site work may recommence at a time confirmed in writing by:</p> <ol style="list-style-type: none"> a. for a relic – the Heritage Council; or b. for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the <i>National Parks and Wildlife Act 1974</i>, section 85. <p>Condition reason: To ensure the protection of objects of potential significance during works.</p>
13	<p>Handling of asbestos during demolition</p> <p>While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements:</p>

	<ol style="list-style-type: none"> 1. Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and disposal of any asbestos material; 2. Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and 3. Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate.
	Condition reason: To ensure that the removal of asbestos is undertaken safely and professionally
14	Noise and Vibration requirements
	While site work is being carried out, noise generated from the site must not exceed an LAeq (15 min) of 5dB/ Insert less than 5dB (A) above background noise, when measured at a lot boundary of the site.
	Condition reason: To protect the amenity of the neighbourhood during construction.
15	Responsibility for changes to public infrastructure
	While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.
	Condition reason: To ensure payment of approved changes to public infrastructure.
16	Waste management
	While site work is being carried out: <ol style="list-style-type: none"> 1. all waste management must be undertaken in accordance with the waste management plan; and 2. upon disposal or removal of the waste, records of the disposal or other fate (such as re-use on site) must be compiled and provided to THE PRINCIPAL CERTIFIER OR COUNCIL (WHERE A PRINCIPAL CERTIFIER IS NOT REQUIRED), detailing the following: <ol style="list-style-type: none"> a. The name and contact details of the person(s) who removed the waste, b. The waste carrier vehicle registration, c. The date and time of waste collection, d. A description of the waste (type of waste, classification and estimated quantity) and whether the waste is to be reused, recycled, go to landfill or other fate. e. The contact details and address of the disposal location or other offsite location(s) where the waste was taken, f. The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. 3. The waste generated on site during construction must be classified in accordance with the Environment Protection Authority's Waste Classification Guidelines, 2014 (as amended from time to time) and disposed of to an approved waste management facility or otherwise lawfully managed.

	<p>If waste has been removed from the site where the waste is under an Environment Protection Authority Resource Recovery Order or Exemption, records in relation to and required by that Order or Exemption must be maintained and provided to the principal certifier and council.</p> <p>Condition reason: To require records to be provided, during site work, documenting the lawful disposal of waste.</p>
17	<p>HOURS OF WORK</p> <p>Site work must only be carried out between the following times –</p> <p style="padding-left: 40px;">For Demolition from 7:00am to 6:00pm on Monday to Friday.</p> <p style="padding-left: 80px;">8:00am to 1:00pm on Saturday</p> <p style="padding-left: 40px;">No Work on Sunday and Public Holidays</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p>Condition reason: Reason: To protect the amenity of the surrounding area</p>

On completion of demolition work

18	<p>Repair of infrastructure</p> <p>After completion of all site work:</p> <ul style="list-style-type: none"> a. any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of council, and at no cost to council; or b. if the works in (a) are not carried out to council's satisfaction, council may carry out the works required and the costs of any such works must be paid as directed by council and in the first instance will be paid using the security deposit required to be paid under this consent. <p>Condition reason: To ensure any damage to public infrastructure is rectified.</p>
19	<p>Waste disposal verification statement</p> <p>On completion of demolition work:</p> <ul style="list-style-type: none"> a) a signed statement must be submitted to the certifier OR council (where a certifier is not required) verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and b) if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the certifier OR council (where a certifier is not required) within 14 days of completion of the demolition work.

	<p>Condition reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan</p>
20	<p>COMPLIANCE WITH COMMONWEALTH DISABILITY DISCRIMINATION ACT 1992</p> <p>This approval does not necessarily protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the Commonwealth Disability Discrimination Act 1992, and the applicant/owner is therefore advised to investigate their liability under this Act.</p> <p>Note: Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Commonwealth Disability Discrimination Act 1992.</p> <p>Condition reason: Reason: To inform of relevant access requirements for persons with a disability)</p>
21	<p>COMPLIANCE WITH THE NATIONAL CONSTRUCTION CODE 2022</p> <p>All building work must be carried out in accordance with the provisions of the National Construction Code (NCC) 2022.</p> <p>Note: Applicants who have lodged an objection and who have been granted exemption under Part 15 of the Environmental Planning and Assessment (Building Certificate and Fire Safety) Regulation 2021, must comply with the National Construction Code (NCC) 2022 in all other respects.</p> <p>Condition reason: Reason: Prescribed Statutory control</p>
22	<p>CONSTRUCTION WITHIN BOUNDARY</p> <p>All approved construction including but not limited to footings, walls, roof barges and guttering are to be constructed wholly within the boundaries of the premises.</p> <p>Condition reason: Reason: To ensure compliance with approved plans</p>
23	<p>DAMAGE TO ADJOINING PROPERTIES</p> <p>All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.</p> <p>Condition reason: Reason: Structural safety</p>
24	<p>LIGHTING</p> <p>Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with relevant standards in this regard.</p> <p>Condition reason: Reason: Protect amenity of surrounding area</p>
25	<p>NOISE - PLANT</p>

