

Local Planning Panel

Agenda

Local Planning Panel notice of meeting and agenda

Thursday 22 March 2018

You are invited to attend the next meeting to be held in the Council Chambers
62-64 Menangle Street, Picton on Thursday 22 March 2018 commencing at 5.30pm.

OPENING

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1. **Development Application No.010.2017.00000407.001 24 and 28 Menangle Street, Picton**
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LOCATION MAP ↑
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DEVELOPMENT INFORMATION

Development Application No:	010. 2017.00000407.001.
Property Details:	24 & 28 Menangle Street Picton.
Applicant:	Mr P L Digger
Owner – 24 Menangle St:	Wollondilly Shire Council
Owner – 28 Menangle St:	Diggers Nest Pty Limited
Proposal Details:	Commercial Development with Shop Top Housing (7 dwellings)
Zone:	B2 Local Centre

EXECUTIVE SUMMARY

- On 5 June 2016, the Picton Furniture Store sustained substantial storm damage caused by the East Coast Low event.
- Consent is sought to demolish part of the existing heritage listed building while retaining the façade and construction of a new retail / commercial building at ground floor level with one level of shop top housing containing 7 dwellings.
- The proposal is referred to the Local Planning Panel for determination given:
 - Council has an interest in the matter as the adjoining land owner. A lease option has been extended to the applicant over part of Council's land,
 - The applicant seeks to demolish part of a local heritage item,
 - The applicant seeks to enter into a Voluntary Planning Agreement with Council for monetary contribution in lieu of the provision of on-site parking.
- There have not been any disclosures of political donations made in regard to this application.
- The following key assessment issues are highlighted for the Panel's consideration:
 - The proposal is non-compliant with Council's DCP in terms of the provision of car parking and vehicle access.
 - The ground floor will have a floor level below the flood planning level.
 - The proposed wall openings in the western elevation to access the future alfresco dining area require an alternate fire engineering solution due to non-compliance with the deemed to comply provisions of the Building Code of Australia.
 - The existing building provides a 3.6m wide access to the rear car park along the eastern boundary. Current engineering standards require a 2 way, 6m wide access to be provided. Retention of the heritage façade prevents the widening of the access, at the street frontage. The applicant has submitted a traffic impact assessment in support of the proposal, with specialised signalisation and signage of the access driveway to justify the non-compliant width. Council's engineers do not support the development proposal due to the sub-standard access to the site. The RMS have provided advice indicating they do not support the proposal due to the sub-standard access. An independent peer review of the proposed access arrangements was obtained from a consulting traffic engineer. This review supports the proposed access arrangements, having regard to the desire to retain the heritage façade.

- Council's Heritage Advisor has supported, in principle, the demolition of the flood damaged building, but has required further details to be provided in respect to the retention of the front façade, and detailing of the below awning level. He has also verbally expressed the view that retention of the façade may be problematic when demolishing the building and suggested to the applicant that it may be preferable to consider reconstruction. The applicant has submitted advice from a structural engineer indicating retention of the façade is feasible. The applicant has a strong desire to retain the existing façade if possible, and has requested Council to accept the special arrangements to justify the sub-standard access width. A design modification was suggested to the applicant involving widening of the access driveway to 6m immediately behind the heritage façade, so as to limit the narrow access to a single point at the boundary. However, this suggestion was not pursued by the applicant. The development is able to be supported on the basis that an independent assessment of the access and parking arrangements has supported the proposal as a means to retain the heritage façade, although it is considered that the proposal is not the preferred development option for the site.
- Council's engineers have recommended a road safety audit be undertaken to address traffic safety issues in the immediate locality and recognising other approved developments on nearby land.
- The applicant has submitted a Letter of Offer to contribute towards the cost of provision of car parking in the Picton Town Centre and towards works identified in the road safety audit.
- The original submitted plans were stamped as approved by Subsidence Advisory NSW. The amended plans will need to be approved by Subsidence Advisory NSW.
- It is recommended that a deferred commencement consent be granted subject to the following matters being submitted and approved by Council:
 - Structural bracing details for the retention of the front façade during the demolition process, certified by a structural engineer, and
 - Submitted Plans are to be stamped approved by Subsidence Advisory NSW, and
 - A Heritage Management Report, prepared by a qualified heritage consultant/architect that provides accurate detailing of the existing façade, the proposed verandah posts and associated details, joinery, materials, profiles, colour selection and shopfront detailing, and the provision of double glazing of first floor windows. The Heritage Management Report shall also review the structural bracing details and provide recommendations for the proper management of the demolition, keying into the new structure, and the restoration of, the façade following removal of the bracing.
 - If, for any reason, the developer decides not to retain the façade, the development is to be redesigned to cater for a 6m wide access.

REPORT

BACKGROUND

The Development Application was lodged with Council on 30 June 2017.

The application and supporting documentation was referred to Roads and Maritime Services and the following Sections of Council:

- Engineering Section,
- Fire Safety Officer,
- Heritage Adviser and Urban Design expert,
- Land & Property,
- Environment.

The comments provided are detailed below.

By letter dated 23 August 2017, the applicant was requested to provide the following:

- Owner's consent for development on Council land.
- Preliminary written advice from a Fire Engineer in respect to the ability to achieve an alternate solution under the NCC (BCA) for proposed openings on the boundary.
- Flood impact assessment, including addressing evacuation issues.
- Traffic impact statement to address access issues.
- Amended plans demonstrating parking and manoeuvring areas comply with AS 2890.
- Accurate drawings and detailing of the heritage façade and other components of the front elevation.
- Accessibility report in respect to AS 1428.
- Address Council's requirements in respect to waste storage and collection, particularly avoidance of mobile bins for kerbside collection.
- Statement of environmental effects to fully address Wollondilly DCP 2016.

On 4 September 2017, the applicant provided the owners' consent letter from Council.

By email dated 20 September 2017, the applicant requested a meeting be held with Council staff and Heritage Advisor to discuss the requested information.

Meeting 1

A meeting was held on 11 October 2017, which included the property owners, the building designer, the applicant's traffic engineer, and planning consultant, Council's Heritage Advisor, Council engineering assessment officer, and Council's planning assessment officer.

The applicant's traffic engineer argued that the proposal was simply to maintain the existing access, and would reduce peak period vehicle movements by excluding retail parking on site and only allowing residential parking. Conflicts could be managed by use of warning signs and a traffic light signal mechanism to warn entering vehicles when an egressing vehicle was in the access way. Council's engineer indicated that he did not support the proposal.

Council's Heritage Advisor discussed the likely difficulty in retaining the façade when demolishing the building and suggested it may be more practical to demolish the façade and reconstruct an acceptable replacement. This outcome would allow widening of the access. The owners stated that he wished to retain the façade.

Council's assessment planner suggested a redesign of the development, incorporating retention of the façade and widening of the access driveway to 6m immediately behind the façade. This would allow better visibility for drivers entering and exiting the site and allow passing of vehicles in the driveway and avoid the need for vehicles to reverse due to a conflict between entering and exiting vehicles. The applicant indicated a preference to retain the design and submit a detailed traffic impact assessment in support of the proposal.

The assessment planner also advised that there was no Contribution Plan for the provision of parking in Picton. However, Council's Development Control Plan permits a Voluntary Planning Agreement to pay a contribution towards parking in lieu of onsite parking. The applicant indicated it was their intent to pay a contribution towards parking and would submit a Letter of Offer, subject to further discussion in respect to the amount per space and the number of spaces.

Meeting 2

A second meeting was held on 6 November 2017, with the owners, Council's Director of Planning and the planning assessment officer.

The owners sought direction concerning the likelihood of Council supporting the narrow access and the proposal for the installation of a traffic light system as discussed at the first meeting. It was indicated that the applicant should submit a Traffic Impact Assessment and seek to justify the sub-standard access, to enable Council to provide an informed response.

The owners also sought direction concerning "the purchase of off-site parking from Council". The Director indicated that there had been a Voluntary Planning Agreement between Council and the developer of the NAB site on the opposite side of Menangle Street. In that case, an amount per space had been agreed. The number of spaces required would be dependent upon the detail of the proposed use of the ground floor area.

Submission of Additional Information

The following additional information was submitted:

- Adequacy Statement for Evacuation Plan received 8 January 2018.
- Economic Justification for construction beneath the flood planning level received 8 January 2018.
- Amended plans received 11 January 2018.
- Draft BCA Performance Solution Report received 11 January 2018.
- Traffic Impact Assessment (Aztec Draft & Design) received 12 December 2017.
- Access Report received 16 January 2018.
- Revised Statement of Environment Effects received 28 January 2018.
- Structural Assessment of front façade, GF Murphy Consulting Pty Ltd received 14 February 2018.
- Letter of Offer for proposed Voluntary Planning Agreement received 15 February 2018.

Council sought an independent peer review of the submitted Traffic Impact Statement which was received on 17 January 2018.

The Traffic Impact Statement and Council's independent peer review were forwarded to RMS on 8 February 2018 for comment. A response has not yet been received.

CONSULTATION

The subject application was notified to 5 adjoining land owners on 20 August 2017. No submissions were received.

Internal / External Advice	Planning Response
<p>Roads & Maritime Service, 11 August 2017:</p> <ul style="list-style-type: none">▪ RMS highlights that commercial developments require a driveway to be wide enough to accommodate entering and exiting vehicles at the same time. As per Austroads Guide to Traffic Management Section 3.3.2.▪ RMS notes that the existing buildings obstruct the sight lines for vehicles turning into the site which reduces the ability to see vehicles approaching the exit from the site; existing buildings may also restrict visibility of pedestrians on Menangle Street for vehicles exiting the site.▪ RMS notes that there are insufficient parking spaces provided on site for the size of the development, this needs to be addressed. RMS would like to better understand Councils	<p>Since receipt of the original RMS advice, the applicant has proposed the following to address the issues.</p> <p>A one-way driveway is proposed with a sensor warning system. The sensor warning system will be activated when a vehicle exiting the site crosses the northern end of the one way driveway to warn potential entering vehicles and pedestrians of its approach.</p> <p>Peer review of the proposal was obtained from Geoff Higgins (TRAFFIX Traffic & Transport Planners, 17 January 2018). The Peer Review supported the development subject to a number of additional requirements to</p>

Internal / External Advice	Planning Response
<p>parking arrangements for this area given the reoccurring parking limitations and increasing developments in this area.</p> <ul style="list-style-type: none"> ▪ A preliminary swept path assessment indicates that a service vehicle accessing the loading dock would need to reverse in a constrained area, manoeuvring around the proposed parking bays. RMS considers that this reversing manoeuvre is not desirable given the high pedestrian activity and constrained site. Reference is made to Austroads Guide to Traffic Management Part 12 - Impacts of Developments Table 3.1: Elements to consider in traffic management of developments. ▪ Confirmation of the largest size vehicle likely to access the site is required. ▪ Clarification of the height clearance to the proposed balcony over the driveway is required, and in conjunction the point above this should cater for the largest size vehicle entering the site. ▪ Details of the proposed servicing arrangements should be provided, such as garbage collection for not only the commercial component but also the residential dwellings. Details should include proposed access arrangements for commercial garbage collection trucks to the waste storage area, and pedestrian access arrangements between the waste storage area and street collection point. 	<p>address the traffic issues.</p> <p>The measures include:</p> <ul style="list-style-type: none"> ▪ Limiting onsite parking to permanent residents use only, with visitor and commercial use to be provided offsite through a parking contribution under a VPA. This reduces peak vehicle movements on the site, reducing potential conflicts of vehicles entering and exiting the site, and ensures users are familiar with the site constraints. ▪ Installation of a traffic signal system to regulate traffic on the one way access, so that a vehicle entering the site will trigger a red signal for cars at the top of the driveway preparing to exit the site, ▪ Installation of a speed bump at the property boundary to slow exiting vehicles, ▪ Installation of a mirror at the property boundary to overcome the lack of a sight line for a vehicle to look left and check for pedestrians when exiting the site, ▪ Installation of a Stop sign and Watch for Pedestrians sign positioned below the mirror. <p>The parking and loading area has been redesigned to improve on-site manoeuvrability.</p> <p>The plans have been amended to delete the balcony overhanging the access driveway.</p> <p>The applicant has advised that</p> <ul style="list-style-type: none"> ▪ the largest size truck to service the development will be a small rigid vehicle, 6.4m long. ▪ An agreement with a local waste collection service will be arranged for private collection of garbage from residences and the commercial tenancies.

