



AGENDA

Late Reports

Ordinary Council Meeting

Date: Monday, 28 October 2024

Time: 5 pm

**Location: Cowra Council Chambers
116 Kendal Street, Cowra**

**Larissa Hackett
Acting General Manager**

Order Of Business

9 Late Reports.....3

9.3 Development Application No. 2/2020, Lot 121 DP 1226131, 3 Melaleuca
Circuit Cowra, S4.55(1A) Modification to dwelling (modify retaining wall,
replace approved water tank with 2 water tanks & internal modifications) -
Mod 2, lodged by P Hurrell..... 3

9 LATE REPORTS

- 9.3 Development Application No. 2/2020, Lot 121 DP 1226131, 3 Melaleuca Circuit Cowra, S4.55(1A) Modification to dwelling (modify retaining wall, replace approved water tank with 2 water tanks & internal modifications) - Mod 2, lodged by P Hurrell

File Number: D24/1631

Author: Larissa Hackett, Acting General Manager

RECOMMENDATION

1. That Council notes that the reason for the decision is that the proposal largely complies with Section 4.55 of the Environmental Planning and Assessment Act 1979; and
2. That Council approves a variation to Section E.1.5.c of Part E of Cowra Council Development Control Plan 2021 to allow the construction of a retaining wall on the rear property boundary; and
3. That Section 4.55(1A) Modification No. 2/2020, for the modification to dwelling (modify retaining wall, replace approved water tank with 2 water tanks & internal modifications) Mod 2 on Lot 121 DP 1226131, 3 Melaleuca Circuit Cowra be approved subject to the following conditions (modified conditions highlighted):

GENERAL CONDITIONS

1. Development is to be in accordance with approved plans.

The development is to be implemented in accordance with the plans and supporting documents stamped and approved and set out in the following table except where modified by any conditions of this consent.

Plan No./ Supporting Document	Prepared by/Reference Details	Cowra Shire Council Reference
Site Plan Sheet No. 5 Drawing No. 5 Amdt. A	22/3/22	Received 7/4/22 Stamped No. 2/2020(B)
Shadow Diagram Sheet 1 Drawing No. A02 Issue 1	Bdaa Building Designers 18/05/2022	Received 19 May 2022 Stamped No. 2/2020
Shadow Diagram Sheet 2 Drawing No. A03 Issue 1	Bdaa Building Designers 18/05/2022	Received 19 May 2022 Stamped No. 2/2020
Shadow Diagram Sheet 3	Bdaa Building	Received

Drawing No. A04 Issue 1	Designers 18/05/2022	19 May 2022 Stamped No. 2/2020
Ground Floor Plan Sheet No. 5 Drawing No. 1 Amdt. A	Reliable Drafting Service 22/3/22 Amended by PH 18.9.24	Received 25 September 2024 Stamped No. 10.2020.2.3
First Floor & Basement Floor Plans Sheet No. 5 Drawing No. 2 Amdt. A	Reliable Drafting Service 22/3/22 Amended by PH 18.9.24	Received 25 September 2024 Stamped No. 10.2020.2.3
Elevations (Front, West & East) Sheet No. 5 Drawing No. 3 Amdt. C	Reliable Drafting Service 24/5/2022	Received 24 May 2022 Stamped No. 2/2020(C)
South Elevation & Section A-A Sheet No. 5 Drawing No. 4 Amdt. A	Reliable Drafting Service 22/3/22	Received 7 April 2022 Stamped No. 2/2020(B)
Retaining Wall Plan SP001 C	Vision Property Development Hub 16/10/24	Received 16 October 2024 Stamped No. 10.2020.2.3(A)
Modification Letter (Mod 2) Version 2	Vision Property Development Hub 26/9/24	Received 30 September 2024 Stamped No. 10.2020.2.3(A)
BASIX Certificate No. 1290365S	Reliable Drafting Service Issued: 22 March 2022	Received 7 April 2022 Stamped No. 2/2020(A)
Statement of Environmental Effects Version No. 1	Vision Town Planning Consultants 23 March 2022	Received 7 April 2022 Stamped No. 2/2020(C)
Nationwide House Energy Rating Scheme Nathers Certificate No. 0007146921	22 March 2022	Received 7 April 2022 Stamped No. 2/2020

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

2. The applicant shall comply with all relevant prescribed conditions of

development consent under Part 6, Division 8A of the Environmental Planning and Assessment Regulation 2000 (see attached Advisory Note).

3. A separate application is to be made to Council, with the appropriate fee being paid, for the provision of a suitably sized metered water service to the development.

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. Prior to the issue of a Construction Certificate, the Applicant must obtain consent from the roads authority pursuant to Section 138 of the Roads Act 1993 for the carrying out of works in a road reserve.

4a) Prior to the issue of a Construction Certificate, a retaining wall design is to be submitted for the approval of Council. The design is to illustrate a proposed gated access on the southern boundary of Lot 3 DP 1226131 to allow for replacement and maintenance of Council's infrastructure.

5. Prior to the issue of a Construction Certificate a Landscape Plan is to be submitted for the approval of Council's Manager – Planning Services. The plan is to illustrate the location and number of tree plantings for the purpose of screening to be undertaken behind the rear building line of the dwelling adjacent to the western, southern and eastern property boundaries. The plan is to nominate evergreen tree species of an advanced size (minimum 1 metre plant height at planting) that reach a minimum of 8 metres mature height. The tree species should be selected from Appendix A of Part N of the Cowra CDP or select another Australian native species.

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE COMMENCEMENT OF WORKS

6. The Applicant is to obtain a Construction Certificate from either Council or an Accredited Certifier, certifying that the proposed works are in accordance with the Building Code of Australia and applicable Cowra Shire Council Engineering Standards prior to any building and or subdivision works commencing. No building, engineering or excavation work is to be carried out in relation to this development until the necessary construction certificates have been obtained. It is the responsibility of the Applicant to ensure that the development complies with the Building Code of Australia and applicable engineering standards in the case of building work and the applicable Council Engineering Standards in the case of subdivision works. This may entail alterations to the proposal so that it complies with these standards.
7. The Applicant is to submit to Cowra Shire Council, at least two days prior to the commencement of any works, a 'Notice of Commencement of Building Works' and 'Appointment of Principal Certifier'.

7a) Council's stormwater & sewer main alignment and depth shall be accurately located and the zone of influence is determined. If the concrete wall foundation is within the zone of influence, approval by Council of designs prepared by a suitably qualified Structural Engineer for special footings adjacent to Council's stormwater & sewer mains are required prior to the commencement of works.