	<p>All works carried out on site during construction/demolition/excavation or earthworks shall comply with the NSW Protection of the Environment Operations Act 1997. Approved and effective silencing measures shall be provided and maintained on all power-operated plant used on site if required.</p>
	<p>Condition reason: Reason: Safety and Amenity</p>
26	<p>OBSTRUCTION OF ROAD & FOOTPATH</p>
	<p>The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste bins or any other matter is not permitted unless the written approval is obtained from Cabonne Council. A Penalty Infringement Notice may be issued for any offence.</p>
	<p>Condition reason: Reason: Protection of infrastructure, safety & information</p>
27	<p>OCCUPATION CERTIFICATE</p>
	<p>To ensure compliance with the Environmental Planning & Assessment Act 1979. All buildings will require an Occupation Certificate PRIOR to occupation/use of the building.</p>
	<p>Condition reason: Reason: Statutory requirement</p>
28	<p>SITE REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION</p>
	<p>All of the following are to be satisfied/complied with during demolition, construction and any other site works:</p>
	<p>(a) All demolition is to be carried out in accordance with Australian Standards AS 2601-2001.</p>
	<p>(b) Demolition must be carried out by a registered demolition contractor.</p>
	<p>(c) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.</p>
	<p>(d) No blasting is to be carried out at any time during construction of the building.</p>
	<p>(e) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.</p>
	<p>(f) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.</p>
	<p>(g) Any demolition and excess construction materials are to be recycled wherever practicable.</p>
	<p>(h) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.</p>

	<p>(i) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in the approved manner and be disposed of lawfully to a tip or other authorised disposal area.</p> <p>(j) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.</p> <p>(k) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.</p> <p>(l) Details as to the method and location of disposal of demolition materials weight dockets, receipts etc.) should be kept on site as evidence of approved methods of disposal and recycling.</p> <p>(m) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.</p> <p>(n) Public footways and roadways adjacent to the site must be fully maintained and cleared of obstructions during construction unless prior separate approval from Council is obtained including payment of relevant fees.</p> <p>(o) Building operations such as brick cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.</p> <p>(p) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.</p>
	<p>Condition reason: Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.</p>
29	<p>SITE SAFETY FENCING</p> <p>Erect site fencing to a minimum height of 1.8m complying with SafeWork NSW Guidelines, to exclude public access to the site throughout the construction works. The fencing must be erected before the commencement of any work and maintained.</p> <p>The site shall be secured in accordance with conditions of consent attached to the development consent. The site shall be maintained in a clean and orderly condition during demolition and construction works.</p> <p>Hoardings</p>

	<p>If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with Workcover requirements must be obtained including:</p> <ul style="list-style-type: none"> • Payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and • Provision of a Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.
	<p>Condition reason: Reasons: Statutory Requirement and health and safety</p>
30	<p>WASTE MANAGEMENT</p> <p>While site work is being carried out:</p> <ul style="list-style-type: none"> a) All waste management must be undertaken in accordance with the Waste Management Plan; and b) Upon disposal of waste, records of the disposal must be compiled and provided to THE PRINCIPAL CERTIFIER OR COUNCIL (where a principal certifier is not required), detailing the following: <ul style="list-style-type: none"> i) The contact details of the person(s) who removed the waste; ii) The waste carrier vehicle registration; iii) The date and time of waste collection; <ul style="list-style-type: none"> iv) A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill; v) The address of the disposal location(s) where the waste was taken; and <ul style="list-style-type: none"> vi) The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. <p>If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the principal certifier and council.</p> <p>Condition reason: Reason: To require records to be provided, during site work, documenting the lawful disposal of waste</p>
31	<p>SCALE OF SITE AND HOURS OF OPERATION</p> <p>Scale of site and operational hours are as follows;</p> <ul style="list-style-type: none"> • Maximum of 52 children on site daily • Operating hours 6:30am - 6pm Monday - Friday • 12 Staff on rotational shifts <p>Condition reason: Statutory Requirement</p>