Internal / External Advice	Planning Response
<p>Urban Design:</p> <p>Generally:</p> <ul style="list-style-type: none"> Project appears reasonable Being only 2 storeys project is not subject to SEPP 65 / ADG <p>Units:</p> <ul style="list-style-type: none"> Unit layouts are generally reasonable However internal arrangement of kitchens etc could be better designed <p>Accessibility:</p> <ul style="list-style-type: none"> SEE states that <i>'the Apartment will be compliant with the Accessible Housing requirements'</i> (3.7.3), However the accessible studio as drawn does not appear to comply with AS 1428 (kitchen and bathroom) There does not appear to be an accessible pedestrian path of travel to the rear studio from Menangle Street Applicant to provide additional details on how proposed development complies with AS 1428 Report from a suitably qualified expert confirming that the project does comply with AS 1428 Details of lift to be used <p>Parking:</p> <ul style="list-style-type: none"> Drawings do not show how parking bays are set out etc applicant to amend drawings to show how project complies with AS 2890, including line markings, swept path diagrams and accessible spaces Council should confirm if Loading Bay meets council's requirements <p>Waste:</p> <ul style="list-style-type: none"> Waste storage area appears tight and may have limited accessibility due to car spaces Applicant to confirm how design meets council's waste storage requirements 	<p>Amended plans were submitted which:</p> <ul style="list-style-type: none"> Deleted the reference to the first floor dwelling 7 being an accessible unit, which was not a compulsory requirement. Redesigned the parking layout and identified the provision of a disabled parking space. <p>Swept paths for parking and delivery vehicles have been demonstrated.</p> <p>An Access Report (Australian Access & Building Solutions, undated) was submitted on 16 January 2018, which concluded that the proposed development was capable of compliance with Disability Standards 2010, NCC 2014, AS1428.1 and AS 2890.</p> <p>The plans are still inadequate in demonstrating garbage storage and collection area for dwellings and commercial uses, however, this is proposed to be addressed through consent conditions.</p> <p>Insufficient detail has been provided at this stage to ensure the façade will be retained and restored to a satisfactory standard.</p>

Internal / External Advice	Planning Response
<p>Front (Menangle St) Elevation:</p> <ul style="list-style-type: none"> ▪ OK in principal ▪ but insufficient detail to enable council to be confident the facade will be retained and restored to a standard appropriate for location ▪ drawings do not provide details of ramp / handrails / recessed walls / shop front windows / timber posts etc ▪ Applicant to provide details showing how these elements will be integrated into heritage facade - refer to Heritage Consultant <p>Side / Rear Elevations:</p> <ul style="list-style-type: none"> ▪ OK in principal ▪ Drawings / SEE propose that side and rear walls shall be constructed of 'painted finished concert wall panels' (3.4) ▪ Drawings do not provide details of these panels or show how these panels will be integrated into facade, including size, location, jointing etc. ▪ Applicant to provide details showing how these elements will be integrated into facade and provide an appropriate built form 	
<p>Flooding:</p> <p>In terms of flood levels we have previously advised the applicant's design consultant (Drake) of a current 1% AEP flood level of 158.0m AHD that provides a flood planning level of 158.5m AHD. Draft information is also available from a later study with:</p> <ul style="list-style-type: none"> ▪ a draft 5% AEP (20 year) flood level of 157.7m AHD ▪ a draft 1% AEP flood level 158.3m AHD ▪ a possible climate change impact 1% AEP flood level of 158.6 ▪ a PMF flood level of 165.1m AHD <p>The commercial development has no minimum floor level but is required to provide an economic analysis to balance the benefits and costs of the proposed floor level.</p>	<p>The applicant has provided additional information as required and Council's Flood Engineer has provided an assessment and recommended conditions of consent consistent with Council's adopted flood policy.</p>

Internal / External Advice	Planning Response
<p>Engineers:</p> <ul style="list-style-type: none"> ▪ The width of the access is not acceptable & must provide for two way traffic & pedestrians if approved by RMS. ▪ Traffic movements would need to be left in/left out, details are to be provided how this can be achieved. ▪ There is no sight line for pedestrians to the east, this needs to be addressed. ▪ Is the car parking standard the same for cafe as retail, alternative uses are proposed? 	<p>See comments under Access in report.</p>
<p>Heritage Advisor:</p> <p>In principle this proposal is acceptable from a heritage perspective. However,</p> <ul style="list-style-type: none"> ▪ Drawings should be developed in more detail. ▪ Items noted as "heritage detailed" on the elevation should be resolved and fully drawn. ▪ A more detailed front elevation and cross section should show joinery sizes, materials, profiles, colour selection and signage. ▪ External colour scheme submitted for heritage adviser comment. ▪ Verandah roofs should be corrugated galvanised finish. ▪ The shopfront should be detailed. 	<p>No further details have been provided by the proponent.</p> <p>See comments under Heritage Conservation in report.</p>
<p>Building Certifier:</p> <p>A preliminary assessment and peer review of the proposed Performance Based Solution has been made and Councils Building Assessment Team raises no objection to the proposed performance based solution subject to the following;</p> <p><i>1. The owner of the proposed development has a long term leasehold over the Council land between the proposed shop and the "Old Picton Post Office" and the Council can regulate the nature of the structures on the leased area; and</i></p>	<p>Discussion with Council's Property Officer indicates that a lease for 5 years is proposed with options to renew (x4).</p> <p>It is noted that a lease period of more than 5 years is deemed to be subdivision, and would require development consent.</p>

Internal / External Advice	Planning Response
<p>2. <i>There are no other built structures on the Council allotment (within 3m of the external wall) that could cause fire spread to 28 Menangle Street Picton.</i></p> <p>Subject to above, no objection is raised to the proposed redevelopment.</p>	<p>Legal advice has been obtained indicating that a 5year x 4 will not trigger the need for subdivision approval.</p>
<p>Land & Property:</p>	<p>Council's Property Officer has provided advice that Council resolved to support in principle the grant of a lease for part of the Old Post Office land to the applicant. Owner's consent has been provided to lodgement of the application.</p>

1.1 DESCRIPTION OF SITE AND SURROUNDING AREA

The application relates to three parcels of land:

- 28 Menangle St which consists of two lots with a combined land area of 1012.8m² and is located approximately 40m from the Menangle Street and Argyle Street intersection. This land contains the locally significant heritage item described as Furniture Store Item No. I186.
- 24 (aka 22-26) Menangle St which has an area of 524.5m² and is located on the corner of Menangle and Argyle Streets. This land contains the locally significant heritage item former Picton Post Office Item No. I185.

The land is zoned B2 Local Centre under Council's LEP. The site is surrounded by retail shops, commercial buildings and cafes. The site is located within the Wilton Mines Subsidence District, the Picton Heritage Conservation Area and Stonequarry Creek flood zone.

1.2 DESCRIPTION OF DEVELOPMENT

The Development Application seeks approval for the following works:

- Consolidate the existing two allotments comprising 28 Menangle St,
- Demolish the existing flood damaged buildings, while retaining the front façade, with some alterations to the front façade below awning level to incorporate an accessible ramp,
- Construct a two storey building behind the front façade,
- The proposed ground floor of the new building is nominated for commercial / retail purposes, and will consist of two tenancies (West and East) with a combined floor area of 425.3m², together with an attached ground floor store room associated with the commercial floor area,
- The proposed first floor will contain shop top housing with 7 dwellings consisting of two by 2 bed units, three by 1 bed units and two studio apartments. The dwellings will range in size from 28.7m² to 58.6m²,

- Construct an on-site car park consisting of 10 spaces including one disabled parking space. It is also proposed to install a sensory warning system to alert pedestrians and other vehicle users of traffic moving along the single lane driveway,
- Activate a lease option over an area 3m wide and about 25m long within 24 Menangle St for a 5yr (x4) period,
- Install two door openings in the western wall of the ground floor commercial area to provide access to the proposed lease area.

It is proposed to lodge a future development application for the use of the leased area in conjunction with fit out of part of the ground floor commercial area for use as a restaurant/café with alfresco dining.

The application included stamped approved plans from Subsidence Advisory NSW (SANSW), and consequently was not lodged as integrated development under section 22 of the Coal Mine Subsidence Compensation Act 2017. Note that any amended plans will need to be stamped approved plans from SANSW.

It should also be noted that no works are proposed within the Menangle Street road reserve, and consequently the development is not integrated development under section 138 of the Roads Act 1993. Comments from RMS in relation to the proposal have been sought.

1.3 SECTION 4.15 EVALUATION

1.3.1 PROVISIONS OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policy No. 55 – Remediation of Land

The proposal is the replacement of a building that was storm damaged. A check of the property file and site inspection has occurred and no issues have been identified with contamination issues.

Demolition of the existing building may involve the removal of asbestos. Any consent will be subject to proper management of demolition and disposal of asbestos material and certification by a qualified operator.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The shop top housing component of the development is BASIX affected development. The application included a BASIX Certificate (No. 805620M) and a Assessor Certificate (No. 0001649540). Any consent shall require construction in accordance with the certificates.

Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River

The proposal is considered to be consistent with the aims of the plan and complies with the relevant planning policies and recommended strategies in respect to water quality and water quantity, subject to compliance with conditions of consent.

State Environmental Planning Policy (Infrastructure) 2007

Development with frontage to a classified road is subject to the provisions of clauses 101 and 102 of the Infrastructure SEPP. Menangle Street is a regional road.

Clause 101 provides:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the development, or
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The property has an existing access from Menangle Street and there is no practical alternative access.

The design of the vehicular access is unchanged from the existing arrangements. The Traffic Impact Statement (Aztec Draft and Design) submitted by the applicant, and the Peer Review (TRAFFIX Pty Ltd) commissioned by Council agreed that the proposed development will generate low peak traffic flow from the site (up to 4 vehicles per hour) and both reports concluded that, subject to recommended conditions, the development was supportable on traffic grounds.

It is acknowledged that the existing access does pose some issues for pedestrian safety. Council has commissioned a traffic study for Picton which is likely to identify a number of measures to improve traffic flow and pedestrian safety in the Town Centre. The applicant has offered to enter into a Voluntary Planning Agreement to make a contribution towards road safety improvements in Menangle St to address the existing problems with road safety in this section of Menangle St.

The development includes residential accommodation and therefore is considered to be sensitive to traffic noise. It is considered that the use of double glazing of bedroom windows in the street frontage and the windows in the eastern elevation for Unit 4 will be sufficient to ameliorate traffic noise or vehicle emissions. It is recommended that the detailing of double glazing of the windows in the heritage façade be required as a deferred commencement consent condition, and be included in the Heritage Management Report.

Wollondilly Local Environmental Plan 2011

The land is zoned B2 Local Centre. Commercial Premises, Food and Drink Premises and Shop Top Housing are all permissible with consent.

A clause by clause assessment is provided below.

Specific issues to be addressed are heritage conservation and flood planning.

Heritage Conservation

The application proposes the partial demolition of the Furniture Store, Item No. I186, listed in Schedule 5 of the LEP. The development site is within the Picton Conservation Area, also identified in Schedule 5.

The proposal was referred to Council's Heritage Advisor.

Council must consider the effect of the proposed development on the heritage significance of the item and the conservation area.

Council may require a heritage management document to be prepared or the submission of a heritage conservation management plan, before granting consent. No heritage management document or heritage conservation management plan has been submitted.

The State Heritage Register provides the following Statement of Significance for the Furniture Store:

The Furniture Store is significant within the local community as evidence of the town's regional importance during the late 19th-early 20th century period reflected in the development of its commercial and government enterprises/ facilities. The building also has local aesthetic significance as a component of the group of early commercial and institutional buildings in the centre of Picton (this significance being enhanced by the extent to which the building has retained its somewhat eccentric original features and fabric and compromised by unsympathetic alterations especially below awning level).

Wollondilly DCP 2016 Volume 1 provides the following objectives for development within the Picton Conservation Area:

- (a) To ensure development is sympathetic to the heritage character of the Commercial Centre Precinct,
- (b) To ensure that the design and materials used in new buildings, restoration and renovation of existing buildings is appropriate in scale and form to the character of the Commercial Centre Precinct,
- (c) To encourage the removal or upgrading of non-contributory elements in the area so as to enhance the setting of contributory elements,
- (d) To encourage the retention of significant shop fronts,
- (e) To promote the retention and reinstatement of original and characteristic shop front elements, and

- (f) To ensure that alteration, additions and the construction of new buildings do not compromise the integrity and consistency of the commercial centre.

Council's Heritage Advisor has indicated support in principle to the demolition of the building and retention of the façade subject to:

- Drawings are to be developed in more detail.
- Items noted as "heritage detail" on the elevation should be resolved and fully drawn.
- A more detailed front elevation and cross section should show joinery sizes, materials, profiles, colour selection and signage.
- External colour scheme is to be submitted for heritage adviser comment.
- Verandah roofs should be corrugated galvanised finish.
- The shopfront should be detailed.

The applicant was requested to provide this detail, however, the owner is seeking an indication of likely support for the development before engaging any additional specialists.

Council's Heritage Advisor has indicated that demolition of the building and retention of the façade may be structurally problematic. He also advised that approval for demolition of the façade is unlikely to be opposed on heritage grounds. Careful design and construction would be required in any reconstruction of the façade.

The landmark heritage buildings in this precinct are the adjoining former Post Office and the former CBC Bank and Coach House (NAB building) on the opposite corner. The Furniture Store provides a supportive streetscape context within the heritage conservation area.

Demolition of the heritage building is considered to be acceptable in principle, subject to the submission of additional details as requested by Council's Heritage Advisor.

Having regard to the potential difficulties associated with the demolition of the building and retention of the façade, it is proposed to grant a deferred commencement consent pending:

- the submission of structural bracing details certified by a structural engineer , and
- A Heritage Management Report, prepared by a qualified heritage consultant/architect that provides accurate detailing of the existing façade, the proposed verandah posts and associated details, joinery, materials, profiles, colour selection and shopfront detailing. The Heritage Management Report shall also review the structural bracing details and provide recommendations for the proper management of the demolition, keying into the new structure, and the restoration of, the façade following removal of the bracing.

In the event that the façade is not retained, the development will need to be redesigned to provide a 6m wide access while also maintaining the heritage value of the streetscape.

Flood Planning

Clause 7.4 applies to land that is at or below the flood planning level. Council has identified a flood planning level of RL158.5mAHD at the site. The site has natural ground levels of between RL157.2mAHD (south western corner) and RL157.6mAHD (north eastern corner).

The site is below the flood planning level and subject to clause 7.4.

Clause 7.4 provides:

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

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

The proposal has been reviewed by Council's Flood Engineer, who provides the following advice:

- (a) The hazard is recognised by a flood risk precinct and controls that vary with types of development. The proposal is in a medium risk precinct under the currently adopted flood study. An unpublished draft study that can only be used for information, potentially raises the levels but is unlikely to change the flood risk precinct. The proposal is compatible with the hazard with appropriate controls in place.
- (b) The proposal replaces an existing structure and will not significantly adversely affect flood behaviour.
- (c) The relevant DCP controls will ensure the proposal incorporates appropriate measures to manage risk to life from flood. Particular measures include residential floor levels and structural design measures.
- (d) The proposal replaces an existing structure and will not significantly adversely affect the environment or Stonequarry Creek.