- 7b) Prior to the construction of the footings for the retaining wall, a 'peg-out' survey plan is to be submitted to the Principle Certifier which established the position of the property boundary and demonstrates that the development will be constructed entirely within the boundaries of the property.**
- 8. The Applicant is to obtain all relevant approvals to carry out sewerage work, to carry out stormwater drainage work and to carry out water supply work from Cowra Shire Council prior to commencing works to and comply with any conditions of that permit. All work shall be carried out by a licensed plumber and drainer and to the requirements of the Plumbing Code of Australia. The licensed plumber or drainer must submit a Notice of Works form to Council prior to the commencement of any plumbing and drainage works and a Certificate of Compliance at the completion of the works. The plumbing and drainage works must be inspected by Council at the time specified below:**
- (a) Internal Drainage: When all internal drainage work is installed and prior to concealment. Pipes should be under water test.**
 - (b) External Drainage: When all external drainage work is installed and prior to concealment. Pipes should be under water test.**
 - (c) Water Supply: Hot and cold water supply pipework, when the pipework is installed and prior to concealment. Pipes should be under pressure test.**
 - (d) Stormwater: When the stormwater and roof water drainage system has been completed.**
- 9. Prior to the commencement of work on the site, all erosion and sediment control measures shall be implemented and maintained prior to, during and after the construction phase of the development. The erosion and sediment control measures are to comply with Part Q of Cowra Shire Council Development Control Plan 2014 at all times.**
- 10. All building rubbish and debris, including that which can be windblown, shall be contained on site in a suitable container for disposal at an approved Waste Landfill Depot. The container shall be erected on the building site prior to work commencing and shall be maintained for the term of the construction to the completion of the project. No building rubbish or debris shall be placed or permitted to be placed on any adjoining public reserve, footway or road. The waste container shall be regularly cleaned to ensure proper containment of the building wastes generated on the construction site**

CONDITIONS TO BE COMPLIED WITH DURING CONSTRUCTION

- 11. In accordance with Clause 162A of the Environmental Planning and Assessment Regulation 2000, where Council is nominated as the Certifier, the works must be inspected by Council at the times specified below:**
- (a) After excavation for, and prior to the placement of, any footings;**
 - (b) In the case of a swimming pool, as soon as practicable after the barrier (if one is required under the Swimming Pools Act 1992) has been erected;**

- (c) Prior to pouring any in-situ reinforced concrete building element;
- (d) Prior to covering of the framework for any floor, wall, roof or other building element;
- (e) Prior to covering waterproofing in any wet areas;
- (f) Prior to covering any stormwater drainage connections; and
- (g) After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

Where Cowra Council is required to carry out inspections the principal contractor for the building site, or the owner-builder, must notify Council at least 48 hours before each required inspection needs to be carried out. Failure to obtain an inspection of the works at the times specified above may prevent an Occupation Certificate being issued for the development.

12. All construction work shall be carried out within the confines of the property unless separate written permission is obtained from the relevant landowner and/or authority in control of the land. A copy of any written notices authorising off-site construction operations shall be submitted to Council prior to any operation commencing on the affected land.
13. Any damage caused to footpaths, roadways, utility installations and the like by reason of construction operations shall be made good and repaired to a standard equivalent to that existing prior to commencement of construction. The full cost of restoration/repairs of property or services damaged during the works shall be met by the Applicant.
14. All storage of goods and building materials and the carrying out of building operations related to the development proposal shall be carried out within the confines of the property. All vehicles must be parked legally and no vehicles are permitted to be parked over the public footpath. The unloading of building materials over any part of a public road by means of a lift, hoist or tackle projecting over the footway will require separate approval under Section 68 of the Local Government Act 1993.
15. Building activities and excavation work involving the use of electric or pneumatic tools or other noisy operations shall be carried out only between 7.00 am and 6.00 pm on weekdays and 8.00 am and 1.00 pm on Saturdays. No work on Sundays or Public Holidays is permitted.
16. All roofed and paved areas are to be properly drained in accordance with the Plumbing Code of Australia and discharged to Council's Stormwater Management System at the rear of the allotment.
17. As soon as is practical, and within a maximum of 7 days following the placement of any roofing material, all guttering and downpipes must be installed and connected to Council's drainage system.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION OR

COMMENCEMENT OF USE

18. **The Applicant must not commence occupation or use of the dwelling until a Whole or Partial Occupation Certificate has been issued from the Principal Certifier appointed for the subject development.**
19. **Prior to the issue of a Whole Occupation Certificate, the applicant must construct and seal/concrete/pave an access crossing to the development site from Melaleuca Circuit in accordance with consent from the roads authority pursuant to Section 138 of the Roads Act 1993 for the carrying out of works in a road reserve. All costs associated with the construction of the access driveway shall be borne by the Applicant.**
20. **Prior to the issue of a Whole Occupation Certificate, all landscape plantings are to be undertaken in accordance with the approved Landscape Plan referenced in condition 5.**
21. **Construction of the retaining wall is to be certified as being constructed in accordance with the approved design prior to issue of the Whole Occupation Certificate or occupation of the dwelling, whichever is the earliest.**

ADVICE

If, during work, an Aboriginal object is uncovered then **WORK IS TO CEASE IMMEDIATELY** and the Office of Environment & Heritage is to be contacted urgently on (02) 6883 5300. Under the National Parks and Wildlife Act 1974 it is an offence to harm an Aboriginal object or place without an 'Aboriginal heritage impact permit' (AHIP). Before making an application for an AHIP, the applicant must undertake Aboriginal community consultation in accordance with clause 80C of the NPW Regulation.

Introduction

Development Application No. 2/2020 proposes a Section 4.55(1A) Modification to dwelling (modify retaining wall, replace approved water tank with 2 water tanks & internal modifications) Mod 2 on Lot 121 DP 1226131, 3 Melaleuca Circuit, Cowra. The application was lodged by P Hurrell on 25 September 2024. The property is owned by P & J Hurrell.

The application is being reported to Council because the original application was reported to Council for determination. Council staff delegations require modifications to be reported to Council where the original DA was determined by Council. Additionally, the proposed new location of the retaining wall represents a variation to Cowra Council DCP 2021 as discussed in this report.

A copy of the relevant plans for the proposed modification are included in Attachment '1' to this report and a copy of the Modification Letter is included in Attachment '2'.