Building Work

Before issue of a construction certificate

3	ACCESSIBLE CAR PARKING SPACES
2	<p>One (1) of the car parking spaces provided as part of the total requirement shall be reserved for disabled persons. These spaces shall be a minimum of 3.2m wide x 5.5m long and located near pedestrian access routes designed for disabled persons. Each space shall be clearly marked as such.</p> <p>Car parking for people with disabilities shall be provided in accordance with the National Construction Code, and relevant Australian Standards and with regard to the Commonwealth Disability Discrimination Act 1992. Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance. Note: Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Commonwealth Disability Discrimination Act 1992.</p> <p>The above details shall be submitted to and approved by the Accredited Certifier prior to the issue of the Construction Certificate.</p> <p>Condition reason: Reason: To ensure relevant access requirements for persons with a disability</p>
3	APPLICATION FOR A CONSTRUCTION CERTIFICATE
3	<p>The applicant must apply to council or a Registered Certifier for a Construction Certificate to carry out the relevant building works that are approved by this consent. The details to be included in the application for a Construction Certificate are:</p> <p>(a) Architectural plans and specifications complying with the National Construction Code (NCC) 2022, relevant Australian Standards, and the development consent and conditions.</p> <p>(b) If Council issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be prepared by a practising consulting structural engineer. Also a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the NCC requirements.</p> <p>Note: The engineer/s undertaking certification must be listed on the National Professional Engineers Register under the appropriate category.</p> <p>(c) Geotechnical report for the site, prepared by a qualified geotechnical engineer detailing the foundation conditions of the site and solutions for consideration by a structural Engineer.</p> <p>(d) Essential services plan outlining the existing and proposed fire safety measures.</p>

	<p>(e) Disabled access provisions to common and public areas in accordance with AS1428.</p> <p>(f) If a performance solution is proposed, the following details must be lodged:</p> <p>Assessment methods used to determine compliance with the performance requirements, including if and how each performance objective impacts on other requirements of the NCC; and</p> <p>Compliance with all relevant Performance NCC requirements;</p> <p>How the solution is at least equivalent to the Deemed-To-Satisfy provisions.</p> <p>A statement about the person who prepared the performance solution, indicating qualifications, experience, insurance details, and membership of an approved accreditation body</p> <p>Note: The performance-based application may be required to be reviewed by a suitably qualified independent body at the applicant's expense. Any fees relating to any review are required to be paid prior to the issue of the Construction Certificate.</p> <p>Condition reason: Reason: Statutory requirement</p>
<p>3 4</p>	<p>APPOINTMENT OF PRINCIPAL CERTIFYING AUTHORITY</p>
	<p>No work shall commence in connection with this Development Consent until:</p> <p>(a) A construction certificate for the building work has been issued by:</p> <p>(i) the consent authority; or</p> <p>(ii) an accredited certifier; and</p> <p>(b) the person having the benefit of the development consent has:</p> <p>(i) appointed a principal certifying authority for the building work, and</p> <p>(ii) notified the principal certifying authority that the person will carry out the building work as an owner/builder, if that is the case, and</p> <p>(c) the principal certifying authority has, no later than 2 days before the building work commences:</p> <p>(i) notified the Council of his or her appointment, and</p> <p>(ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and</p> <p>(d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:</p>