- (e) The controls include a requirement to consider the social and economic costs of flooding where floor levels are set below a flood planning level for reasons with other social and economic benefits such as aesthetics and access. The applicant has demonstrated this has been considered.

Clause 1.2 Aims of Plan	
Objective	Comment
(a) to provide for the management of natural resources and the protection of the natural landscape character.	The proposal will not alter the natural resources and the natural landscape character.
(b) to protect, conserve and enhance the built, landscape and Aboriginal cultural heritage	See discussion on Heritage Conservation above.
(c) to protect water quality in land that is situated within water supply catchments,	The proposal is not located within the water catchment supply.
(d) to encourage development that provides for an integrated transport and infrastructure system and adequate facilities and service provision for future growth,	The proposal for shop top housing is considered to be consistent with supporting public transport use with a local bus service passing the site linking to the local rail stations.
(e) to recognise, manage and protect rural resource lands for sustainable agriculture and extractive industry practices,	The proposal is not located on agricultural land.
(f) to maintain the separation between towns and villages to retain their unique character and rural and natural settings.	The proposal will not affect the separation between towns and villages.
Clause 1.9A Suspension of covenants, agreements and instruments	
For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.	Not applicable

	Clause	Comment
Part 2 Permitted or prohibited development		
2.4	Unzoned land	The site is zoned B2 Local Centre
2.5	Additional permitted uses for particular land	No applicable
2.6	Subdivision—consent requirements	Not applicable
2.7	Demolition requires consent	The building was storm damaged and is proposed to be demolished. The application seeks consent as required under this clause.
2.8	Temporary use of land	Not applicable
Part 4 Principal development standards		
4.1	Minimum subdivision lot size	Not applicable
4.1A	Minimum lot size for dual occupancies in residential zones	Not applicable
4.1B	Subdivision of certain land in Zone E4 Environmental Living	Not applicable
4.2	Rural subdivision	Not applicable
4.2A	Erection of dwelling houses on land in certain residential, rural and environmental protection zones	Not applicable
4.3	Height of buildings	Maximum permissible height of building is 9m. The existing parapet wall forming the front façade has a height of 8.7m, which will be the highest point of the reconstructed building. Complies.
4.4	Floor space ratio	Not adopted
4.5	Calculation of floor space ratio and site area	Not adopted
4.6	Exceptions to development standards	Not applicable
Part 5 Miscellaneous provisions		
5.1	Relevant acquisition authority	Not applicable
5.1A	Development on land intended to be acquired for public purposes	Not applicable
5.2	Classification and reclassification of public land	Not applicable
5.3	Development near zone boundaries	The proposal will not affect adjoining zones.
5.4	Controls relating to miscellaneous permissible uses	Not applicable
5.5	Development within the coastal	NA

	Clause	Comment
	zone	
5.6	Architectural roof features	The proposal will not add architectural roof features.
5.7	Development below mean high water mark	NA
5.8	Conversion of fire alarms	Not applicable
5.9	Preservation of trees or vegetation	Not applicable
5.9AA	Trees or vegetation not prescribed by Development Control Plan	Not applicable
5.10	Heritage conservation	See comments under Heritage Conservation
5.11	Bush fire hazard reduction	Not applicable
5.12	Infrastructure development and use of existing buildings of the Crown	Not applicable
5.13	Eco Tourist Facilities	Not applicable
Part 6 Urban release areas		
6.1	Arrangements for designated State public infrastructure	Not applicable
6.2	Public utility infrastructure	Not applicable
6.3	Development control plan	Not applicable
6.4	Relationship between Part and remainder of Plan	Not applicable
Part 7 Additional local provisions		
7.1	Essential services	The proposal is to replace an existing building and there are essential services existing.
7.2	Biodiversity protection	Site is not identified as requiring biodiversity protection.
7.3	Water protection	The site is located approximately 163 metres from Stonequarry Creek. No significant impact.
7.4	Flood planning	See comments under Flood Planning.
7.5	Earthworks	No significant earthworks are to occur.
7.6	Development within a designated buffer area	The site is not mapped on the odour buffer area map.

1.3.2 PROVISIONS OF RELEVANT DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Nil

1.3.3 PROVISIONS OF RELEVANT DEVELOPMENT CONTROL PLANS

The development is subject to Wollondilly Development Control Plan 2016 Volume 1 – General, Volume 4 – Residential Development, and Volume 5 – Commercial and Community Uses.

A clause by clause assessment is provided below.

There are two variations to the DCP proposed for this development: parking and vehicle access as follows:

Parking

Council's DCP (Volume 5, Part 2) requires 2.5 spaces/100m² of gross floor area (GFA) for retail premises.

The existing development has a GFA of 330m², requiring 8.3 spaces. The site nominally provides 4 off street parking spaces. The existing development has a shortfall of 4.3 spaces, which is attributed as a credit towards any shortfall resulting from new development on the site.

The development proposes:

- 423m² of GFA, requiring the provision of 10.6 spaces, and
- Shop top housing of 7 dwellings requiring 1 space per dwelling (plus one space per 5 dwellings for visitor parking (1.4 spaces), a total of 8.4 spaces.

The total parking demand is 19 spaces.

The development proposes the provision of 10 spaces, resulting in a shortfall of 9 spaces.

Applying the credit of 4.3 spaces, there is a net shortfall of 4.7 spaces.

Parking demand for the future proposed restaurant/café will be assessed as food and drink premises, which under the DCP requires the greatest of the following:

- 12 spaces per 100 m² of GFA; or
- 1 space per 5 seats (internal and external); or
- 1 space per 2 seats (internal).

This will be subject to a future development application and assessment.

Clause 4.5 of Volume 5 of the DCP provides the following:

Council has an adopted strategy to deliver more public car parking in Picton. Proponents may, in lieu of providing some or all of the car parking in accordance with Part 2 of this volume, make contribution towards the provision of such parking through dedication of particular lands and through financial contributions as part of a Voluntary Planning Agreement.

The applicant has submitted a Letter of Offer to enter into a Voluntary Planning Agreement to make a financial contribution towards the provision of public parking in Picton. Council's Executive have considered the Letter of Offer and have approved the offer in principle.

Vehicle access

Existing and proposed access to the site is from Menangle St, which is a regional road.

Council's DCP requires the design of access to comply with Council's Design and Construction Specifications. Council's engineers advise that the width of access (3.6m) is not acceptable. For this proposal Council's engineers require provision for two way traffic flow and independent pedestrian access.

No works are proposed within the roadway, consequently, no approval under the Roads Act is required, and the development is not integrated development. The application was however referred to the RMS for comment due to Menangle St being a regional road.

The RMS has previously provided advice (10 August 2017) that highlights the requirement of Austroads Guide to Traffic Management Section 3.2.2 to provide two access to the site.

Subsequent to the above advice, the applicant submitted a Traffic Impact Statement (Aztec Draft and Design, November 2017) that proposed the following to address Council engineers and RMS concerns with the access:

- Limit onsite parking for use by residential occupants and visitors, and retail floor space manager, only. Shopper and retail visitors to be excluded from parking on site. Enter into a VPA to provide for car parking offsite to satisfy the parking demand for the development.
- Limit service/delivery vehicles to small rigid trucks (6.4m x 2.3m) and design the car park and delivery dock to cater for these vehicles to manoeuvre on site and be able to exit in a forward direction.
- By excluding shopper parking on site, Aztec sought to demonstrate that traffic generation will be reduced when compared to the current development.
- Provision of a 3m wide driveway with 0.3m kerbs, and a splay corner on the western side at the street boundary to provide a sightline to pedestrians.
- Tactile surface treatment to the driveway crossing of the footpath area.
- Left turn only to enter and exit the site.
- Display illuminated warning signs for traffic and pedestrians at the property boundary point of entry to the site. The illumination will be

activated when a vehicle leaving the site enters the driveway handle from the car park end.

Following receipt of the Traffic Impact Assessment, Council engaged Geoff Higgins of TRAFFIX to undertake a peer review of the applicant's Traffic Impact Assessment. The peer review (draft, 17 January 2018) supports the proposal subject to the following additional measures:

- Also exclude residential visitor parking from the site, so that all drivers using the site are familiar with the constraints/controls.
- The entry signal should be set to default to green, limiting the time for a vehicle to be waiting on the street to only be when a vehicle is exiting.
- A speed hump be positioned at the property boundary to slow exiting vehicles.
- Installation of a mirror at the property boundary to overcome the lack of sightline for a vehicle to look left and check for pedestrians when exiting.
- A Stop sign and Watch for Pedestrians sign to be installed below the mirror.

Council Engineers have provided the following comments on the above proposal:

1. It is not acceptable to have zero sight distance to the east before entering the footpath in Menangle St. with vehicles partially across the path before there is any vision to the east. This is particularly relevant for the significant increased proposed usage of the access for this site

The inadequate sight distances is the current situation for the use of this access, however the access has had minimal usage with the current / previous use of this site and has only been mostly used by the property owner.

2. It is considered that a warning system is a problem as it relies on the other driver or pedestrian to take responsibility for the driver's safe exit from the site and also to have an understanding of this system.

If a parent with a pram, pedestrian or a child was walking towards Argyle St. and was not aware or understood the system or it was not functioning correctly, there is significant chance of conflict before any vision from either person.

3. The central median is only line marked so any right turns in and out of the site can't be stopped.
4. Council does not have a CBD parking plan, so there is no designated parking area where any contribution can be used to provide the parking shortfall.

It is considered that this proposal should be deferred until development of the adjoining site so that a precinct parking plan can be developed to achieve appropriate and safe accessibility for vehicles and pedestrians.

Further comments have not yet been received from the RMS.

Planning Comments

The conservation of heritage may, at times, outweigh the need to strictly comply with engineering design standards.

It is noted that retention of the façade only requires the access to be 3.6m wide at the street frontage.

A preferred design solution would include:

- A 6m access driveway for the full length of the driveway, commencing immediately behind the retained façade,
- Provide a kerb from the south east corner of the site that projects about 0.6m from the corner of the adjoining building to force vehicles leaving the site to approach the exit point at a distance from the adjoining building that enables the driver to obtain a sight line to the east,
- Install a speed hump at the boundary to slow vehicles leaving the site,
- Install a “Stop” sign and a “Watch for Pedestrian” sign for vehicles exiting the site.

This design would provide:

- Improved sightlines for drivers leaving the site to see pedestrians,
- Improved visibility for drivers leaving the site of any vehicles about to enter the site,
- Ability for vehicles to pass in the access way.

Council’s engineers have indicated that they would support this preferred design as a means of minimising the traffic impacts associated with the retention of the heritage façade.

The preferred design would reduce the commercial floor space and would likely require redesign of the shop top housing with a possible loss of dwelling yield.

The applicant has not pursued this preferred option and seeks to rely on the submitted traffic impact assessment report to justify the proposal.

In assessing the submitted design, the following points are noted:

- The development maintains the existing width of driveway,
- Estimated peak hour movements for the development is 4 vehicles per hour,
- The proposed traffic signal system provides some improvement to the existing conflict that arises when a vehicle exits the site at the same time another vehicle attempts to enter the site, and
- The proposed speed hump, mirror and signage provide some improvement to the existing potential conflict between pedestrians and vehicles exiting the site.

On this basis, approval of the development may be considered to be acceptable.

Council's engineers have advised that, if the development is to proceed as proposed, a road safety audit will be undertaken for the locality. Preliminary assessment indicates works may include construction of a centre island median in Menangle St (to control turning movements from this site and the CBC Bank and Coach House site on the opposite side of Menangle St) and low structures on the footpath to minimise conflicts between pedestrians and vehicles exiting the subject development site. The applicant has included in the Letter of Offer a contribution towards works in Menangle St to improve traffic safety.

Volume 1 – General		
Relevant Provisions		Comment
Part 1 - Preliminary		
1.2 Objectives of the Plan		
1	To assist in the realisation of the aims of Wollondilly Local Environmental Plan, 2011.	
2	The specific controls and volumes of this plan each have objectives as detailed throughout this plan.	
Part 2 - General considerations for all development		
2.1 Objectives		
1	To ensure that developments are undertaken with due regard to human safety.	
2	To ensure that developments do not unreasonably impact on their surrounds.	
3	To ensure that developments achieve a satisfactory level of social equity.	
2.2 Controls		
1	The consent authority shall consider the following safety and human health risks in assessing a development application under this volume:	
a)	Road and traffic hazards;	See comments under Access.
b)	Bushfire threat;	Not bushfire prone
c)	Flood risk;	See comments under Flood Planning.
d)	Noise, vibration, pollution, odour, radiation or waste from surrounding land uses;	No significant hazards.
e)	Exposure to electricity transmission systems;	No significant source of hazard
f)	Exposure to radiation from telecommunications infrastructure;	No significant source of hazard

Volume 1 – General		
Relevant Provisions		Comment
g)	Potential exposure to children of material (including signage) from any nearby restricted premises and/or sex services premises;	No significant potential
h)	Hazards from vehicles within car parking areas; and	Parking area to be designed in accordance with AS/NZS 2890.1 – Parking facilities.
i)	Hazard from potential contamination of the land.	No known hazard
Part 3 - Variation		
There may be situations where the strict application of the controls in this plan is inappropriate. In such cases Council may vary the controls in the plan. The controls in this part apply where a development application proposes to vary a control in this plan.		
3.1 Controls		
1.	In cases where a variation to a control in this plan is sought, the applicant (or person acting on behalf of the applicant) must include in the development application a written request for Council to consider a variation to that control. The written request to vary a control in this plan must: <ul style="list-style-type: none"> Identify the control being varied Outline the non-compliance with the relevant control Include reasons and justification for the non-compliance Outline why compliance with the control is unreasonable or unnecessary in the case of their development 	The applicant has requested a variation to the access requirements of the DCP. See comments under Access.
2.	Council must be satisfied that the variation meets at least one of the following principles before issuing consent for the development:	See comments under Access.
a)	The objectives of the standard are achieved notwithstanding non-compliance with the standard;	
b)	The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;	
c)	The underlying object or purpose of the control would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;	
d)	The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the	

Volume 1 – General		
Relevant Provisions		Comment
	standard is unnecessary or unreasonable;	
e)	The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary.	
Part 4 – Community Engagement		
The purpose of this part is to ensure that members of the public potentially affected by a proposed development have input into the assessment process before a final decision is made on a development application. It outlines Council's notification and advertising procedure for development applications.		
4.3 Development applications to be advertised		
	Shop-top housing	Yes
4.4 Requirements for advertising		
	Minimum of 14 days Advertisement in local paper Adjoining owners notified Sign on property	20/7 – 4/8/2017 Completed Completed Completed
4.5 Development applications altered prior to determination		
	Amended plans submitted, however, the changes were considered minor and do not increase impacts.	Re-notification not required.
Part 5 - Colonial Heritage		
5.1 Objectives		
a)	To establish good design principles to guide development to and around heritage items,	
b)	To ensure development is sympathetic to the overall heritage values and characteristics of the area,	
c)	To identify local heritage character and heritage elements of the built environment, and	
d)	To ensure the retention and management of heritage values identified for each conservation area and specific precinct.	
5.2 General Controls (refer to DCP for further details of controls)		
1.	Development of heritage items and development on land within heritage conservation areas shall demonstrate consistency with the NSW Guidelines for Development in Conservation Areas 'Design in Context'. In particular the impact of the following aspects of a development should be considered:	See comments under Heritage Conservation.