Background

DA 2/2020 for a dwelling at 3 Melaleuca Circuit was approved by Council on 27 April 2020. The application was reported to Council because it contained a variation to the building height control contained in Cowra Council Development Control Plan 2014.

DA 2/2020 Mod 1 was approved by Council on 22 August 2022. The modification consisted of some relatively minor amendments to the dwelling design. It was reported to Council because the original development application was determined by Council. These latest determination documents are included in Attachment '5' to this report.

DA 2/2020 Mod 2 is the current application. It consists of minor modifications to the floor plan, redesign and relocation of a retaining wall and the substitution of one underground water tank for two 10,000 litre water tanks.

Description of Site

Lot 121 DP 1226131, 3 Melaleuca Circuit, Cowra is a rectangular allotment of approximately 1724m². It was created as part of a 15 Lot subdivision under DA 44/2010. The lot is located in the R1 General Residential zone under Cowra Local Environmental Plan (LEP) 2012. There are adjoining and adjacent dwellings to the north, east and west. Council's drainage reserve adjoins the southern boundary. The site contains a dwelling under construction.

A location map is included in Attachment '3' and an aerial photograph is included in Attachment '4' to this report.

Description of Proposal

As discussed above, DA 2/2020 for the construction of a dwelling was approved by Council on 27 April 2020. A modification application (Mod 1) was subsequently approved on 22 August 2022. This further modification (Mod 2) consists of the following components:

Internal:

- A minor reconfiguration of the doors of an ensuite.
- A minor adjustment to enclose a storage area.

External:

- Relocate the approved retaining wall from inside the property boundary to the rear property boundary. The retaining wall will consist of 1.8m high concrete tilt panels.
- An underground water tank approved in the rear yard will be replaced by two 10,000 litre underground water tanks.

Environmental Impact Assessment

In determining a development application, a consent authority is to take into consideration such of the matters as are of relevance to the development in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The following section provides an evaluation of the relevant Section 4.15 Matters for consideration for DA 2/2020 Mod 2:

S4.15(1)(a)(i) Any Environmental Planning Instrument

Cowra Local Environmental Plan 2012

The subject land is zoned R1 General Residential under the provisions of the Cowra Local Environmental Plan (LEP) 2012. The S4.55(1A) Modification to dwelling is permitted in the zone with development consent.

The proposed modification does not alter the original LEP assessment. The proposed development as modified remains permissible and consistent with the zone objectives and all other relevant LEP clauses.

State Environmental Planning Policies

The following State Environmental Planning Policies are considered relevant to Council's consideration:

SEPP	COMMENTS
SEPP (Biodiversity and Conservation) 2021	Not applicable
SEPP (Exempt and Complying Development Codes) 2008	Not applicable
SEPP (Housing) 2021	Not applicable
SEPP (Industry and Employment) 2021	Not applicable
SEPP (Planning Systems) 2021	Not applicable
SEPP (Precincts – Central River City) 2021	Not applicable
SEPP (Precincts – Eastern Harbour City) 2021	Not applicable
SEPP (Precincts - Regional) 2021	Not applicable
SEPP (Precincts – Western Parkland City) 2021	Not applicable
SEPP (Primary Production) 2021	Not applicable
SEPP (Resilience and Hazards) 2021	No change to the original satisfactory assessment regarding the potential for land contamination.
SEPP (Resources and Energy) 2021	Not applicable
SEPP (Sustainable Buildings) 2022	No change to existing approved Basix Certification.
SEPP (Transport and	Not applicable

Infrastructure) 2021	
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S4.15(1)(a)(ii) Any draft Environmental Planning Instrument

There are no draft Environmental Planning Instruments that apply to the development.

S4.15(1)(a)(iii) Any Development Control Plan (DCP)

Cowra Shire Council Aboriginal Consultation Policy (Version 4 23/08/2021)

There are no identified AHIMS or signs observed of an Aboriginal Heritage item within 100 metres of the development site or on the subject land.

Cowra Shire Council Development Control Plan 2021

PART A – PLAN INTRODUCTION

A development application has been lodged in accordance with Part A.

PART B – LAND MANAGEMENT

Appropriate erosion and sediment controls to be implemented prior to the commencement of works. Relevant conditions of consent are recommended.

PART C – BIODIVERSITY MANAGEMENT

The application does not involve the removal of any significant vegetation.

PART E – URBAN AND VILLAGE DEVELOPMENT

Part E.1 Dwellings

The application as modified remains compliant with regard to the relevant DCP controls with the exception of the following additional variation:

Section E.1.5.c of Part E states the following:

“Cut areas should be setback from boundaries a minimum of 0.9 metres, and fill areas are to be setback from boundaries a minimum of 1.5 metres”.

In this case a retaining wall is proposed on the rear boundary to allow the placement of fill to create a level rear yard area. It is noted that there is also a 3m wide easement adjacent to the rear boundary for the drainage of water and sewer. The applicant requests the variation on the following grounds:

The objective of the control E.1.5.c. is to ensure that fill does not apply pressure on a boundary fence causing any damage. Another objective of the control is to ensure that a finished ground level within an allotment is not elevated partway up a dividing boundary fence to protect privacy and private open space. The variation is appropriate in this instance as the boundary fence and retaining wall work is positioned at the rear of the allotment adjoining land containing a stormwater retention basin operated by Council. This area does not have any future potential to be used for any other purpose, and it forms part of the network of stormwater detention basins in the north Cowra area.

The retaining wall has been designed to engineering specifications, and the appearance of the development will not create any unreasonable impacts on the streetscape given that the proposed works are located behind the building line. Requiring alteration to the design to comply with this control would not avoid any negative environmental impact and the variation should be approved accordingly.

Comment: The proposed 1.8m high concrete tilt panel retaining wall will function as a boundary fence whilst enabling the retention of fill (approx. up to 1m high) to create a level yard space. The wall is unlikely to have any adverse environmental impacts. Cowra Council's Infrastructure and Operations Department have recommended conditions of consent to ensure that the infrastructure within the easement will not be impacted and can be accessed for maintenance. Accordingly, it is recommended that the variation be approved.

The previously approved building height variation is not impacted by the proposed modification.

PART K – LAND USE BUFFERS

Cowra Airport Obstacle Limitation Surface

The subject land is located outside of the OLS and all other buffer zones.

PART M – PARKING, ACCESS AND MOBILITY

The application as modified remains satisfactory with regard to Part M as originally assessed.

PART N – LANDSCAPING

The application as modified remains satisfactory with regard to Part N as originally assessed.