	<p>(i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and</p> <p>(ii) notified the principal certifying authority of such appointment, and</p> <p>(iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and</p> <p>(e) the person having the benefit of the development consent has given at least 2 days notice to the council of the person's intention to commence the erection of the building.</p> <p>Note: If the principal certifying authority is the council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of the appropriate certificates.</p> <p>Under the Environment Planning and Assessment Act, 1979, a sign must be erected in a prominent position on the work site showing the name, address and telephone number of the principal certifying authority; the name of the principal contractor (if any) for the building work and a telephone number at which that person may be contacted outside working hours. That sign must also state that unauthorised entry is prohibited. The sign must not be removed until all work has been completed.</p>
	<p>Condition reason: Reason: Statutory requirements</p>
<p>3</p>	<p>CONSTRUCTION CERTIFICATE</p>
<p>5</p>	<p>No work shall commence until you:</p> <p>(a) Obtain a Construction Certificate from either Cabonne Council or a Registered Certifier - a fee applies for this service; and</p> <p>(b) Lodge with Cabonne Council any Construction Certificate obtained from a Registered Certifier (together with associated plans and documents) - a fee applies for this service</p> <p>Note: The Construction Certificate is to be applied for via the NSW Eplanning Portal.</p>
	<p>Condition reason: Reason: Statutory Requirement</p>
<p>3</p>	<p>CONSTRUCTION OF SANITARY COMPARTMENT</p>
<p>6</p>	<p>A sanitary compartment is to have sufficient space or other means to permit an unconscious occupant to be removed from the compartment</p> <p>Commercial</p> <p>Sanitary compartments must have doors and partitions that separate adjacent compartments and extend to height not less than 1.5m above the floor if primary school children are the principal users or 1.8m above the floor in all other cases.</p>

	Condition reason: Reason: Compliance with the National Construction Code 2022
37	DISABLED TOILETS
	Plans and details of the disabled toilet/s complying with the relevant Australian Standards, the National Construction Code 2022, and with regard to the Commonwealth Disability Discrimination Act 1992. Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance. Note: Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Commonwealth Disability Discrimination Act 1992. The plans must be approved by the Accredited Certifier prior to issue of a Construction Certificate.
	Condition reason: Reason: To inform of relevant access requirements for persons with a disability
38	PROVISION OF PRIVATE ACCESS
	Access must be provided to the dwelling in accordance with councils' Provision of Private Access Specification that is current at the time of application. Council, prior to any Construction Certificate being issued for the development or commencement of any access to the property from the adjoining road, must issue an Access Construction Certificate. A joint inspection with the Principal Certifying Authority is to be held prior to commencing construction of the access. Please telephone council's Development Engineer on 6392 3200 to arrange a suitable date and time for the inspection.
	Condition reason: Reason: To ensure that safe and practical access is provided to the subject land
39	SECTION 68 PLUMBING AND DRAINAGE APPLICATION APPROVAL
	To ensure an approval is in place for the installation of any Plumbing and Drainage work the applicant is required to apply for a S68 Plumbing and Drainage Application in accordance with Section 68 Part B of the Local Government Act 1993. Note: This is to be applied for via the NSW Eplanning Portal.
	Condition reason: Reason: Statutory requirement
40	SECTION 7.12 CONTRIBUTION LEVY
	Pursuant to section 4.17 of the Environmental Planning and Assessment Act 1979, and the Cabonne Council Section 7.12 Contributions Plan 2021, a contribution of \$11,200.00 must be paid to council. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the Cabonne Council Section 7.12 Contributions Plan 2021. The contribution is to be paid before the issue of any Construction Certificate.

<p>The Cabonne Council Section 7.12 Contributions Plan 2021, adopted October 2022, may be viewed during office hours at council's Customer Service Centres, or on council's website http://www.cabonne.nsw.gov.au</p> <p>The contribution payable will be calculated in accordance with the Contributions Plan current at the time of payment, and will be adjusted at the time of payment in accordance with the Consumer Price Index (CPI) (All Groups Index for Sydney) published by the Australian Bureau of Statistic (ABS). Contribution amounts will be adjusted by Council each quarter.</p>				
Contribution Type	Proposed Cost of Development	Levy Percentage	Total Contribution	Contribution Rate remains current until 31 March 2025*
Section 7.12 Contribution	\$1,120,000.00	1%	\$11,200.00	Prior to Construct Certificate
<p>Condition reason: Reason: Statutory Requirement</p>				
41	<p>STORM WATER, SEWERAGE AND WATER WORK APPROVALS</p> <p>Prior to the issue of a Construction Certificate, the applicant is to obtain all relevant approvals to carry out sewerage work, to carry out stormwater drainage work and to carry out water supply work from the relevant water supply authority and comply with any conditions of those approvals.</p> <p>Condition reason: Reason: To ensure works are carried out in accordance with other approvals</p>			