Volume 1 – General		
Relevant Provisions		Comment
5.3 Controls for particular development types (refer to DCP for further details of controls)		
1.	Advertising and Signage	No details submitted.
3.	Demolition of Heritage Items	See comments under Heritage Conservation.
5.	Colours and built form on sites containing heritage items and within heritage conservation areas	See comments under Heritage Conservation.
Part 6 - Heritage (Specific Locations)		
6.1 Objectives		
a)	To provide specific guidance and controls for development of key conservation areas in Wollondilly.	
6.2 Application (refer to DCP for further details of controls)		
	These controls apply in addition to the controls contained in Part 6 of this volume. Where there is an inconsistency between Parts 5 and 6 of this volume Part 6 shall prevail to the extent of the inconsistency.	Noted.
6.4 Heritage Conservation Area – Picton (refer to DCP for further details of controls & specific precinct areas)		
	See comments under Heritage Conservation.	
Part 8 – Flooding		
8.1 Objectives		
	To reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods, utilising ecologically positive methods wherever possible.	
8.2 Controls (refer to DCP for further details of controls)		
	<p>There are a number of areas in Wollondilly Shire which are subject to inundation by flooding or overland stormwater flows.</p> <p>The land is categorised as Medium Risk flood liable and is subject to the following controls:</p> <p><u>Floor Level</u> Residential component: - Any habitable floor of a permitted structure must not be less than the applicable Flood Planning Level. The submission of a surveyor's certificate must be required on forming up of the structure, certifying that floor is not less than the required level.</p> <p>Commercial Component - The floor level of a permitted structure must give due consideration to the flood damages associated with over floor flooding and</p>	<p>Complies.</p> <p>Submitted. Average annual damage is assessed to be in the order of \$1,200. which</p>

Volume 1 – General		
	Relevant Provisions	Comment
	complete an economic analysis if a floor level below the flood planning level is proposed.	is considered to be acceptable.
	<u>Building Components</u> Any portion of a permitted structure below the Flood Planning Level must be constructed of flood compatible (flood damage resistant) materials.	Consent condition recommended.
	<u>Structural Soundness</u> Any permitted structure (including foundations and support) must require information to be provided by a competent engineer indicating that the structure can withstand the likely conditions experienced during the 1% AEP Flood without suffering significant damage.	Consent condition recommended.
	Any permitted structure (including foundations and support) must require information to be provided by a competent engineer indicating that the structure can withstand the likely conditions experienced during the PMF without suffering Structural Failure.	Consent condition recommended.
	Any permitted structure (including foundations and support) must require information to be provided by a competent engineer indicating that the structure can withstand the likely conditions experienced during the PMF without suffering significant damage.	Consent condition recommended.
	<u>Flood Affection</u> Fencing must be compatible with the nature of flooding and be designed to pass flood flows during flood events up to the Flood Planning Level.	Existing fencing type to be maintained.
	Any permitted development must require adequate information to be provided by a competent engineer indicating that the proposed development will be unlikely to significantly increase the 5% AEP and 1% AEP flood levels or peak flood flow velocities on adjacent properties.	No significant change to the existing building structures and consequently no significant change to flood levels or velocities.

Volume 1 – General		
Relevant Provisions		Comment
	<p><u>Evacuation</u></p> <p>The applicant must satisfactorily demonstrate that permanent, fail-safe, maintenance-free measures are incorporated in the development to ensure the timely, orderly and safe evacuation of people in the event of a flood.</p>	<p>Council's Flood Engineer has advised that he is satisfied that there is a path of travel away from rising flood waters for the ground floor of the development. In respect to the first floor level, the Flood Engineer is satisfied that, because the first floor is above the flood planning level, it is a reasonable refuge in time of flood subject to certification of the structural requirements for the building.</p>

Volume 4 – Residential Development		
Relevant Provisions		
Part 2 – General Requirements for All Developments		
2.1 Alterations and Additions		
Objectives		
1.	To provide clarity and consistency in the assessment of applications to alter and expand development subject to this volume.	
2.	To provide clarity and consistency in the assessment of applications for continued use of unauthorised works.	
Controls		
1.	A proposal for alterations and/or additions to an existing development shall be assessed as though both the existing and proposed development were proposed as a single application.	Noted.
2.	The controls within this plan shall apply only to the alterations and/or additions and shall not be retrospectively applied to existing development that was lawfully undertaken.	Noted.
3.	This control applies to development sites that include existing unauthorised works where an application seeks consent for continued use of those works. Unauthorised works shall be assessed under this plan in the same way that the works would have been assessed if the application had been made prior to the work being undertaken.	Noted.

Volume 4 – Residential Development		
Relevant Provisions		
2.11 Stormwater		
Objectives		
1.	To ensure that stormwater from buildings is collected and conveyed in a manner that does not cause environmental harm.	
2.	To retain, as far as practicable, natural stormwater flows.	
Controls		
1.	Stormwater from new dwellings (other than water to be recycled for use on site) must be directed to at least one of the following to Council’s specifications: <ul style="list-style-type: none">• Street drainage system;• Drainage easement;• Natural drainage path. Council may consider the use of absorption trenches or similar on large lot residential or rural lots where one of the measures above cannot be satisfied.	To be required by consent condition of any future consent.
2.	Where common drainage treatment methods are unable to suitably convey stormwater from the dwelling to one of the systems described in control (1) above, Council may require the creation of drainage easements over adjoining properties to carry stormwater from the site.	Not required.
3.	The proposed dwelling and any associated stormwater drainage measures shall account for the existing drainage patterns of the area and shall not contribute to any localised ponding, nuisance flooding on adjoining properties, or impacts to overland flow or natural drainage paths.	Council’s Flood Engineer had assessed the proposal as having no significant change to the existing structure in terms of flood impacts.
4.	All stormwater disposal systems shall be in accordance with Council’s Engineering Design Specifications.	To be required by consent condition.

PART 3 –General Requirements for all Developments (see tables below)

3.20 Shop top housing – developments for Shop top housing in Wollondilly Shire		
Control		Comment
Building Design		
1	The first floor of the development shall be constructed as a commercial development in accordance with the relevant provisions of Volume 5 of this plan.	Complies.
2	The front façade of each floor of shop top housing shall be provided with at least one habitable room with a window looking out onto the public road.	Complies.
3	Shop top housing developments must not: <ul style="list-style-type: none"> ▪ Be mirror reversed; ▪ Have a repeated façade; nor ▪ Present an excessively bulky front façade. 	Complies.
4	If more than 10 shop top housing units are proposed then at least one dwelling per five dwellings (rounded down) provided shall be an accessible dwellings complying with relevant Commonwealth Standards for disabilities access.	Not applicable.
5	Shop top housing must not exceed the building footprint of the ground floor commercial part of the building.	Complies.
Site Selection and Amenity		
6	Shop top housing must only be provided with 400m of an area of eligible public open space. In this clause eligible public open spaces means an area of public park with an area no less than 3,000m ² and with children's play equipment and restrooms. Nothing in this control prevents an applicant from proposing works to enhance a public park to make it an eligible public open space.	Complies.
Private Open Space		
7	A balcony or verandah which provides a minimum principal area of private open space must be provided for each dwelling with the following characteristics:	Complies.
a)	Width no less than 2.5 metres in any direction	
b)	Must be directly accessible from, and adjacent to, a habitable room, other than a bedroom	
c)	Have an area no less than 8 square-metres.	
d)	Must not be located in the front building setback of the ground floor	
e)	Not be used for garbage storage	
Parking, Access and Vehicular Safety		
8	A minimum of One (1) car parking space shall be provided for each dwelling and one (1) visitor parking space shall be provided for every 5 dwellings (rounded up). Where this parking is located within a	Complies.

	parking lot used by commercial development suitable measures shall be provided to ensure they are reserved for residential use to the satisfaction of the consent authority.	
Solar Access		
9	Sunlight is to be available to at least 50% of the dedicated private open space area of each dwelling for at least 3 hours between 9:00 am and 3:00 pm on June 21.	Complies.
10	Wherever possible, the living areas within dwellings shall be given a northern orientation to maximise solar access.	Units 4 and 6 have living rooms with a window facing north. Having regard to the orientation of the lot, this is considered a reasonable outcome.
Privacy		
11	The development must not result in unreasonable overlooking into the private open space or windows of habitable rooms in the vicinity.	Complies.
12	A window that has a sill height of 1.7m or more above the floor level within the room shall be taken to have no potential for overlooking.	Noted.
13	The development shall be provided with onsite waste management facilities to allow for: a) the storage of the waste out of sight of any publically accessible place, dwelling window, area of private open space and area of common open space; and b) The collection of domestic waste from the development by waste collection vehicles.	No area identified for use by residents. Consent condition recommended.

Volume 5 – Commercial and Community Uses

Relevant Provisions

Comment

PART 1 – PRELIMINARY

1.2 Objectives

The object of this volume is to ensure commercial and community development achieves the aims of Wollondilly Local Environmental Plan, 2011 by promoting economic activity and local job creation while ensuring developments achieve excellent planning outcomes.

1.3 Parts of this volume

The requirements contained within Part 2 apply to all development types to which this volume applies.
Part 3 applies to specific land uses: Part 4 applies to specific locations:

Volume 5 – Commercial and Community Uses		
Relevant Provisions		Comment
Part 2 – General Requirements for all Commercial and Community Uses		
2.1 Sustainability		
Objectives		
To ensure the application of Ecologically Sustainable Development (ESD) principles at all stages of development including demolition, construction and ongoing use over time.		
Controls		
1	Timber sourced from old growth forests may not be used in development subject to this volume.	Noted. Specifications indicate that timber shall be sourced from a new growth forest specialty pine and the like.
2	Impacts to groundwater must be minimised by:	Only minor cut and fill has been proposed.
a)	Ensuring no contaminated runoff enters the groundwater system; and	
b)	Retaining and protecting significant stands of native vegetation; and	
c)	Minimising cut and fill; and	
d)	Maximising landscaped areas that are deep soil and are hydraulically connected to the natural soil and groundwater system.	
3	All development resulting in more than 200 square metres of new GFA must provide rainwater collection tank(s) to collect rainfall and runoff from roof areas. The minimum volume of the tank(s) shall be 1,000 litres per 100m ² (rounded down to the nearest 100m ²) of new GFA. Such tank(s) must have their overflows connected to a point for suitable integration with the natural or constructed stormwater drainage system.	The proposed floor area will exceed the threshold. The applicant argues that the development increases the GFA by about 22m ² and the requirement should not be applied. Due to site constraints, it is noted that the BASIX certificates have adopted a nil requirement for rainwater tanks, achieving the target score by the use of 3.5 to 5 star rated fixtures. In the circumstances, it is agreed that the requirement should not apply.
4	Water from rainwater collection tank(s) must be used for at least one of the following:	No rainwater collection proposed.
a)	Irrigation and maintenance of landscaped areas;	
b)	Cleaning and maintenance of built development;	

Volume 5 – Commercial and Community Uses		
Relevant Provisions		Comment
c)	Toilet flushing;	
d)	Laundry purposes; or	
e)	Car washing.	
5	All plumbing fittings connected to potable water supply must be Triple A or higher rated devices.	Proposed in BASIX certificate.
6	Connection to recycled water is required if serviced by a dual reticulation system. Such water shall be used for all of the purposes listed above at control 4. The requirement to provide water tank(s) does not apply if the development is connected to a recycled water system.	Not applicable
7	Commercial developments where the capital investment value are more than \$500,000 and that result in more than 100m ² of new GFA must install a photovoltaic system to complement consumption of electricity from the grid system. The capacity of the system must be no less than 5kW per 100m ² of new GFA. Details of the system shall be provided to the consent authority prior to the granting of any development consent	As noted above, the development does not increase GFA of the commercial component of the development by more than 100m ² .
2.2 Setbacks		
Objectives		
1.	To achieve safe, attractive, equitable and functional buildings.	
2.	To enhance and protect the public space adjacent to commercial premises.	
3.	To preserve the broader rural village character of the towns and their centres.	
Controls		
1.	Buildings on sites adjoining public open space must not cast a shadow onto more than one third of that open space between the hours of 10am and 2pm during the winter solstice (measured at ground level).	Not applicable.
2.	Colourbond materials shall not be used in the external	Plans indicate cladding will not be used on external construction.