PART O – ENVIRONMENTAL HAZARD MANAGEMENT

The application as modified remains satisfactory with regard to Part O as originally assessed.

PART P – CPTED PRINCIPLES

The application as modified remains satisfactory with regard to Part O as originally assessed.

S4.15(1)(a)(iiia) Any Planning Agreement

There is no planning agreement that has been entered into under Section 7.4 of the Environmental Planning and Assessment Act 1979 by the applicant in relation to the development proposal. Similarly, the applicant has not volunteered to enter into a draft planning agreement for the development proposal.

S4.15(1)(a)(iv) The EP & A Regulations

Section 4.15(1)(a)(iv) requires Council to also consider Clauses 92, 93, 94 and 94A of the Environmental Planning and Assessment Regulation. The following provides an assessment of the relevant clauses of the Regulation:

- Clause 92 – The Government Coastal Policy does not apply to Cowra Shire and therefore Clause 92(1)(a) and (b) are not applicable to this development proposal. The proposal does not involve demolition of a building and therefore the requirements of AS 2601 do not need to be considered in accordance with Clause 92(2).

- Clause 93 – The proposal does not involve the change of a building use for an existing building, or the use of an existing building as a place of public entertainment and therefore the requirement to consider fire safety and structural adequacy of buildings in accordance with Clause 93 is unnecessary.
- Clause 94 – The proposal does not involve the rebuilding, alteration, enlargement or extension of an existing building or place of public entertainment and therefore the requirement to consider the upgrading of buildings into total or partial conformity with the Building Code of Australia.
- Clause 94A – The proposal does not involve the erection of a temporary structure and therefore the requirements to consider fire safety and structural adequacy is unnecessary.

S4.15(C)(1)(b) The Likely Impacts of the Development

Section 4.15(C)(1)(b) requires the Council to consider the likely impacts of the development, including environmental impacts on both the natural and built environments as well as the social and economic impacts in the locality. The following provides an assessment of the likely impacts of the development:

Context and Setting

The area is characterised primarily by residential development in the form of single dwellings and ancillary buildings. The proposal as modified is assessed as being consistent with the character of the locality and is appropriate given its local context and setting.

Access, Transport and Traffic

The proposal does not impact on transport, traffic or access considerations which remain satisfactory as originally assessed.

Public Domain

No impact. Remains satisfactory.

Utilities

The site is serviced by adequate utilities to cater for the development as modified.

Heritage

There are no items listed in schedule 5 of the LEP 2012 as present on the land. A search of the AHIMS records did not reveal any items of Aboriginal Cultural Significance identified as being mapped on the land.

Other Land Resources

The land does not contain any recorded mineral deposits and the proposal will not negatively impact any water catchment areas.

Stormwater, Water and Sewerage

The proposal as modified will be connected to Council's reticulated water, sewer and stormwater services.

Soils

Minimal impacts on soils. The original condition regarding soil and erosion controls remains relevant.

Air and Microclimate

Minimal amounts of dust may be generated during the construction period. Once construction works are complete the development will not impact on air quality.

Flora and Fauna

No impact. Remains satisfactory. The development will not require the removal of any trees. The development is not expected to impact on any critical habitats or threatened species and results in a satisfactory assessment in accordance with Section 1.7 of the Act.

Waste

No impact. Remains satisfactory. Any construction waste will be removed from the site and appropriately recycled or catered for at a licensed waste management facility.

Energy

No impact. Remains satisfactory. A BASIX Certificate has been provided the dwelling.

Noise and Vibration

Council's standard condition of consent remains in place in relation to construction hours. The constructed development will not emit any unsatisfactory levels of noise or vibration that will impact adversely on adjoining land uses.

Natural Hazards

The subject lot is not mapped as flood or bushfire prone or subject to any other identified natural hazards.

Technological Hazards

Review of Council's records and inspection of the site did not reveal any technological hazards affecting the site. Council is not aware of, and the SEE submitted with the application did not make any reference to, any previous land use likely to have resulted in contamination.

Safety, Security and Crime Prevention

No impact. Remains satisfactory.

Social and Economic Impacts on the locality

The proposed development as modified is unlikely to result in any identified negative social or economic impacts.

Site Design and Internal Design

The design of the development is satisfactory for the site and without any identified adverse impacts.

Construction

The proposed development can be built in accordance with the Building Code of Australia as conditioned. No adverse impacts are anticipated to occur as a result of the development.

Cumulative impacts

The proposal as modified is not expected to generate any ongoing negative cumulative impacts.

S4.15(1)(c) The Suitability of the Site for the Development

The development as modified remains consistent with the zone objectives and consideration has been given to the impacts the development will have within the locality. It is considered that the proposed development will not create adverse impacts within its local setting. Appropriate services for water, waste disposal and other utilities are available to the site. It is assessed that the development as conditioned will not impact upon any existing services. The development site is not identified as bushfire or flood prone. The site is not otherwise unsatisfactorily constrained by natural features. The site is considered suitable for the development as modified subject to the imposition of appropriate conditions of consent.

S4.15(1)(d) Any Submissions Received

Public Consultation

Under Section 4.13 of Cowra Council Community Participation Plan 2024 the Section 4.55(1A) Modification Application is not required to be notified to adjoining owners.

Public Authority Consultation:

There are no public authority consultation requirements with this development application.

S4.15(1)(d) The Public Interest

Community Interest

The proposed development as modified remains permissible on the subject land, will provide additional housing supply and is not expected to adversely impact on the community interests of the area. The proposed development has been considered in terms of the context and setting of the locality in previous sections to this report. The proposed development will positively contribute to development within the locality and will not impose any identified adverse economic or social impacts on the local community.

S7.12 Fixed development consent levies

Not applicable.

Conclusion

Development Application No. 2/2020 proposes a Section 4.55(1A) Modification to dwelling (modify retaining wall, replace approved water tank with 2 water tanks & internal modifications)

Mod 2 on Lot 121 DP 1226131, 3 Melaleuca Circuit, Cowra. The application was lodged by P Hurrell on 25 September 2024. The property is owned by P & J Hurrell.

The application was supported by a description and amended plans prepared by the applicant, which provide sufficient information to allow assessment of the proposal. The proposed development has been assessed to be consistent with the requirements of Cowra Local Environmental Plan 2012, relating to development in the RI zone and is consistent with existing land-use activities of the locality.

Having considered the documentation supplied by the applicant, the findings of site inspection(s) and the comments made from consultation, it is assessed that the impacts of the proposal and the likely environmental interactions between the proposed development and the environment are such that Council should not refuse the development application. Accordingly, a recommendation of conditional approval is listed in the recommendation.