Before building work commences

42	<p>EROSION AND SEDIMENT CONTROL</p> <p>Erosion and sedimentation controls shall be in place prior to the commencement of site works; and maintained throughout construction activities until the site is landscaped and/or suitably revegetated. The controls shall be in accordance with the details approved by council and/or as directed by council officers. These requirements shall be in accordance with Managing Urban Stormwater - Soils and Construction produced by Landcom (Blue Book).</p> <p>A copy of the Erosion and Sediment Control Plan must always be kept on site during construction and made available to Council officers on request.</p> <p>Erosion and sediment control measures as detailed in the submitted Erosion and Sediment Control Plan must be installed and operating prior to and during all construction works.</p> <p>Condition reason: Reason: Environmental protection</p>
43	<p>NOTICE OF COMMENCEMENT</p>

	<p>No work shall commence until a notice of commencement is submitted to council via the NSW Eplanning Portal:</p> <p>(a) Not less than two (2) days notice of the date on which it is proposed to commence work associated with this Development Consent;</p> <p>(b) Details of the appointment of a Principal Certifying Authority (either Cabonne Council or another Registered Certifier,</p> <p>(c) Details of the name, address and licence details of the builder.</p>
	Condition reason: Reason: Statutory Requirement
44	PROTECTION OF PUBLIC PLACES
	<p>The adjoining or adjacent public area is not to be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances unless approved in writing by council.</p> <p>If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected prior to the commencement of any work subject to approval of a Traffic Management Plan.</p> <p>An application to Occupy Public Space is to be submitted to council for approval prior to commencement of works.</p> <p>Where a hoarding is required, an Application for Hoarding is also to be submitted to and approved by council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of SafeWork NSW, the Principal Certifying Authority and with relevant Australian Standards.</p>
	Condition reason: Reason: Safety Requirement
45	TOILET AMENITIES ON CONSTRUCTION SITE
	<p>Prior to commencement of any building works, toilet facilities for employees must be provided in accordance with SafeWork NSW requirements.</p> <p>Where female workers are present on site, appropriate measures for sanitary item disposal should be made, such as a disposal unit provided in the portable toilet or sewer connected toilet closet.</p>
	Condition reason: Reason: Statutory Requirement - Health and amenity
During building work	
46	ADJUSTMENT TO UTILITY SERVICES
	<p>Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.</p>
	Condition reason: Reason: Information
47	CONTAMINATED LAND UNEXPECTED FINDS

	<p>In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental scientist appointed to further assess the site.</p> <p>The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Cabonne Council.</p> <p>Note: Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the contaminated land situation and review any new contamination information. The applicant must also adhere to any additional conditions which may be imposed by the accredited site auditor.</p>
	Condition reason: Reason: To ensure compliance with Statutory Requirements
48	CRITICAL STAGE INSPECTIONS - GENERAL
	<p>Critical stage inspections must be called for by the Principal Contractor or Owner Builder as required by the Principal Certifying Authority (PCA), any PCA Service Agreement, the Act and the Regulation.</p> <p>Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the Act. 'Critical Stage Inspections' means the inspections prescribed by the Regulations for the purposes of section 6.5 of the Act or as required by the PCA and any PCA Service Agreement.</p> <p>Note 1: The PCA may require additional inspections beyond mandatory critical stage inspections in order that the PCA be satisfied that work is proceeding in accordance with this consent.</p> <p>Note 2: The PCA may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the NCC Volume 1 and Part A5 of the NCC Volume 2 in relation to any matter relevant to the development.</p>
	Condition reason: Reason: Statutory requirement
49	HOURS OF WORK
	<p>Site work must only be carried out between the following times –</p> <p style="padding-left: 40px;">For Construction from 7:00am to 6:00pm on Monday to Friday.</p> <p style="padding-left: 80px;">8:00am to 1:00pm on Saturday</p> <p style="padding-left: 40px;">No Work on Sunday and Public Holidays</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p>
	Condition reason: Reason: To protect the amenity of the surrounding area
50	INSPECTION RECORDS & COMPLIANCE CERTIFICATES

	<p>The PCA or accredited certifier undertaking each of the inspections must make a record of each inspection in accordance with Part 8 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulations 2021 and, if the person is not the PCA, forward a copy to the PCA.</p> <p>A copy of any compliance certificates issued in respect of the building work and any documents referred to in the certificate must be provided to Council within two (2) days of the certificate being issued. A compliance certificate must be issued where:</p> <p>(a) Either:</p> <p>(i) Council is appointed the PCA; or</p> <p>(ii) Council is the PCA but agrees to an accredited certifier undertaking certain inspection/s, and</p> <p>(b) The PCA or accredited certifier is of the opinion that the stage of work he or she has inspected is satisfactory.</p>
	Condition reason: Reason: Statutory Requirement