Volume 5 – Commercial and Community Uses		
Relevant Provisions		Comment
	construction of buildings within the Business (B) Zones unless they account for less than 25% of each front elevation.	
3.	External materials used for newly constructed or extended commercial buildings within the business (B) zones shall be consistent with the materials used in adjoining commercial development or shall have a superior quality external finish.	Deferred commencement recommended to provide details to Council's satisfaction.
4.	Shipping containers shall not be used for storage within developments for commercial or community purposes.	Not applicable
5.	Building designs must ensure that main entry and exit points are readily identifiable to intending patrons.	Complies
6.	All building facades visible from a public place must be designed to reduce bulk and enhance the appearance of the building using appropriate architectural features, articulation and finishes.	Deferred commencement recommended to provide details to Council's satisfaction.
7.	Commercial developments must have active frontages for the majority of the total frontage of the development to public spaces including roads and reserves. An active frontage must have a minimum of 75% glazing area which must be transparent.	Ground floor elevation complies with active frontage provision.
8.	All facades must be designed in accordance with the Crime Prevention through Environmental Design (CPTED) Guidelines including allowance for casual surveillance of streets and other public places.	It is considered that the proposal has sufficient passive surveillance opportunities to comply with CPTED guidelines. The new dwellings will create a residential presence in the Town Centre during the night which will improve casual surveillance of the area.
9.	There must be a universally accessible and continuous path of travel to connect the public footpath to all car parking areas	A continuous path of travel is connected to the main entrance and the footpath, although it will be shared with the vehicle access to the

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	and the main public entry and exit point of a building.	rear. Complies
10.	Other uses within a basement car parking area (like switch rooms and waste storage areas) must be physically separated from vehicle and pedestrian movement.	Not applicable
11.	The applicant for any proposal for mixed use development shall demonstrate, to the satisfaction of the Consent Authority, that the development provides adequate amenity to any proposed and/or existing residential use.	The proposal is for a mixed use development. Each residential unit / studio has been afforded its own balcony.
12.	Building services, fittings and utilities (including, without limitation, downpipes, conduits and vents and air conditioning units and components) must be integrated with the features of any facade fronting public open space or a public street.	Heritage detailing of the façade will address this requirement.
13.	Building lights shall illuminate buildings and signs from the top-down rather than the bottom-up to reduce light spill into the night sky.	This is to be addressed by condition of development consent.
14.	Lift towers and overruns, satellite dishes, motor rooms and service plants, air conditioning units, antennae, telecommunications devices, vent pipes and the like must not be visible from any publically accessible place.	Plans indicate that air conditioning units are not visible from the street.
15.	Security shutters and roller doors on primary facades to a public street are not permitted unless they are open form or transparent. Security devices must be integrated within the design of the shop front structure.	No security shutters or roller doors are proposed.
16.	The design and siting of Automatic teller machines (ATM's) must allow for queuing	No ATM tellers are incorporated with this proposal

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	of users without obstructing the free movement of pedestrians and others within the public footpath and must be structurally protected to prevent ram-raided opportunities.	
17.	Commercial and community buildings constructed within a rural or residential zone must be designed to complement the character of the established built form of the locality. Building and infrastructure that contrast with the established built forms in the locality shall not be used in any rural or residential zone.	Not applicable
18.	Commercial and community building developments that will result in a floor area greater than 400m ² shall provide amenities for the changing of infants and shall accommodate for both male and female parents/guardians undertaking this activity.	Disabled toilet proposed. The requirement infant change areas will be imposed by a condition any future development consent
2.4 Open space		
Objectives		
1.	To provide a variety of open spaces integrated with, and enhancing, the design and function of buildings such as verandas, courtyards, balconies and roof top gardens,	
Controls		
1.	Communal Open Space must be provided for developments exceeding the thresholds tabulated below at the rate provided in the table: (See DCP for further details)	The development does not exceed the threshold for retail premises of 900m ² . Not required.
2.5 Outdoor eating and seating		
Objectives		
1.	To encourage aesthetically attractive, comfortable, convenient and safe outdoor furniture for seating and eating areas ancillary to nearby premises or for general public use,	

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Controls		
1.	A minimum 1.8 metres wide linear, unobstructed pedestrian movement pathway must be maintained through the public footpath at all times.	Paved alfresco areas are proposed which will not impact on the pedestrian footpath. The requirement will be imposed by a condition any future development consent. The requirement will be imposed by a condition any future development consent.
2.	Outdoor seating and eating areas operating outside daylight hours must be provided with lighting to the relevant Australian Standard.	
3.	Portable heating devices that are gas powered must be fitted with safety devices that automatically shut down the device when tilted.	
Note	Where the use of a public road reserve is proposed for commercial activities separate approval is required from Council and/or NSW Roads and Maritime Services. Where Council approval is required reference should be made to Council's policies relevant to use of public spaces for commercial activities.	
2.7 External storage		
Objectives		
1.	To ensure wastes are stored in a safe location that does not detract from the aesthetic qualities of commercial developments.	
Controls		
1.	There shall be no storage of goods or waste in areas that are visible to the public or patrons of facilities.	No external storage is proposed. An internal storage room has been proposed on the plans.
2.8 Public realm		
Objectives		
1.	To create and maintain a consistent character for each town and village centre through the development of a public realm strategy addressing on-street parking, public footpath, public / street furniture, signage and street trees.	
Controls		
1.	All works within the public domain must comply with Council's adopted Design and Construction Specification, Plans of Management and any other strategy adopted by Council for public spaces.	Appropriate conditions will be included if required for any works in the public domain.
2.	Where a driveway crosses a public road frontage and is 5 metres or wider the vehicle lanes on the driveway must be	Driveway is existing.

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	separated to provide a pedestrian refuge within the footpath.	
3.	Where on street parking is not already provided (including paved shoulder and kerb and guttering) along the full frontages of the site it shall be installed prior to the occupation of any development subject to this volume.	The frontage of the site is full kerb and gutter. The frontage is part “No Stopping” and part “No Parking” zone.
2.9 Access and Traffic Generation		
Objectives		
1.	To provide the opportunity to access development sites by the widest feasible variety of transport modes,	
2.	To ensure delivery areas are suitably isolated from patron traffic to promote pedestrian safety.	
Controls		
1.	Service and delivery vehicles must have a separate access for developments with a GFA greater than 500m². This access may not be shared with the access to be used by patrons of the development.	The proposed GFA does not exceed of 500m².
2.	Commercial premises must be provided with a minimum of one (1) loading / unloading space with sufficient capacity for the site.	Complies.
3.	Forward entry/exit onto the street from the loading/unloading space must be provided.	Complies.
4.	Premises exceeding the thresholds provided below must provide secured storage areas for bicycles, skateboards, prams and the like at the specified ratio. The secured area must be either within the main building or within a shed or similar structure protected from the weather and located to provide appropriate casual surveillance. (See DCP for further details for this control)	Does not exceed threshold.

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2.10 Parking and Manoeuvring		
Objectives		
a)	To achieve vehicle parking and manoeuvring spaces that do not dominate the streetscape, and	
b)	To ensure developments accommodate parking demands of private land uses within private property.	
Controls		
1.	The construction of vehicle parking and manoeuvring areas must comply with Council's adopted Design and Construction Specifications.	Consent condition recommend.
2.	Vehicle parking that is located within the front setback must be physically separated by permanent safety structures from road pavement and must not detract from the aesthetics of the streetscape.	Not applicable.
3.	Where security doors or gates are proposed to control access to vehicle parking an intercom system must be provided to facilitate access. Such doors and gates must also be positioned to ensure vehicles stand clear of the public footpath and any specified pedestrian access while the doors and gates are opening.	Not applicable.
4.	All above ground parking areas with more than 12 parking spaces must be landscaped including shade trees provided at the rate of one (1) canopy tree for every four (4) car parking spaces of part thereof. Shade trees must be located to provide shade to parked vehicles.	Not applicable.
5.	Manoeuvring space must be sufficient to permit all vehicles to enter and leave a site in a forward direction in accordance with relevant Australian Standards.	Complies.

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6.	Parking areas must be linked via a pedestrian path with the nearest public footpath.	Complies – shared with vehicle access.
7.	Parking spaces adjoining pedestrian accesses must be provided with wheel stops or upright kerbs to protect the safety of pedestrians.	Consent condition recommend.
8.	Parking areas for developments that operate outside of daylight hours must be lit in accordance with relevant Australian Standards.	Consent condition recommend.
9.	Multi-unit complexes must provide a consolidated car parking area for patrons. No more than 50% of the total parking spaces on site shall be allocated to a single unit.	Consent condition recommend.
10.	Parking must be provided at the rate tabulated below. The number of spaces shall be rounded up to the nearest whole number of spaces. Note: In a mixed use development the total number of car parking spaces shall be sum of the number of parking spaces required for each component use. a) Numerical Parking Rates (see the DCP for further details of this control)	See comments under Parking.
11.	Car parking areas shall be designed, embellished and located to minimise adverse visual impacts in the locality.	Complies.
12.	Large developments for retail (or mixed use including retail) that give rise to a need for 200 or more car parking spaces shall provide one (1) space for Seniors and one (1) for parents with prams for each 100 spaces (rounded down) required by this volume. Such spaces shall measure no less than 2.8m x 5.5m and shall be signposted	Not applicable.

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	and marked with line marking paint. They shall be located to minimise travel distance to the entry points for the facility. The spaces required by this clause are not in addition to the spaces that are otherwise required by this plan.	
2.11 Waste Management		
Objectives		
1.	To ensure appropriate waste storage and collection facilities,	
2.	To minimise risk to health and safety associated with handling and disposal of waste and recycled material and ensure optimum hygiene,	
Controls		
1.	A completed Site Waste Minimisation and Management Plan (SWMMP) complying with the template in Appendix A of the NSW Office of Environment and Heritage's Model Waste must accompany an application for commercial buildings greater than 500m ² in GFA or any commercial development that is likely to produce hazardous waste products.	Does not exceed 500m ² .
2.	There must be convenient access from each tenancy and/or larger waste producing area of the development to the waste/recycling storage room(s) or area(s). There must be step-free access between the point at which bins are collected/emptied and the waste/recycling storage room(s) or area(s).	Consent condition recommend.
3.	Every development must include adequate waste/recycling storage area(s) to accommodate all relevant waste management processes and storage.	Consent condition recommend.
4.	Special arrangements for storage, collection and disposal of medical and hazardous waste must be detailed in the Site Waste Minimisation and	Not applicable.

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	Management Plan (SWMMP)	
5.	Waste/recycling storage areas must not be visible from outside of the building or by patrons.	Consent condition recommend.
2.12 On-site waste water and stormwater management		
Note	The following documents will be used by Council (without limitation) in assessing any development application: Managing Urban Stormwater: Soils and Construction (Volume 1 – The Blue Book provides guidance during the construction of urban subdivisions and is available from Landcom. Volume 2 provides guidance for erosion and sediment control for a range of other activities) www.environment.nsw.gov.au/stormwater/publications.htm Model Code of Practice for erosion and sediment control (A resource guide for local Councils – Landcom) Managing urban stormwater: harvesting and reuse www.environment.nsw.gov.au/stormwater/publications.htm Australian Runoff Quality www.ncwe.org.au/arq	
Objectives		
1.	To minimise the impacts of urban development on the environmental values of waterways, groundwater systems and bushland areas,	
Controls		
1.	On sites without reticulated sewer, provision shall be made for the disposal of treated effluent in a manner that minimises the risk to the natural environment and to human health.	The site is connected to reticulated sewer.
2.	All stormwater management systems shall comply with Council's Design & Construction Specification.	Consent condition recommend.
3.	For developments providing more than 1000m ² of new GFA, a detailed stormwater treatment assessment shall be provided detailing how the development will result in improved stormwater quality and will achieve the principals of Water Sensitive Urban Design.	Does not exceed 1,000m ² .
Part 4 – Controls for Specific Locations:		
4.1 Maps and Definitions		
1.	In this section Commercial Building refers to any building for which the construction or use is subject to this volume.	
2.	A reference to a map in this part is a reference to one or more of the maps below: (See DCP for further details for this control)	

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4.5 Picton		
Objectives		
1.	To ensure commercial and community development contributes to the character and amenity of Picton.	
2.	To promote efficient and safe all weather access for pedestrians in Picton.	
Controls		
1.	Commercial buildings within the Picton Commercial Precinct shown in Map 4.1.4 shall be sited with a setback no greater than 1 metre from any boundary of the site with Margaret, Colden, Menangle and/or Argyle Streets.	Application proposes a nil front setback, with the exception of a ramp access to comply with disabled access requirements.
2.	Commercial buildings referred to in Control 1 shall provide an awning from the façade of any building to Margaret, Colden, Menangle and/or Argyle Streets that shall extend from the building façade to a point 0.8 metres from the edge of the road pavement.	Complies.
4.	Commercial buildings within the Menangle Street Intersection Key Site shown in Map 4.1.4 shall be designed with due regard to its visual impacts on both items of heritage significance located at the intersection.	The proposed future alfresco dining area is located within this Key Site Area. The proposed works are considered to have due regard to the visual impacts on the heritage significance of the intersection.
5.	Council has an adopted strategy to deliver more public car parking in Picton. Proponents may, in lieu of providing some or all of the car parking in accordance with Part 2 of this volume, make contribution towards the provision of such parking through dedication of particular lands and through financial contributions as part of a Voluntary Planning Agreement.	The applicant has offered to enter into a VPA for parking contribution.
2.	The consent authority must not consent to a development application for events unless it is satisfied that waste can be managed in accordance with a waste management plan to prevent pollution of the environment and loss of amenity.	Not applicable
3.	Events must not be undertaken on sites that do not have adequate access to public roads with capacity for the traffic likely to be generated by the event.	Not applicable

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4.	Events likely to attract more than 200 people must be ticketed on a pre-booked only basis. Tickets may not be sold at the gate.	Not applicable
Note: Nothing in this plan prevents a site from being used for more than one event each year.		