ATTACHMENTS

1. DA 2/2020 Mod 2 - Landscape Plans [↓](#)
2. DA 2/2020 - Mod 2 - Modification Letter from applicant [↓](#)
3. DA 2/2020 - Mod 2 - Location Map [↓](#)
4. DA 2/2020 - Mod 2 - Aerial Photograph [↓](#)
5. DA 2/2020 - Mod 2 - Mod 1 Determination Documents [↓](#)

Legend



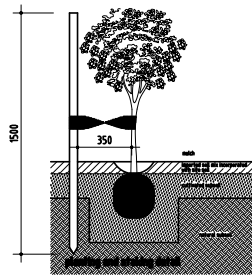
Fill area



Landscaping

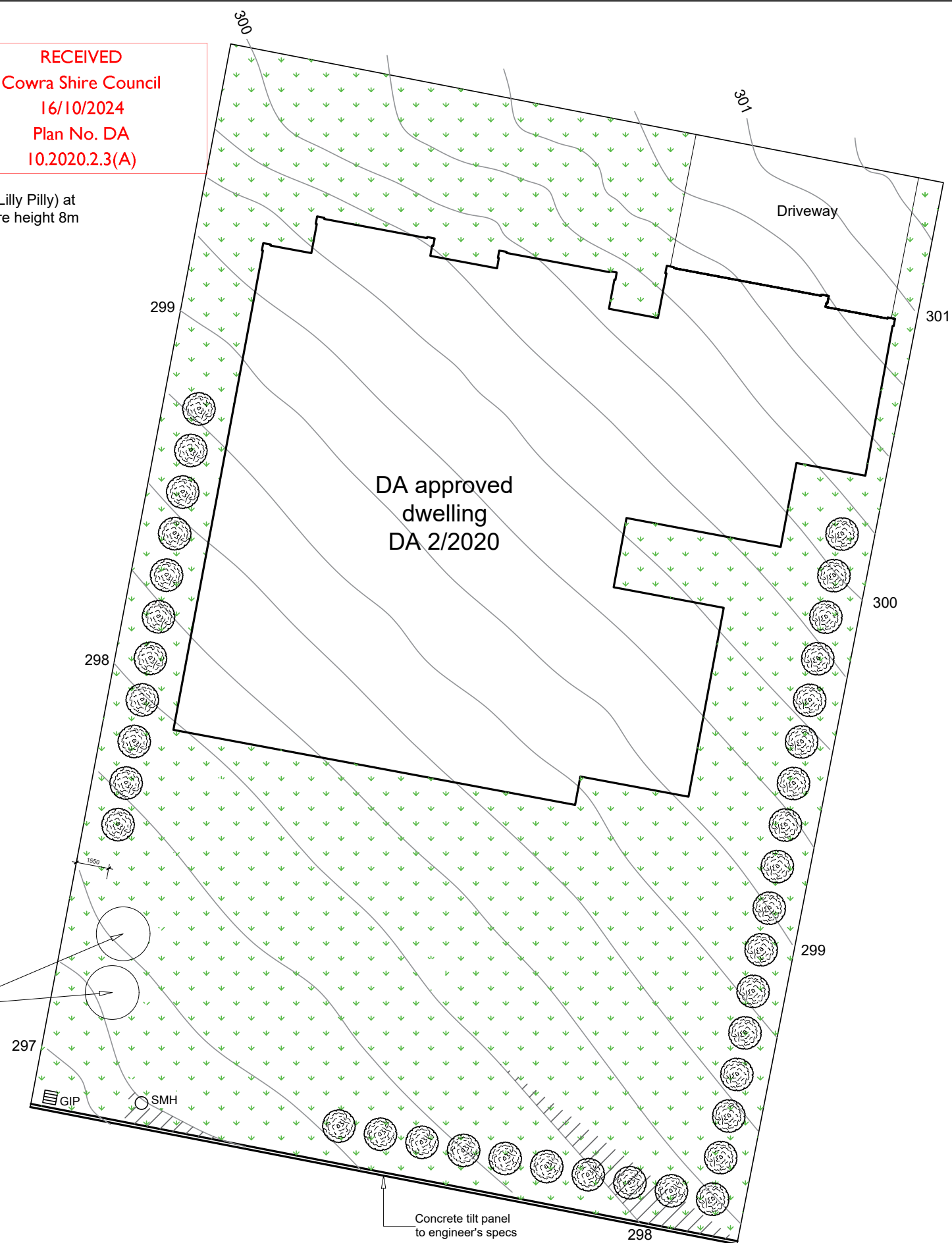


SYZYGIUM Australe (Lilly Pilly) at max 2m spacing mature height 8m



PLANTING AND INSTALLATION
 The contractor is responsible for ensuring that planting and installation is completed in accordance with the specifications and standards of the Council. The contractor must ensure that all planting and installation is completed in accordance with the specifications and standards of the Council. The contractor must ensure that all planting and installation is completed in accordance with the specifications and standards of the Council.

RECEIVED
Cowra Shire Council
16/10/2024
Plan No. DA
10.2020.2.3(A)



GENERAL NOTES

Do not scale from drawings. Use figured dimensions only.

All existing conditions, dimensions and levels are approximate only and are to be checked & verified by contractor prior to the commencement of work or the manufacture of any item.

All items not shown in the scope of works or drawings, but necessary for the proper completion of the works are deemed to be included.

All work will be carried out in accordance with the NCC, EP&A Act 1979 (as amended), Local Government Act 1993, Regulations under the Acts, relevant Australian Standards, and local authority conditions.

All work to be carried out by qualified and licensed tradespeople.

Before any work commences on site a Dial Before You Dig search should be undertaken by the person completing the work and the results complied with and adhered to.