Before issue of an occupation certificate

51	ACCESS COMPLIANCE CERTIFICATE
	Council prior to any Occupation Certificate being issued for the development must issue an Access Compliance Certificate for the Provision of Private Access.
	Condition reason: Reason: To ensure that safe and practical access is provided to the subject land
52	ACCESS FOR PEOPLE WITH DISABILITIES
	Access for people with disabilities must be provided in accordance with the requirements of the National Construction Code 2022, relevant Australian Standards and with regard to the Commonwealth Disability Discrimination Act 1992. Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance. Note: Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Commonwealth Disability Discrimination Act 1992.
	Condition reason: Reason: To inform of relevant access requirements for persons with a disability
53	ADDITIONAL INSPECTION CHARGES
	Prior to the issue of any Occupation Certificate any additional Inspection fees/charges which have been incurred and issued by the certifier during construction works are to be paid and proof provided to the Principal Certifier.
	Condition reason: Reason: Statutory Requirement
	CAR PARKING & ACCESS

54	<p>a. Minimum of nine (9) off street car parking spaces are to be provided on site.</p> <p>b. Each parallel car parking space is to be a minimum of 5.4m long x 2.5m Wide</p> <p>c. Each right angle car parking space is to be a minimum of 5.4m long x 2.5m Wide</p> <p>d. Each car parking space for the disabled is to be in accordance with the provisions of Clause D3. 101 of the National Construction Code of Australia, 193.</p> <p>e. All car parking spaces are to be line-marked and sealed with a hard standing all weather material, and maintained at all times.</p> <p>f. All internal roads shall be constructed of hard standing, all-weather material and shall be maintained at all times.</p> <p>g. Details of compliance with a-f above are to be provided prior to the release of the Occupation Certificate</p> <p>An adequate number of on-site carparking spaces is to be provided to the development in accordance with the relevant Australian Standards. All vehicles utilising the on-site carparking shall enter and leave the development in a forward direction.</p> <p>No parking signage shall be provided on the northern side of Belubula Way in the vicinity of the development to ensure that overflow parking from the development does not interfere with traffic flow through the intersection of Rodd Street and Belubula Way.</p> <p>Condition reason: Reason: To ensure adequate on-site car parking is provided at all times.</p>
55	<p>CONNECTION TO THE SEWERAGE SYSTEM</p> <p>The development must be connected to the sewerage system before occupation by applying directly to Sewer Supply Authority (Cabonne Council) A COMPLIANCE CERTIFICATE FOR THE WORKS IS TO BE ISSUED BY THE SUPPLY AUTHORITY and a copy be provided to Council. All relevant work is to be completed BEFORE THE ISSUE OF ANY OCUPATION CERTIFICATE, at the full cost of the developer.</p> <p>Condition reason: Reason: To ensure that the development is connected to Sewerage Supply Authorities system.</p>
56	<p>CONNECTION TO TOWN WATER SUPPLY</p> <p>The development must be connected to the town water supply before occupation by applying directly to the relevant water supply authority (Central Tablelands Water) and bearing the full cost of the works and the connection fee. A COMPLIANCE CERTIFICATE IS TO BE PROVIDED TO COUNCIL FROM THE RELEVANT WATER SUPPLY AUTHORITY. All relevant work is to be completed BEFORE THE ISSUE OF ANY OCUPATION CERTIFICATE, at the full cost of the developer.</p> <p>Condition reason: Reason: To ensure that the development to be connected to the local water supply Authority's reticulation system.</p>
57	<p>DAMAGE TO PUBLIC ASSETS</p>