1.3.4 DRAFT AND/OR PLANNING AGREEMENTS ENTERED OR OFFERED TO ENTER INTO

The applicant has submitted a Letter of Offer to pay a monetary contribution in lieu of the provision of all the generated demand for parking on the site.

The Letter of Offer is for payment of \$10,310 per space, for 8 spaces. A separate development application for the proposed restaurant/café use and alfresco dining area is to be lodged and the required contributions will be calculated at that time. The Letter of Offer includes provisions for this future application and payment of contributions under the one VPA.

The Letter of Offer has been considered by Council's Executive Team and approved in principle. Consent condition recommended.

1.3.5 ANY CONTRIBUTIONS PLAN

Wollondilly Development Contributions Plan 2011 applies to the development.

The residential component of the development is subject to section 94 contributions under the Contributions Plan.

The non-residential component of the development is subject to section 94A contributions under the Contributions Plan.

Section 94 Contributions

The development proposes 7 new dwellings. There is no existing dwelling on the site. Section 94 contributions are payable on the basis of 7 multi-unit/mixed use development dwellings. The contribution amount is subject to regular indexation. As at December 2017, the amount payable is as follows:

	Amount	Number	Total
Open Space, Sport & Recreation (Shire)	\$162	7	\$1,134
Open Space, Sport & Recreation (Precinct)	\$6,621	7	\$46,347
Library & Community Facilities (Shire)	\$764	7	\$5,348
Library & Community Facilities (Precinct)	\$986	7	\$6,902
Transport & Traffic (Roads & Intersections)	\$4,726	7	\$33,082
Transport & Traffic (Cycleways)	\$40	7	\$280
Bushfire Protection	\$19	7	\$133
	\$13,318	7	\$93,226
Admin	\$666	7	\$4,662
Total	\$13,984	7	\$97,888

Section 94A Contributions

Section 94A contributions are payable for non-residential development that has a cost of more than \$100,000. The rate of contribution for cost of development more than \$200,000 is 1%.

Due to the mixed use nature of the proposal, it is difficult to determine the non-residential component of the cost of development. The applicant has indicated a cost of development of \$2M. It is noted that the cost of fit out of the dwellings will be greater than the commercial component and the parking area construction is to serve the residential component.

A reasonable assessment of the cost for the non-residential component is considered to be in the order of \$2,000 per square metre. Based on 423m² of gross floor area, the cost of development for the non-residential component is estimated to be \$846,000.

A section 94A contribution of \$8,460 is payable.

1.4 IMPACT OF THE DEVELOPMENT

Natural Environment

The natural environment will not be affected by this proposal.

Built Environment

The development proposes the demolition of a locally significant heritage item, within a conservation area. To address impacts on the built environment, the applicant proposes to retain the façade of the heritage building and restore it to its early 1930s condition, including verandah posts supporting the awning.

If properly undertaken, to a standard managed through a heritage management report, the development is considered to provide a positive outcome for the built environment.

The provision of shop top housing is considered to be desirable as a means of activating the Picton Town Centre outside of ordinary business trading hours. This is considered to provide a positive stimulus for future improvements to the built environment of the Town Centre.

Social Impacts

The proposal requires a sub-standard vehicle access to the site. This represents a potential impact on pedestrian and traffic safety in the locality.

The applicant has proposed to address the traffic and pedestrian safety issues through special signage and lights, however, the development is considered to still pose a risk to pedestrian and traffic safety that is of particular concern having regard to the proximity to the intersection of Menangle and Argyle Streets, the local catholic primary school, St Mary MacKillop Lane and the pedestrian crossing.

Partial demolition of the heritage building, with the retention of the façade, will be a permanent loss of heritage value of the building. Having regard to the damage to the building caused by the inundation from the 2016 storm event, and the likely costs of repairs to retain the building, the demolition is considered to be reasonable, subject to proper documentation, design and construction of the new building.

Shop top housing within the Picton Town Centre is considered to provide a positive social impact, creating residential passive surveillance of the Town Centre outside of normal business trading hours, and enhancing a more sustainable built form.

The development of housing on flood liable land poses a negative social impact, increasing the number of people that are at risk during a flood event. Proposed dwelling floor levels are above the FPL. However, for the current estimated 1% flood level inundation of the site, for evacuation purposes, will be between 0.4m and 0.8m. Subject to the structural requirements of the building being able to withstand flood forces, the first floor area is considered to be a reasonable refuge up to a 1% flood event.

Economic Impacts

The development is located on land identified as being subject to flooding. An economic analysis of the cost of flood damage identified an Annual Average Damage of \$1,200, which is considered to be acceptable.

This development has the ability to contribute to the revitalisation of the Town Centre, which will have positive economic impacts on local businesses and the associated local economy.

1.5 SUITABILITY OF THE SITE

The proposed development is permissible within the zone. The demolition of the existing commercial development and reconstruction of commercial development with shop top housing will contribute to the activation of the street front and revitalisation of the Picton Town Centre. Heritage values are proposed to be protected as far as reasonably possible, having regard to the flood damage to the existing structure. While the site is flood liable, the development is considered to be consistent with the flood planning provisions of Wollondilly LEP 2011 and Council's flood policy. It is considered that the site is suitable for the proposed development.

1.6 SUBMISSIONS

Nil

1.7 THE PUBLIC INTEREST

The development provides for a practical redevelopment of a flood affected heritage item. It is considered that the proposal will contribute to the streetscape and the activation of the Picton Town Centre.

Flood impacts have been assessed and the development is considered to be a reasonable redevelopment of flood liable land, consistent with Council's flood policy.

Section 733 of the Local Government Act 1993 provides that:

- (1) A council does not incur any liability in respect of:
 - (b) anything done or omitted to be done in good faith by the council in so far as it relates to the likelihood of land being flooded or the nature or extent of any such flooding.

This exemption from liability applies to Council decisions including the granting of development consent, or the imposition of consent conditions and is subject to Council acting in good faith. Acting in good faith is defined to mean the decision was done substantially in accordance with the NSW Floodplain Development Manual.

The application has been assessed in accordance with the Flood Planning provisions of Wollondilly LEP 2011 and under Council's adopted flood policy. The proposal, subject to the recommended conditions, is considered to be consistent with Council's flood policy, and the NSW Floodplain Development Manual.

The design of access to the site is not compliant with current standards, however, the proposal is considered to be a marginal improvement on the current access arrangements. Retention of the heritage façade provides some justification for allowing the development despite non-compliance with the design standards.

Approval is not considered to be contrary to the broader public interest

FINANCIAL IMPLICATIONS

Council has adopted a Developer Contribution Plan for payment of Section 94 and 94A contributions. These contributions, referred to elsewhere in this report, are payable at a time prior to the issue of a Construction Certificate.

All contributions are subject to the relevant indexation applicable to the time of payment.

CONCLUSION

Pending the submission of satisfactory information in respect to structural bracing of the heritage façade and a heritage management report, the development is considered to be suitable for approval. Deferred commencement consent is recommended. In the event that retention of the façade proves too difficult or too costly, the development will be required to be redesigned to provide 6m wide access consistent with current standards.

ATTACHMENTS

1. Application Plans for approval (as amended)
2. Statement of Environmental Effects (as amended)
3. Traffic Impact Statement, Aztec Draft & Design
4. Peer Review of Traffic Proposal, TRAFFIX, Traffic and Transport Planners
5. Structural Assessment of front façade, GF Murphy Consulting Pty Ltd

RECOMMENDATION

1. That Development Application No. 010.2017.00000407.001 for partial demolition, construction of a commercial building and shop top housing at 24 and 28 Menangle Street, Picton be granted Deferred Commencement Consent subject to the schedule of conditions shown below.
2. That the applicant be advised that, if for any reason, it is decided not to retain the existing façade, the development is to be redesigned to cater for a 6m wide driveway access.

SCHEDULE OF CONDITIONS:

DEFERRED COMMENCEMENT CONSENT has been granted to the Application in accordance with the provisions of Section 80(3) of the Environmental Planning and Assessment Act 1979 (as Amended).

THIS CONSENT WILL BECOME VALID AND MAY BE ACTED UPON SUBJECT TO MEETING THE FOLLOWING REQUIREMENTS.

- 1) Submission of and approval by Council of:
 - a) Structural bracing details for the retention of the front façade during the demolition process, certified by a structural engineer, and
 - b) A copy of the approval under Section 15 of the Mines Subsidence Compensation Act 1961 from Subsidence Advisory NSW that relates to the approved plans, and
 - c) A Heritage Management Report, prepared by a qualified heritage consultant/architect that provides accurate detailing of the existing façade, the proposed verandah posts and associated details, joinery, materials, profiles, colour selection and shopfront detailing, and the provision of double glazing of first floor windows. The Heritage Management Report shall also review the structural bracing details and provide recommendations for the proper management of the demolition, keying into the new structure, and the restoration of, the façade following removal of the bracing.

NOTE:

1. **Nothing in this Deferred Commencement Consent permits the commencement of any works or development as proposed in this application until the receipt of confirmation of valid development consent from Council.**
2. **This Deferred Commencement Consent will lapse if the above requirement has not been satisfied within twelve (12) months of the date of the Deferred Commencement Consent.**
3. **Following compliance with the above conditions of Deferred Commencement Consent, written confirmation of Consent will be forwarded to you from Council.**
4. **Once the consent is valid, the development will be subject to the following conditions outlined below.**

1. COMPLIANCE

These conditions are imposed to ensure that the development is carried out in accordance with statutory requirements, the conditions of consent and the approved plans to Council's satisfaction.

- (1) Development Consent is granted for Lot 1 and 2 DP: 563577, being No. 28 Menangle Street, and Lot 11 DP 856694 being 24 Menangle Street, PICTON, for:
 - a. Demolition of an existing heritage item, except for the façade.
 - b. Construction of a two storey building containing ground floor commercial premises and first floor shop top housing, and associated car parking and loading facilities.
 - c. Use of the ground floor commercial premises for business premises, office premises or shop purposes (not food and drink premises).
- (2) Development shall take place in accordance with the following endorsed plans, submitted in respect of Development Application No. 010.2017.00000407.001, except where varied by the following conditions:

Plans Prepared by Drake Designs

Plan Title	Dwg No.	Sheet	Rev	Date
Site Plan	DA.01.E			Aug 2016
Ground Floor Plan	DA.02.0			Aug 2016
First Floor Plan	DA.03.N			Aug 2016
Schematic Sections	DA.04.E			Aug 2016
Elevations - South and West	DA.05.C			Aug 2016
Elevations - North and East	DA.06.C			Aug 2016

- (3) In the event of an inconsistency of detail between the relevant plans and elevations the details shown in the elevations shall take precedent.
- (4) Development shall take place in accordance with the recommendations of the following reports:
 - **Statement of Environmental Effects** prepared by **Joanne Tapp Town Planning** dated January 2018
 - **BASIX Certificate number: 805620M dated 29 June 2017**
 - **Assessor Certificate 0001649540 dated 29 June 2017**
 - **Access Report No.17012 prepared by Australian Access & Building Solutions**
 - **Traffic Impact Statement by Aztec Draft & Design dated November 2017**
 - **Peer Review of Traffic Proposal by Traffix Traffic & Transport Planners dated 17 January 2018**
 - **Draft Performance Solution Report prepared by BFSC – Building and Fire Surveying Consultants Pty Ltd, document number 12/2017-1, prepared by Russel Grove - C10 Fire Safety Engineer BPB0149, dated 3 April 2017**

- ***Approved structural bracing details for the retention of the front façade during the demolition process***
 - ***Approved Heritage Management Report.***
- (5) This consent does not approve the use of the outdoor area on 24 Menangle Street or the area shown as “alfresco breezeway seating area” on the approved plans. A separate application shall be lodged for the use of this area, and shall be assessed for any additional requirements for car parking.
- (6) Where any work associated with this consent has the potential to disturb neighbours through the generation of noise, dust, odour, vibration or through deliveries to the site the person with control over the works shall advise the occupants of all adjoining and potentially affected properties of the timing and duration of such works. The land owner has the ultimate responsibility for ensuring that anybody undertaking works under this development consent on their behalf is aware of this requirement and completes the task required by this condition.
- (7) Construction shall not commence on the site, including the placement of temporary buildings, site excavation, filling, removal of trees or other site preparation works (with the exception of site survey work), prior to the issue of a Construction Certificate by Council or a nominated Accredited Certifier.
- (8) All building work must be carried out in accordance with the provisions of the Building Code of Australia. This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning & Assessment Regulations, 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4).
- (9) Lots 1 and 2 DP: 563577 shall be consolidated into one lot and written notification as to the registration of such consolidation at Land and Property Information is to be submitted to Council prior to release of the Construction Certificate.

2. INTEGRATED DEVELOPMENT

These conditions have been imposed to ensure that the development is carried out in accordance with the requirements of other approval authorities:

- (1) Prior to issue of any Occupation Certificate, certification shall be submitted to the PCA that the building has been constructed in accordance with any requirements of the approval of Subsidence Advisory NSW under section 22 of the Coal Mine Subsidence Compensation Act 2017.

3. CONTRIBUTIONS

These conditions have been imposed to ensure the adequate provision of public facilities required as a result of the development.

- (1) Payment of a Contribution for 7 dwellings in accordance with the Wollondilly Section 94 Contribution Plan 2011, the cost of which will be determined and payable at the time of, and prior to, the release of the Construction Certificate.