If any items cannot be accurately located on site to facilitate construction, the services of a registered surveyor should be employed to locate those items/boundaries

ISSUE

For Council Issue

Revision	Changes	Date
A	Added in landscaped and fill areas	27/9/2024
B	Added in trees	1/10/2024
B	Removed retaining wall, added in planting detail	16/10/2024

PROJECT

Proposed Retaining Walls

CLIENT

Mr & Mrs Hurrell

LOCATION

3 Melaleuca Circuit, Cowra
NSW, 2794

DATE

25/7/2024

SCALE

1:200

Sheet size: A3
Drawing to be read printed at 100% print scale

PO Box 852
53 Redfern Street,
Cowra NSW 2794
p: 1300 240 872
e: office@visionpc.com.au
web: visionpclub.au



VISION

PROPERTY DEVELOPMENT HUB

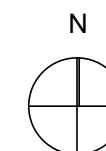
JOB NUMBER

58/22

DRAWING

Retaining Wall Plan

SP001 c





RECEIVED
Cowra Shire Council
30/09/2024
Plan No. DA
10.2020.2.3(A)

53 Redfern Street
COWRA NSW 2794
PO Box 852
1300 240 827
ABN: 95 614 159 698
<https://visionpdhub.au>

26th September 2024

COWRA SHIRE COUNCIL
Private Bag 342
Cowra NSW 2794
Submitted via NSW Planning Portal

DEVELOPMENT: DA 2/2020 Modification to approved residential dwelling
Subject land: Lot 121 DP 1226131 - 2 Melaleuca Circuit, Cowra

The land owners have commissioned Vision Property Development Hub to submit this modification application to Council seeking to carry out minor adjustments to the approved dwelling under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*. The development remains substantially the same and the proposed modifications include:

- Ground Floor - minor internal reconfiguration of the doors of the ensuite adjoining guest bedroom 1
- First Floor - minor internal adjustment to enclose a storage area as shown on the development plans
- External - modification of the existing approved retaining wall as shown on the development plans and inclusion of 2 x 10,000 litre concrete water tanks in replacement of the approved underground water tank.

Cowra Shire Council Development Control Plan

Part A Plan Introduction

Section A 1.3 states:

'Where the DCP contains provisions or sets standards with respect to an aspect of a development, and the Development Application does not comply with those provisions or standards, Council will be flexible in applying those provisions or standards and allow reasonable alternative design responses that achieve the objectives of those provisions or standards for dealing with that aspect of the development.'

Where an aspect of a development does not comply with a provision or standard in this plan, Council may consent to the Development Application but only where a written statement has been provided which seeks to justify the non compliance and evaluate how any proposed alternative



solution achieves the objectives of those provisions or standards for dealing with that aspect of the development.'

Part E Urban and Village Development

Part E.1.5. Cut and Fill Controls

The development requires a variation to the controls contained in this section in that the modification application proposes a concrete tilt panel retaining wall on the rear boundary.

The objective of the control E.1.5.c. is to ensure that fill does not apply pressure on a boundary fence causing any damage. Another objective of the control is to ensure that a finished ground level within an allotment is not elevated partway up a dividing boundary fence to protect privacy and private open space. The variation is appropriate in this instance as the boundary fence and retaining wall work is positioned at the rear of the allotment adjoining land containing a stormwater retention basin operated by Council. This area does not have any future potential to be used for any other purpose, and it forms part of the network of stormwater detention basins in the north Cowra area.

The retaining wall has been designed to engineering specifications, and the appearance of the development will not create any unreasonable impacts on the streetscape given that the proposed works are located behind the building line.

Requiring alteration to the design to comply with this control would not avoid any negative environmental impact and the variation should be approved accordingly.

As displayed on the development plans submitted with the application, the development remains substantially the same as previously approved and can be undertaken without environmental impact. The modification application can be approved without any amendment to the proposed design.

Yours faithfully,



Patrick Fitzsimmons
Town Planner, Managing Director
VISION Property Development Hub



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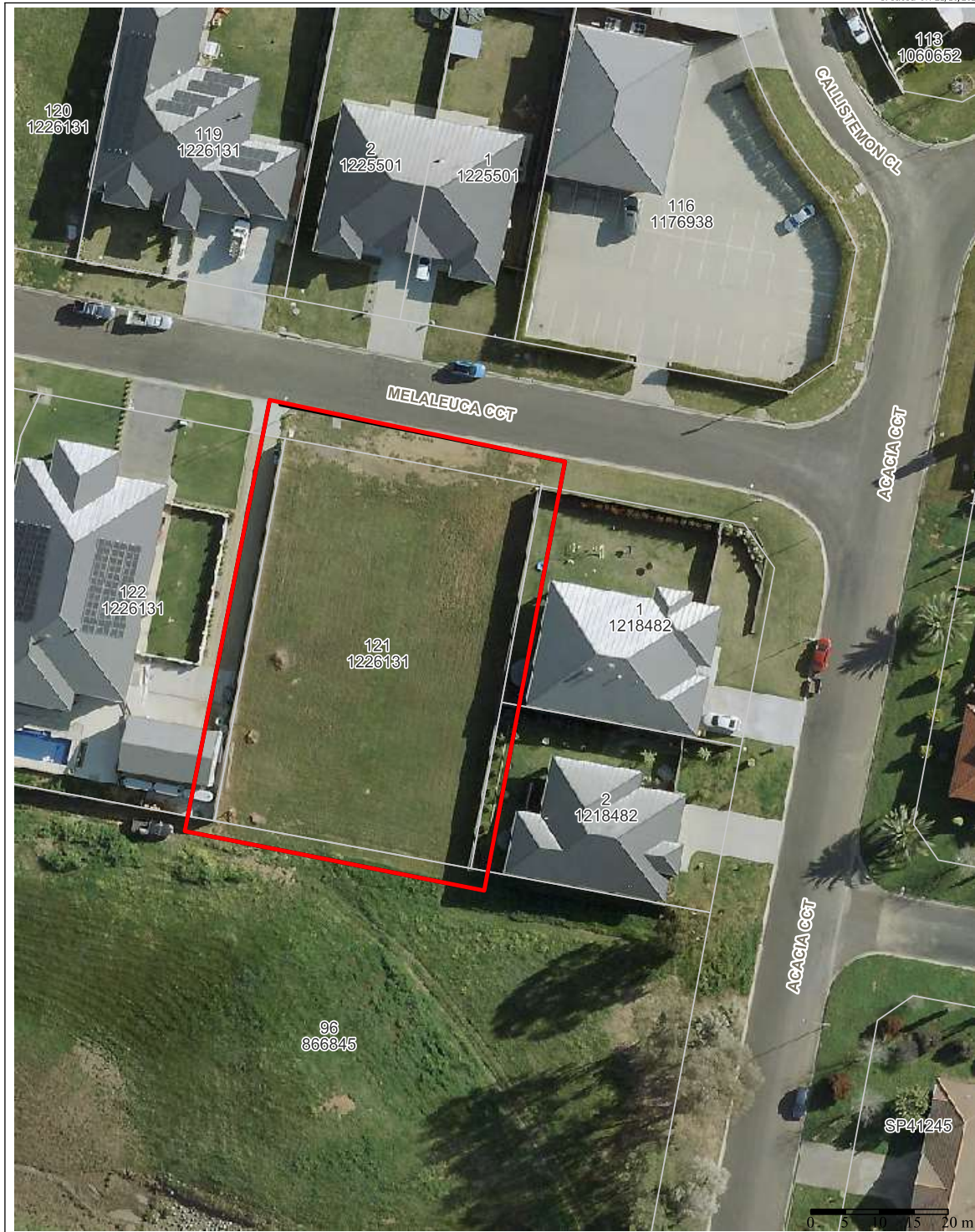
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 Projection: # GDA2020 / MGA zone 55
 Date: 21/10/2024 4:14 PM