	<p>Any damage caused to footpaths, roadways, utility installations, trees and the like by reason of construction operations shall be made good and repaired to a standard equivalent to that existing prior to commencement of construction. The full cost of restoration / repairs of property or services damaged during the works shall be met by the Applicant.</p>
	<p>Condition reason: Reason: Safety & Amenity</p>
58	<p>DRAINAGE RECORDS</p> <p>To provide an accurate record of drainage works. The below listed records are to be submitted to Council prior to the release of the final Plumbing and Drainage Certificate. ANY OCCUPATION CERTIFICATE MUST NOT BE ISSUED until the final Plumbing and Drainage certificate has been issued by council. (Templates can be found on council's website www.cabonnecouncil.nsw.gov.au) or fair trading website.</p> <p>Notice of Works,</p> <p>Certificate of Compliance, and</p> <p>Sewer Service Diagram drawn to the scale of 1 in 200 of drainage.</p>
	<p>Condition reason: Reason: Statutory requirement</p>
59	<p>EVACUATION PLAN - CHILD CARE CENTRES</p> <p>Prior to the issue of an Occupation Certificate for the child care centre, an evacuation plan complying with AS3745 should be prepared and implemented. The emergency evacuation should consider:</p> <p>(a) The mobility of children and how this is to be accommodated during an evacuation;</p> <p>(b) The location of a safe congregation area, away from the evacuated building, busy roads, other hazards and the evacuation points of other residents or tenants within the building or surrounding buildings;</p> <p>(c) Where the Child Care Centre is part of a larger building or complex, that the emergency evacuation plan is complementary and consistent with other emergency evacuation plans in place; and</p> <p>(d) The supervision of children during the evacuation and at the safe congregation area with regard to the capacity of the Child Care Centre and the child/staff ratios.</p> <p>Centres which accommodate children under 2 years of age are to have a large mobile cot (on wheels) so groups of babies can be quickly evacuated.</p>
	<p>Condition reason: Reason: Safety Requirement</p>
60	<p>EVIDENCE OF LAWFUL ASBESTOS DISPOSAL</p> <p>An Occupation Certificate for a development involving the removal of asbestos must not be issued until such time the applicant provides the principal certifying authority with a copy of receipt/s confirming lawful disposal of asbestos waste.</p>

	<p>NOTE: Asbestos waste must be disposed at a waste management facility licensed by the NSW Environment Protection Authority (EPA) to accept such waste. Please Contact NSW EPA on 131 555 or visit www.epa.nsw.gov.au for a list of waste management facilities licensed to accept asbestos waste.</p>
	Condition reason: Reason: Health and Safety
61	<p>FIRE SAFETY CERTIFICATE</p> <p>A final Fire Safety Certificate shall be obtained in accordance with Part 11 of the Environmental Planning and Assessment (Building Certificate and Fire Safety) Regulation 2021, prior to the issue of the Final Occupation Certificate for the building.</p> <p>A copy of the Fire Safety Certificate and fire safety schedule shall be:-</p> <ol style="list-style-type: none"> 1. Forwarded to Cabonne Council; 2. Forwarded to the Commissioner of the New South Wales Fire Brigade; and 3. Prominently displayed in the building.
	Condition reason: Reason: Fire safety
62	<p>OCCUPATION CERTIFICATE (SECTION 6.9 OF THE ACT)</p> <p>A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless a Partial, Part or Whole Occupation Certificate has been issued in relation to the building or part.</p> <p>The Principal Certifying Authority is required to be satisfied, amongst other things, that:</p> <p>All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and</p> <p>Any preconditions to the issue of the certificate required by a development consent have been met.</p> <p>Note: New building includes an altered portion of, or an extension to, an existing building.</p>
	Condition reason: Reason: Statutory requirement
63	<p>PLUMBING AND DRAINAGE WORKS</p> <p>All plumbing and drainage work shall be carried out by a licensed plumber and drainer to the requirements of the National Plumbing and Drainage Code AS3500.</p>
	Condition reason: Reason: Statutory requirement
64	<p>STORMWATER DRAINAGE</p> <p>During construction and within a maximum of 7 days following the placement of any roofing material, all guttering and downpipes must be installed and connected to Council's drainage system. If no Council drainage system is available, the guttering</p>

	and downpipes must be discharged away from the building onto a stable vegetated area or a rubble drain constructed in accordance with Australian Standard AS/NZS 3500.3 Stormwater Drainage in a manner that does not cause nuisance or erosion to adjoining properties. Like-wise any paved or impervious areas are to be drained in accordance with the above. All of the work must be completed prior to the issue of an Occupation Certificate.
	Condition reason: Reason: To ensure adequate Storm water Disposal

General advisory notes

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

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

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

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

Dictionary

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

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

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

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

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

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

Council means CABONNE SHIRE COUNCIL.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

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

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

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

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

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

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

Stormwater drainage system means all works and facilities relating to:

- the collection of stormwater,

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

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