The current (December 2017) amount payable is:

Facility	Amount
Open Space, Sport & Recreation (Shire)	\$1,134
Open Space, Sport & Recreation (Precinct)	\$46,347
Library & Community Facilities (Shire)	\$5,348
Library & Community Facilities (Precinct)	\$6,902
Transport & Traffic (Roads & Intersections)	\$33,082
Transport & Traffic (Cycleways)	\$280
Bushfire Protection	\$133
	\$93,226
Admin	\$4,662
Total	\$97,888

These figures are reviewed quarterly in accordance with the provisions of the Contributions Plan and an updated figure must be obtained from Council at the time of payment.

- (2) A Section 94A Development Contribution of \$8,460 shall be paid to Council. This contribution is calculated from Wollondilly Section 94 Contributions Plan, 2011 based on a 1% levy for non-residential development with a value exceeding \$200,000 and an estimated construction cost of \$846,000 for the non-residential component of the development.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Wollondilly Development Contributions Plan 2011. The contribution is to be paid prior to the release of the Construction Certificate.

4. VOLUNTARY PLANNING AGREEMENT

This condition has been imposed to ensure that prior to the issue of any construction certificate, the persons having the benefit of this consent undertake the necessary legal requirements for the creation of a planning agreement for the payment of money to Council.

- (1) Prior to the issue of any Construction Certificate, the person(s) having the benefit of this consent shall provide a draft planning agreement pursuant to Section 93F of the Environmental Planning and Assessment Act 1979, reflecting the applicant's letter of offer dated 23 February 2018, and which is consistent with Council's Planning Agreements Policy.
- (2) The draft planning agreement will be provided to Council in a form suitable for public exhibition (together with any applicable exhibition fees) subject to Council obtaining its own legal advice on the content of the Voluntary Planning Agreement.
- (3) The applicant and Council will use their best endeavours to ensure that the planning agreement is executed within ninety (90) days of the date of this consent.
- (4) The planning agreement shall make provision for payment of money made under the planning agreement prior to the issue of a Construction Certificate.

5. HERITAGE

These conditions have been imposed to ensure that development is carried out in a manner sensitive to the heritage values in the locality.

- (1) The applicant is to commission an experienced conservation/heritage consultant to work with the demolition and construction contractors throughout the demolition and construction process, to oversee completion of the project in accordance with the approved Heritage Management Plan. The conservation/heritage consultant shall certify that works have been completed in accordance with the Heritage Management Plan prior to the issue of any Occupation Certificate.
- (2) The applicant is to commission experienced tradespersons that are skilled in traditional building and engineering trades to carry out the works that affect the retained heritage façade.

6. DEMOLITION

These conditions have been imposed to ensure that the demolition of buildings is carried out with regard to public and environmental safety.

- (1) Demolition shall not commence until:
 - a. Any preparatory works required by the approved Heritage Management Report are completed, and
 - b. The structural bracing of the front façade has been installed in accordance with the approved structural bracing details and the approved Heritage Management Report.

- (2) Demolition works shall be undertaken under the instruction of the structural engineer who prepared the approved structural bracing details, and in accordance with any recommendations of the approved Heritage Management Report.
- (3) All demolition works that proposed to demolish (or partially demolish) any building, structure or installation that:
 - Is over 15 metres in height
 - Is a chemical installation
 - Involves a tower crane on site
 - Involves a mobile crane with a rated capacity of more than 100 tonnes
 - Has structural components that are pre-tensioned or post-tensioned
 - Involved floor popping
 - Involves explosives
 - Is between four metres and 15 metres in height involving mechanical demolition such as using excavators, bulldozers or cranes
 - Is between 10 metres and 15 metres in height and affects its structural integrity involves the use of load shifting machinery on suspended floors.

shall be undertaken by a licensed demolisher who is registered with SafeWork NSW (formerly WorkCover Authority of NSW). Details shall be submitted to Council or the nominated Accredited Certifier prior to the commencement of demolition works.

- (4) Any demolition works involving asbestos removal must comply with all legislative requirements including the publication How to Safely Remove Asbestos – Code of Practice (December 2011- WorkCover NSW & Safe Work Australia), SafeWork NSW and NSW Environment Protection Agency (EPA) requirements.
- (5) Any work involving lead paint removal must not cause lead contamination of air or ground.
- (6) All demolition material shall be disposed of in accordance with a waste management plan to be submitted and approved by Wollondilly Shire Council prior to the commencement of the demolition work.
- (7) Demolition works shall not create general nuisance by reason of inadequate dust, noise or environmental controls.
- (8) All demolition works should be carried out in a way that ensures that waste is managed in a manner consistent with the “NSW Waste Avoidance and Resource Recovery Strategy 2014-21” (copies can be obtained from the EPA website at <http://www.epa.nsw.gov.au/warr/index.htm>).

- (9) Care should be taken when demolishing building structures likely to have been treated with pesticides to avoid contact with the top 10-20mm of soil. The top layer of soil should not be left exposed where children or other sensitive individuals may come into contact with it.
- (10) Demolition shall be carried out to Australian Standard AS2601-2001 – The Demolition of Structures and the WorkCover Authority of NSW publication “Demolition work code of practice July 2014” including provision for:
 - Appropriate security fence or builders hoarding shall be installed to prevent public access to the demolition works
 - Induction training for onsite personnel
 - Management of asbestos, contamination and other hazardous materials
 - Dust control
 - Disconnection of gas and electrical supply
 - The demolition shall not hinder pedestrian or vehicle mobility in the locality
 - Control of water pollution and leachate, including the cleaning of vehicle tyres in accordance with the Protection of the Environment Operations Act, 1997.
- (11) Fire fighting services onsite shall be maintained at all times during demolition works.
- (12) The demolition by induced collapse, the use of explosives or onsite burning is not permitted.
- (13) During demolition works all materials and equipment shall be kept entirely within the site and not on adjoining property, footpaths and roads.
- (14) All demolition work shall be restricted to between the hours of 7.00am and 6.00pm Mondays to Fridays (inclusive), 8.00am to 1.00pm Saturdays, and prohibited on Sundays and Public Holidays.
- (15) Certification is to be provided by the Demolition Contractor that the demolition work has been carried out in accordance with the above conditions. Such certification is to be provided to Council or the nominated Accredited Certifier prior to the issue of any Construction Certificate.

7. BUILDING DESIGN

These conditions have been imposed to ensure that the appearance/construction of building works complies with the aims and objectives of Council’s relevant Development Control Plans, Policies and relevant Statutory Regulations.

- (1) All materials and colours to be used in the external construction of the proposed building shall be in accordance with the Heritage Management Report.

- (2) All first floor windows in the street frontage and the windows in the eastern elevation for Unit 4 shall be designed for weighted sound reduction index values for Category 5 noise control treatment (Openable Double Glazing with separate panes: 5mm monolithic glass, 100mm air gap, 5mm monolithic glass with full perimeter acoustic seals). Details shall be provided with the Construction Certificate application.
- (3) The building shall comply with:
 - a. Disability (Access to Premises – Buildings) Standards 2010,
 - b. AS1428.1:2009 – Design for access and mobility,
 - c. AS 2890.6 – 2009 Parking facilities – Off street parking for people with disabilities.

Prior to the issue of any Construction Certificate a certificate certifying compliance with this condition prepared by a suitably qualified person must be provided to Council or the nominated Accredited Certifier.

- (4) The plans shall provide within the commercial development amenities for the changing of infants and shall accommodate for both male and female parents/guardians undertaking this activity.

8. BASIX CERTIFICATES

These conditions have been imposed to ensure that the BASIX affected development fulfils the commitments listed in each relevant BASIX Certificate issued for the development.

- (1) In accordance with clause 97A(2) of the Environmental Planning and Assessment Regulation, 2000, it is a condition of this development consent that all the commitments shown in the BASIX Certificate, referred to in condition 1.(4), are fulfilled.
- (2) The builder shall certify that all BASIX commitments have been fulfilled, prior to the issue of the Occupation Certificate.

9. STREET ADDRESSING

These conditions are imposed in order to ensure the development complies with the requirements of the New South Wales Address Policy as published by the Geographical Names Board of New South Wales.

- (1) Prior to the issue of a Construction Certificate for the development an application for street addresses shall be submitted to Council for each individual dwelling and commercial tenancy within the development in accordance with Section 5.2 of the NSW Address Policy.

10. CONSTRUCTION GENERAL

These conditions have been imposed to ensure that all construction work is undertaken to an approved standard and related approvals.

- (1) Prior to the issue of any construction certificate, sufficient information must be forwarded to Council or the nominated Accredited Certifier illustrating compliance with the relevant provisions of the National Construction Code (Building Code of Australia). Where Council is to be the nominated Accredited Certifier Council's Building Services Section may be contacted on 02 4677 1100 if further clarification is required.
- (2) The landowner must enter into a suitable long term lease over that part of Lot 11 DP 856694 shown in the approved plans prior to the issue of the Construction Certificate.
- (3) A certificate from a structural engineer shall be provided to Council or the nominated Accredited Certifier prior to the release of the Construction Certificate certifying that the existing structure is capable of withstanding the forces of the proposed addition and actions as determined in accordance with AS/NZS 1170 Structural design actions.
- (4) All construction and building work shall be restricted to between 7:00am and 6:00pm Mondays to Fridays (inclusive), 8:00am and 1:00pm Saturdays and prohibited on Sundays and Public Holidays unless written approval to vary the hours of work is granted by Council.
- (5) Excavated area/s adjacent to the building shall be retained and drained to prevent the subsidence of the excavation and/or entry of surface water to the building. Where the retaining wall exceeds 600mm in height, plans and specifications of the retaining wall shall be submitted to Council or a nominated Accredited Certifier and approved before the issue of the Construction Certificate. Where the height exceeds 1m in height, a certificate prepared by a suitably qualified Structural Engineer shall be submitted with the plans and specifications.
- (6) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. These facilities are to be provided prior to the commencement of any works and:
 - (a) Must be a standard flushing toilet; and
 - (b) Must be connected:
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

In this condition:

Accredited sewage management facility means a sewage management facility to which Division 4 of Part 2 of the *Local Government (General) Regulation 2005* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 41 of the Regulation.

Approved by the Council means the subject of an approval in force under Division 4 of Part 2 of the *Local Government (General) Regulation 2005*.

Sewage Management Facility has the same meaning as it has in the *Local Government (General) Regulation 2005*.

- (7) Construction shall not commence until a Construction Certificate has been obtained from Council or a nominated Accredited Certifier.
- (8) An appropriate fence preventing public access to the site shall be erected for the duration of construction works.
- (9) A hoarding or fence must be erected between the work site and the public street. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
- (10) Dust shall be controlled so that it will not leave the construction site.
- (11) The building shall be upgraded in accordance with Clause 94 of the Environmental Planning and Assessment Regulation 2011 so the building complies with Parts C, D and E of the Building Code of Australia.

11. FLOOD PRONE AREAS

These conditions have been imposed to reduce the risk and implications of flooding for development works that are carried out in flood affected areas within the Shire.

- (1) The development site has been identified as being liable to inundation by flooding or overland stormwater flows and as such has been allocated a Flood Planning Level (FPL) of 158.5m Australian Height Datum (AHD) and a Designated Flood Level of 158.0m AHD. The proposed buildings shall minimise the impact of flooding by giving due consideration to the flood damages associated with over floor flooding.

Note:

Council has commenced a revision of the Floodplain Management Plan (now called a Floodplain Risk Management Plan) and commissioned a new and expanded flood study. The new flood study uses a different method of modelling flood behaviour and the predicted flood level varies from the currently adopted levels as stated above. In addition, the study includes consideration of climate change impacts on flood levels and a Probable Maximum Flood Level. The study is still in draft form but the relevant level information, including a possible new Flood Planning Level, is provided below for guidance purposes:

- New Draft 1% AEP Flood level 158.3m AHD
 - New Draft 1% AEP with allowance for climate change impacts 158.6m AHD
 - Possible New Flood Planning Level 159.1m AHD
 - New Draft PMF (Probable Maximum Flood) Level 165.1 m AHD
- (2) Any parts of the building and car park below the Designated Flood Level shall be constructed of flood compatible (flood damage resistant) materials.
- (3) Prior to issue of the Construction Certificate, adequate certification by a suitably qualified and experienced engineer shall be provided to the nominated Accredited Certifier that the proposed building can withstand the likely conditions experienced during the Designated Flood without suffering significant damage.
- (4) Prior to issue of the **Construction Certificate**, adequate certification by a suitably qualified and experienced engineer shall be provided to the nominated Accredited Certifier that the proposed building can withstand the likely conditions experienced during the Probable Maximum Flood without suffering structural failure.
- (5) Prior to issue of the **Construction Certificate**, the applicant must demonstrate to the nominated Accredited Certifier, that permanent maintenance free measures are incorporated into the development to ensure the timely, orderly and safe evacuation of people in the event of a flood.
- (6) All fencing must be compatible with the nature of flooding and be designed to pass flood flows during events up to the Designated Flood Level.

12. SERVICES

These conditions have been imposed to ensure that an adequate level of services and infrastructure are provided for this development.

- (1) Electricity supply is to be made available to the development in accordance with the requirements of Endeavour Energy. In this regard, written confirmation from Endeavour Energy that suitable arrangements have been made shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate for that stage.
- (2) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of any Subdivision Certificate for the development.

- (3) Prior to the issue of the Construction Certificate, the developer is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:
 - (i) the installation of fibre-ready facilities to all individual premises so as to enable fibre to be readily connected. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose, and
 - (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier. (Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).
- (4) All of the letter boxes for the development shall be contained in the one structure which shall be constructed from materials that are complementary to those used in the buildings on the site. The letter box structure shall be to the satisfaction of Australia Post and shall be positioned so that it does not obstruct sight lines for vehicles entering or leaving the site or adjoining land. Details of the location of the letterbox structure, materials and finishes are to be submitted with the Construction Certificate application, and endorsed as suitable by the conservation/ heritage consultant required by condition 5.(1).
- (5) Only one roof top antenna is permitted for the whole of the development. This shall be used to service each dwelling.
- (6) The development shall be connected to the reticulated sewage scheme prior to the issue of any Occupation Certificate for the development.