**MOD (2) DA 2/2020 - 3
 Melaleuca Circuit,
 Cowra**

Map Scale: 1:1047 at A4

Created on 21/10/2024



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**MOD (2) DA 2/2020 - 3
 Melaleuca Circuit,
 Cowra**

Map Scale: 1:670 at A4



Cowra Shire Council
Private Bag 342
Cowra NSW 2794

Phone: 02 6340 2000
council@cowra.nsw.gov.au
www.cowracouncil.com.au

Our Ref: AD:NC
DA: 2/2020
File: I-776-3

31 August 2022

P Hurrell
c/- Vision Town Planning Pty Ltd
PO Box 852
COWRA NSW 2794

Dear Sir/Madam,

Application to Modify Development Consent No: 2/2020
Proposal: S4.55 (1A) Modification to dwelling (amended design) - Mod 1
Property Description: Lot 121 DP 1226131 – 3 Melaleuca Circuit, Cowra

I refer to your application to modify Development Consent No. 2/2020 lodged with Council on 7 April 2022.

Please be advised that on 22 August 2022 Section 4.55 Modification Application No. 2/2020 was considered and approved.

Any amended or new conditions are highlighted in the attached modified consent notice.

Should you require any further information please contact me on (02) 6340 2040.

Yours faithfully



Larissa Hackett
Director – Environmental Services



Cowra Shire Council
Private Bag 342
Cowra NSW 2794

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Fax: 02 6340 2011
council@cowra.nsw.gov.au
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Notice of Determination of Application to Modify Development Consent

Issued Under Section 4.55
Environmental Planning and Assessment Act, 1979

Issued to:	P Hurrell c/- Vision Town Planning Pty Ltd PO Box 852 COWRA NSW 2794
Development Application:	2/2020
Description of Development:	S4.55 (IA) Modification to dwelling (amended design) - Mod I
Description of Modification:	Modification under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 to DA 2/2020 – Dwelling (amended design) - Mod I
Property Description:	Lot 121 DP 1226131 – 3 Melaleuca Circuit, Cowra
Consent to Operate from:	27 April 2020
Consent to Lapse on:	28 April 2025
Details of Amendment:	<ul style="list-style-type: none"> • Habitable spaces are now located on the western side of the house and non-habitable spaces on the eastern side of the house. • There are some internal reconfigurations of the layout • The addition of a gas fireplace to the ground floor. • The proposed modification results in a reduction in the maximum height from 10.7m to 10.45m.

Determination: Consent granted subject to conditions described below:

Conditions of Consent:

- I. Development is to be in accordance with approved plans.

The development is to be implemented in accordance with the plans and supporting documents stamped and approved and set out in the following table except where modified by any conditions of this consent.

Plan No./ Supporting Document	Prepared by/Reference Details	Cowra Shire Council Reference
Site Plan Sheet No. 5 Drawing No. 5 Amdt. A	22/3/22	Received 7/4/22 Stamped No. 2/2020(B)
Shadow Diagram Sheet 1 Drawing No. A02 Issue 1	Bdaa Building Designers 18/05/2022	Received 19 May 2022 Stamped No. 2/2020
Shadow Diagram Sheet 2 Drawing No. A03 Issue 1	Bdaa Building Designers 18/05/2022	Received 19 May 2022 Stamped No. 2/2020
Shadow Diagram Sheet 3 Drawing No. A04 Issue 1	Bdaa Building Designers 18/05/2022	Received 19 May 2022 Stamped No. 2/2020
Ground Floor Plan Sheet No. 5 Drawing No. 1 Amdt. A	Reliable Drafting Service 22/3/22	Received 7/4/2022 Stamped No. 2/2020(A)
First Floor & Basement Floor Plans Sheet No. 5 Drawing No. 2 Amdt. A	Reliable Drafting Service 22/3/22	Received 7/4/2022 Stamped No. 2/2020(A)
Elevations (Front, West & East) Sheet No. 5 Drawing No. 3 Amdt. C	Reliable Drafting Service 24/5/2022	Received 24 May 2022 Stamped No. 2/2020(C)
South Elevation & Section A-A Sheet No. 5 Drawing No. 4 Amdt. A	Reliable Drafting Service 22/3/22	Received 7 April 2022 Stamped No. 2/2020(B)
BASIX Certificate No. 1290365S	Reliable Drafting Service Issued: 22 March 2022	Received 7 April 2022 Stamped No. 2/2020(A)
Statement of Environmental Effects Version No. 1	Vision Town Planning Consultants 23 March 2022	Received 7 April 2022 Stamped No. 2/2020(C)
Nationwide House Energy Rating Scheme Nathers Certificate No. 0007146921	22 March 2022	Received 7 April 2022 Stamped No. 2/2020

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

2. The applicant shall comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the Environmental Planning and Assessment Regulation 2000 (see attached Advisory Note).
3. A separate application is to be made to Council, with the appropriate fee being paid, for the provision of a suitably sized metered water service to the development.

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. Prior to the issue of a Construction Certificate, the Applicant must obtain consent from the roads authority pursuant to Section 138 of the Roads Act 1993 for the carrying out of works in a road reserve.
5. Prior to the issue of a Construction Certificate a Landscape Plan is to be submitted for the approval of Council's Manager – Planning Services. The plan is to illustrate the location and number of tree plantings for the purpose of screening to be undertaken behind the rear building line of the dwelling adjacent to the western, southern and eastern property boundaries. The plan is to nominate evergreen tree species of an advanced size (minimum 1 metre plant height at planting) that reach a minimum of 8 metres mature height. The tree species should be selected from Appendix A of Part N of the Cowra CDP or select another Australian native species.

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE COMMENCEMENT OF WORKS

6. The Applicant is to obtain a Construction Certificate from either Council or an Accredited Certifier, certifying that the proposed works are in accordance with the Building Code of Australia and applicable Cowra Shire Council Engineering Standards prior to any building and or subdivision works commencing. No building, engineering or excavation work is to be carried out in relation to this development until the necessary construction certificates have been obtained. It is the responsibility of the Applicant to ensure that the development complies with the Building Code of Australia and applicable engineering standards in the case of building work and the applicable Council Engineering Standards in the case of subdivision works. This may entail alterations to the proposal so that it complies with these standards.
7. The Applicant is to submit to Cowra Shire Council, at least two days prior to the commencement of any works, a 'Notice of Commencement of Building Works' and 'Appointment of Principal Certifier'.
8. The Applicant is to obtain all relevant approvals to carry out sewerage work, to carry out stormwater drainage work and to carry out water supply work from Cowra Shire Council prior to commencing works to and comply with any conditions of that permit. All work shall be carried out by a licensed plumber and drainer and to the requirements of the Plumbing Code of Australia. The licensed plumber or drainer must submit a Notice of Works form to Council prior to the commencement of any plumbing and drainage works and a Certificate of Compliance at the completion of the works. The plumbing and drainage works must be inspected by Council at the time specified below:
 - (a) Internal Drainage: When all internal drainage work is installed and prior to concealment. Pipes should be under water test.

- (b) External Drainage: When all external drainage work is installed and prior to concealment. Pipes should be under water test.
 - (c) Water Supply: Hot and cold water supply pipework, when the pipework is installed and prior to concealment. Pipes should be under pressure test.
 - (d) Stormwater: When the stormwater and roof water drainage system has been completed.
9. Prior to the commencement of work on the site, all erosion and sediment control measures shall be implemented and maintained prior to, during and after the construction phase of the development. The erosion and sediment control measures are to comply with Part Q of Cowra Shire Council Development Control Plan 2014 at all times.
10. All building rubbish and debris, including that which can be windblown, shall be contained on site in a suitable container for disposal at an approved Waste Landfill Depot. The container shall be erected on the building site prior to work commencing and shall be maintained for the term of the construction to the completion of the project. No building rubbish or debris shall be placed or permitted to be placed on any adjoining public reserve, footway or road. The waste container shall be regularly cleaned to ensure proper containment of the building wastes generated on the construction site.

CONDITIONS TO BE COMPLIED WITH DURING CONSTRUCTION

11. In accordance with Clause 162A of the Environmental Planning and Assessment Regulation 2000, where Council is nominated as the Certifier, the works must be inspected by Council at the times specified below:
- (a) After excavation for, and prior to the placement of, any footings;
 - (b) In the case of a swimming pool, as soon as practicable after the barrier (if one is required under the Swimming Pools Act 1992) has been erected;
 - (c) Prior to pouring any in-situ reinforced concrete building element;
 - (d) Prior to covering of the framework for any floor, wall, roof or other building element;
 - (e) Prior to covering waterproofing in any wet areas;
 - (f) Prior to covering any stormwater drainage connections; and
 - (g) After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

Where Cowra Council is required to carry out inspections the principal contractor for the building site, or the owner-builder, must notify Council at least 48 hours before each required inspection needs to be carried out. Failure to obtain an inspection of the works at the times specified above may prevent an Occupation Certificate being issued for the development.

12. All construction work shall be carried out within the confines of the property unless separate written permission is obtained from the relevant landowner and/or authority

in control of the land. A copy of any written notices authorising off-site construction operations shall be submitted to Council prior to any operation commencing on the affected land.

13. Any damage caused to footpaths, roadways, utility installations and the like by reason of construction operations shall be made good and repaired to a standard equivalent to that existing prior to commencement of construction. The full cost of restoration/repairs of property or services damaged during the works shall be met by the Applicant.
14. All storage of goods and building materials and the carrying out of building operations related to the development proposal shall be carried out within the confines of the property. All vehicles must be parked legally and no vehicles are permitted to be parked over the public footpath. The unloading of building materials over any part of a public road by means of a lift, hoist or tackle projecting over the footway will require separate approval under Section 68 of the Local Government Act 1993.
15. Building activities and excavation work involving the use of electric or pneumatic tools or other noisy operations shall be carried out only between 7.00 am and 6.00 pm on weekdays and 8.00 am and 1.00 pm on Saturdays. No work on Sundays or Public Holidays is permitted.
16. All roofed and paved areas are to be properly drained in accordance with the Plumbing Code of Australia and discharged to Council's Stormwater Management System at the rear of the allotment.
17. As soon as is practical, and within a maximum of 7 days following the placement of any roofing material, all guttering and downpipes must be installed and connected to Council's drainage system.

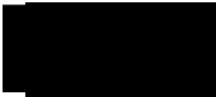
CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

18. The Applicant must not commence occupation or use of the dwelling until a Whole or Partial Occupation Certificate has been issued from the Principal Certifier appointed for the subject development.
19. Prior to the issue of a Whole Occupation Certificate, the applicant must construct and seal/concrete/pave an access crossing to the development site from Melaleuca Circuit in accordance with consent from the roads authority pursuant to Section 138 of the Roads Act 1993 for the carrying out of works in a road reserve. All costs associated with the construction of the access driveway shall be borne by the Applicant.
20. Prior to the issue of a Whole Occupation Certificate, all landscape plantings are to be undertaken in accordance with the approved Landscape Plan referenced in condition 5.

ADVICE

If, during work, an Aboriginal object is uncovered then WORK IS TO CEASE IMMEDIATELY and the Office of Environment & Heritage is to be contacted urgently on (02) 6883 5300. Under the National Parks and Wildlife Act 1974 it is an offence to harm an Aboriginal object or place without an 'Aboriginal heritage impact permit' (AHIP). Before making an application for an AHIP, the

applicant must undertake Aboriginal community consultation in accordance with clause 80C of the NPW Regulation.

Other Approvals:	N/A
Note	<ol style="list-style-type: none"> 1. To ascertain the date upon which the consent becomes effective refer to Section 4.20 of the Act. 2. To ascertain the extent to which the consent is liable to lapse refer to Section 4.53 of the Act. 3. Sections 8.9 & 8.10 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within 6 months after the date the decision appealed against is notified or registered on the NSW planning portal or after the date of deemed refusal under section 8.11.
Endorsement of date of consent:	
Date:	27 April 2020
Signature on behalf of consent authority:	
Name:	Larissa Hackett Director – Environmental Services 31 August 2022