13. WASTE MANAGEMENT

These conditions have been imposed to enquire that wastes are correctly stored, disposed of and controlled at all times to prevent accidents and to maintain clean and tidy premises.

- (1) A Waste Management Plan is to be submitted to the Council for approval prior to the issue of any Construction Certificate. The Waste Management Plan is to be in accordance with the provisions of Council's Waste Minimisation and Management Guidelines and is to include both the construction and post-construction phases of the development.
- (2) The plans submitted with the Construction Certificate application are to identify an area for shared garbage and recycling containers for residents of the shop top housing, with such area being screened from view and easily accessible to dwelling occupiers. Access to the area for garbage collection vehicles is to be available without obstruction to the car parking spaces provided on site.
- (3) Prior to the issue of any Construction Certificate the applicant shall submit to Council or a nominated Accredited Certifier details for the collection and disposal of internal waste generated by the occupants to be arranged through a licensed authorised contractor.
- (4) Collection of waste generated by the occupants shall be undertaken at all times by the licenced authorised contractor. Kerbside collection of individual wheelie bins is not to be undertaken.
- (5) During the construction stage all waste streams are to be stored separately and to include:
 - Material to be recycled.
 - Material to be transferred to Landfill.
 - Material to be reused on the site.
- (6) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed. This receptacle must have a tight fitting lid and be suitable for the reception of food scraps, papers, etc.
- (7) A demolition/construction waste storage area (bins or bays) must be provided. This area shall separate demolition/construction waste into categories such as hard waste (e.g. bricks, concrete, tiles), soft waste (e.g. timber, gyprock, metal, glass) and light waste (e.g. paper, plastic, pods). The light waste storage area must be enclosed so as to prevent the material from escaping the enclosure.
- (8) There shall be no burning of builder's rubble, felled trees or other material on site.

14. ENGINEERING & CONSTRUCTION SPECIFICATIONS

These conditions have been imposed to ensure that developments within the Shire are of a standard which is both safe and acceptable to Council and members of the public.

- (1) All works are to be designed and carried out in accordance with Wollondilly Shire Council's adopted Design and Construction Specifications.
- (2) Engineering design plans for driveway, carparking, footpath crossing and stormwater drainage shall be submitted to Council or the nominated Accredited Certifier. The plans must be approved **prior to the issue of a Building Construction Certificate** for any works associated with this development. All levels are to be reduced to Australian Height Datum. Design parameters shall comply with the requirements of Council's Design Specifications.
- (3) The Engineering Design Plans for the Civil Works must be approved prior to the issue of a Building Construction Certificate with the approved plans of the Civil Engineering Works also incorporated into the Building Plans.
- (4) All works to be carried out within the footpath and access laneway must be approved by Council under Section 138 of the Roads Act. Engineering plan checking and inspection fees will be advised for payment prior to the issue of the approved plans.
- (5) A "Soil and Water Management Plan" (SWMP) that outlines the measures that will be taken to limit and contain sediment laden runoff during construction shall be submitted to Council with the Engineering Plans. The measures shall be in accordance with Council's Construction Specification and the Department of Housing's "Blue Book".
- (6) Prior to any occupation of the development or the issue of any Occupation Certificate, an Engineer's Certification shall be provided to the nominated Accredited Certifier for all civil works (driveway, carparking, drainage etc.) carried out within the private property.
- (7) Prior to any occupation of the development or the issue of Occupation Certificate, a Certificate of Practical Completion for all works carried out within the road and footway shall be obtained from Council.
- (8) A "Traffic Management Plan" that details suitable safety measures (for vehicles and pedestrians) that will be implemented whenever work is being undertaken in the public road reserve shall be submitted to Council with a 138 Consent application. The safety precautions are to be in accordance with the requirements of the "Traffic Control at Work Sites" manual (as published by the RTA). The plan is to be prepared and endorsed by a person with current NSW Roads and Maritime Services (RMS) certification.

15. DRAINAGE/STORMWATER

These conditions have been imposed to ensure drainage/stormwater is appropriately managed.

- (1) Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events.
- (2) Stormwater runoff from all impervious surfaces on the property shall be collected and conveyed to a point suitable for integration with either the natural or constructed stormwater drainage system. A piped drainage system shall be provided to convey runoff from storms up to the 10% AEP. Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP. A detailed drainage design shall be provided on the Engineering design plans.
- (3) The applicant shall provide a detailed drainage plan for the car park, access and manoeuvring area. Stormwater discharge to the kerb in Menangle Street is not to exceed 25lt/sec. Details shall be included on the engineering plans for approval by Council or the nominated Accredited Certifier prior to issue of the Building Construction Certificate.

16. CARPARKING/ACCESS

These conditions have been imposed to:

- (a) **Ensure that adequate provision is made for off street parking, appropriate to the volume and turnover of traffic generated by the development.**
 - (b) **Ensure that adequate manoeuvring space is provided for parking areas, loading bays and entry to facilities.**
- (1) Provision shall be made for vehicles to access and leave the site in a forward direction. A suitable manoeuvring area within the site shall be provided. Details, including turning paths shall be shown on the Engineering design plans for approval.
 - (2) The development is to be provided with ten (10) carparking spaces generally as shown on the plans by AZTEC Draft & Design drawing No. T 141 dated November 2017. Such spaces are to measure not less than 2.6m x 5.5m and marked in accordance with Wollondilly Shire Council's adopted Design and Construction Specification.

- (3) One (1) car parking space shall be reserved for people with mobility impairment in accordance with Australian Standard AS/NZS 2890.6. – Parking facilities – Off-street parking for people with disabilities. These spaces shall have dimensions as required by AS/NZS 2890.1 – Parking facilities – Off-street car parking and shall be appropriately signposted and marked on the pavement. Car parking design details including pavement and line marking shall be provided on the Engineering design plans.
- (4) Installation of the warning lights, signage and other controls, in accordance with the recommendations of the Traffic Impact Statement and the Peer Review of Traffic Proposal referred to in condition 1.(4), prior to issue of any Occupation Certificate.
- (5) Parking spaces shall be allocated such that each dwelling unit and each commercial tenancy unit has one car parking space. No visitor parking shall be provided on site.

17. PUBLIC ROADS

These conditions have been imposed to ensure all public road works required by the development are provided to an adequate standard.

- (1) Provision of vehicular access through the construction of a heavy duty concrete vehicle footway crossing, where any alteration is required to the existing access, to Council's Design Specification. Details shall be shown on the Engineering design plans for approval.
Note: Any adjustment to services shall be at the expense of the applicant
- (2) Engineering plans for the required work within the public road must be prepared by a suitably qualified professional in accordance with Council's Design and Construction Specifications. These plans shall include the recommendations of any pedestrian and traffic safety audit carried for this vicinity. The plans must be submitted to Council with the 138 Application for approval prior to the issue of a Building Construction Certificate. Engineering plan checking and inspection fees will be advised for payment prior to the issue of the approved plans and 138 Construction Certificate.
- (3) The person having the benefit of this consent shall undertake all reasonable efforts to protect the public road pavement from damage during the course of construction work. Restoration of any damaged road or footway shall be at the applicant's expense.
- (4) The existing footpath fronting this site shall be replaced and coloured to be consistent with the existing colours. Details shall be included on the engineering plans for approval.

- (5) The proposed non-structural veranda posts shall be located 600mm from the face of the road kerb and the post shown next to the access shall be relocated clear of the access. Details shall be included on the engineering plans for approval.
- (6) The person having the benefit of this consent shall undertake all reasonable efforts to protect the public road pavement from damage during the course of construction work. Restoration of any damaged road or footway shall be at the applicant's expense.

18. EROSION AND SEDIMENT CONTROL

These conditions have been imposed to minimise the impact of the Development on the environment and on adjoining properties.

- (1) Run-off and erosion controls must be maintained in accordance with the approved Soil and Water Management Plan throughout the construction period.
- (2) All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.
- (3) Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.
- (4) Erosion and sediment control devices are to be installed prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary.
- (5) Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.

19. INSPECTIONS

These conditions have been imposed to ensure that construction works are undertaken to an approved standard.

- (1) Building works shall be inspected by the Principal Certifying Authority at critical stages of construction to ensure they comply with the National Construction Code (Building Code of Australia) and associated approvals. Where Wollondilly Shire Council is nominated as the Principal Certifying Authority these inspections shall include:
 - Footings.
 - Pier holes before pouring of concrete.
 - Steel reinforcing before pouring of concrete.
 - Wet area damp proofing and flashing before lining.
 - Structural steel work before covering.
 - Stormwater drainage before backfilling.
 - Bearers and joist inspection before flooring is fixed.
 - Frame work before internal cladding or lining is fixed.
 - Completion of the building work before occupation or use.
- (2) If the Principal Certifying Authority notifies the site manager or other contractor that a work or works are unsatisfactory for any reason all works on the site shall cease until the matter is resolved to the satisfaction of the PCA.
- (3) The engineering works shall be inspected by the Principal Certifying Authority at the following stages of construction to ensure they comply with Council's Construction Specification and associated approvals:
 - Prior to commencement of any construction work on the site, after erosion and sediment control and traffic control measures are implemented.
 - When drainage lines have been laid, jointed and bedded, prior to backfilling.
 - Prior to pouring of the drainage pits, when the formwork and steel is in place.
 - At completion of pavement shaping,
 - At completion of the preparation of kerb and guttering subgrade.
 - At completion of the preparation of all concrete layback gutter crossing subgrade.
 - Prior to pouring vehicle crossing slabs, when formwork and steel is in place.
 - Prior to pouring concrete to driveway/car park slabs, when formwork and steel is in place.
 - At practical completion of works.

Note: It is the responsibility of the applicant or contractor to notify the Principal Certifying Authority when inspections are required. Failure to notify may lead to additional work being required prior to issue of inspection certificates. A minimum of 24 hours notice is required for inspections where Council is the Principal Certifying Authority.

20. OCCUPATION & USE

These conditions have been imposed to ensure the development and associated activities/operation are acceptable in terms of the amenity of the neighbourhood and the public interest whilst maintaining its functional operation.

- (1) The disturbed areas surrounding the building work shall be reinstated to the satisfaction of the Principal Certifying Authority upon completion of the work.
- (2) The building shall not be occupied or used until an Occupation Certificate is issued by the Principal Certifying Authority.
- (3) Building lights shall illuminate buildings and signs from the top-down rather than the bottom-up to reduce light spill into the night sky.
- (4) The premises shall be maintained in a clean and tidy state at all times.
- (5) The footpath shall be kept clear of signs, fixtures and goods at all times.
- (6) The premises shall be constructed and operated in such a manner so as not to interfere with the amenity of the neighbourhood by reason of the emission or discharge of noise, fumes, vapour, steam, soot, ash, dust, waste water, waste water products, grit, oil or other harmful products of the industry.
- (7) The specific use of each ground floor tenancy shall be the subject of a separate development application to Council unless permitted as Exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, having regard to the approved uses specified in condition 1.(1).

21. SIGNS

These conditions have been imposed to ensure that signs are properly designed, located and maintained so as not to impact upon the existing streetscape.

- (1) An application under the provisions of the Environmental Planning & Assessment Act, shall be submitted to and approved by Council prior to the erection and/or display of any advertising signs unless the sign is exempt development as defined by that Act and in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or Schedule 2 of Wollondilly Local Environmental Plan 2011.

22. PRESCRIBED CONDITIONS

(1) Compliance with Building Code of Australia and Insurance Requirements under the Home Building Act 1989

The following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) That the work must be carried out in accordance with the requirements of the Building Code of Australia, and
- b) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

(2) Erection of Signs

The following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) A sign must be erected in a prominent position while building work or remediation work is being carried out:
 - i. showing the name, address and telephone number of the principal certifying authority for the work, and
 - ii. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - iii. stating that unauthorised entry to the work site is prohibited.
- b) Any such sign is to be maintained while the remediation work and building work, is being carried out, but must be removed when the work has been completed.

(3) Notification of Home Building Act 1989 Requirements

The following conditions are prescribed in relation to a Development Consent for development that involves any residential building work within the meaning of the Home Building Act 1989.

- a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - i. in the case of work for which a principal contractor is required to be appointed:
 - (aa) the name and licence number of the principal contractor; and
 - (ab) the name of the insurer by which the work is insured under Part 6 of that Act.
- b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under sub-condition (a) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

23. ADVICES

- (1) The land is subject to flooding and the building may be inundated by flood waters from time to time. The applicant has selected a floor level below the flood planning level and submitted evidence of an assessment of the flood damages associated with over floor flooding.
- (2) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc. that require alterations shall be altered at the applicant's expense and to the satisfaction of Council and the authority concerned.
- (3) At all times work is being undertaken within the public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site with a minimum of disruption.
- (4) The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this approval on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:
 - Motor Vehicle Insurance (comprehensive or property damage) for all self-propelled plant, as well as valid registration or RMS permit (Including CTP insurance). Primary producer's registration is not registration for use on Public Road construction work.
 - Workers Compensation Insurance.
 - Twenty Million Dollar Public Liability Insurance.
- (5) Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events.
- (6) The following service providers should be contacted before commencement of construction to establish their requirements:
 - Dial before you dig (various services) 1100
 - Telstra (telephone) 1800 810 443
 - Endeavour Energy (electricity) 131 081
 - AGL (gas) 131 245
 - Sydney Water (water & sewer) 132 092.

These conditions are imposed to ensure that the development is carried out in accordance with the conditions of consent and the approved plans to Council's satisfaction.