

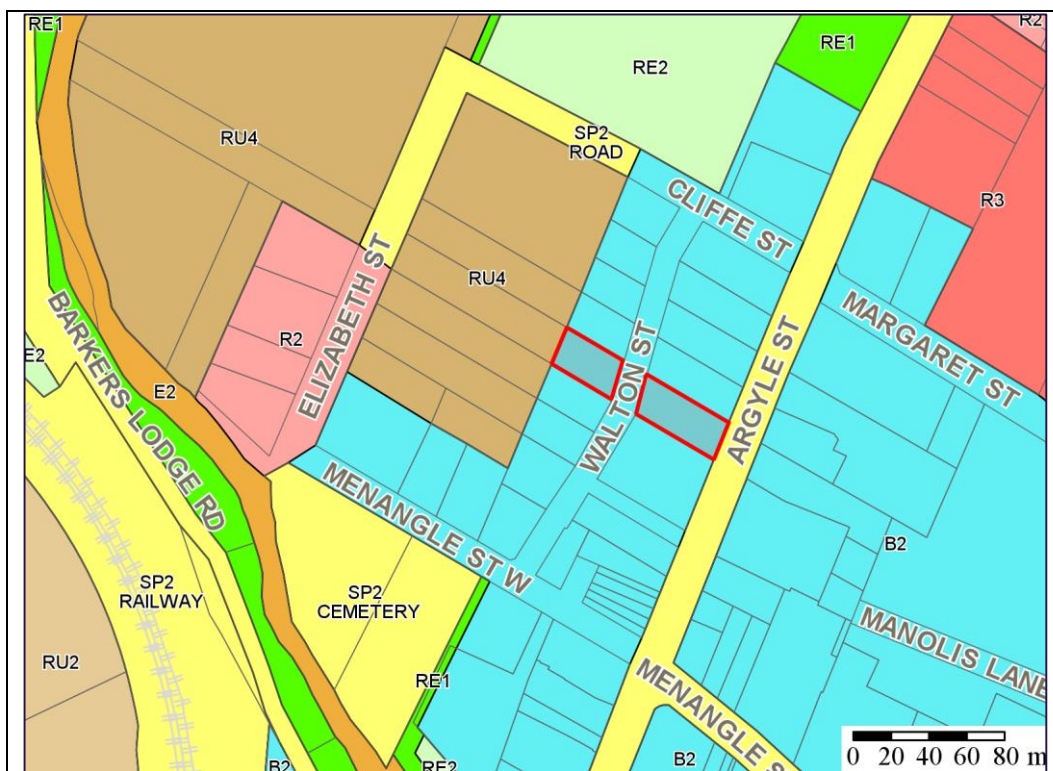
GR1 – Development Application No. 010.2017.00000678.001 – 89-91 Argyle Street, Picton

GR1

Development Application No. 010.2017.00000678.001 for 89-91 Argyle Street, Picton – Commercial Building and use as Food and Drink Premises (Restaurant)

27534

010.2017.00000678.001



LOCATION & ZONING MAP 

DEVELOPMENT INFORMATION

Development Application No:	010.2017.00000678.001
Property Address:	89-91 Argyle Street Picton
Applicant:	B & J Bjorklund c/- Johns Lyng
Owner:	B & J Bjorklund
Proposal Details:	Commercial Building and use as Food and Drink Premises (Restaurant)
Zone:	WLEP - B2 Local Centre

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EXECUTIVE SUMMARY

- The purpose of this report is to seek consent for the rebuild of a storm damaged commercial building (Thai Restaurant) at No. 89-91 Argyle Street, Picton.
- No submissions were received in response to the notification of this application.
- It has been requested that the application be determined by Council.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that the application be approved subject to conditions.

REPORT

BACKGROUND

The application was lodged at Council for a Development Application, Construction Certificate and Occupation Certificate on 28 September 2017. The application is for the rebuilding of a commercial building to replace an existing commercial building which was damaged by a storm event in June 2016. The brick shop attached to the site is being retained. The applicant advised Council that the new building is to be rebuilt as per the original building approval. A search of Council's records has found no evidence of the original building and restaurant use approvals.

On 6 October 17, the applicant was advised to provide additional information being plans to be submitted with stamped Mine Subsidence Board. This information was received on 23 October 2017.

The application was notified in accordance with DCP from 6 October 2017 to 21 October 2017 to adjoining neighbours. No submissions were received.

On 3 November 2017, the applicant was advised of a number of issues arising from the assessment of the application in respect to car parking and manoeuvring, economic analysis for associated costs with flood floor levels and site plan.

On 7 November the applicant provided an amended site plan and a written variation seeking to justify the DCP variation for parking and glazing. The application seeks a variation to Wollondilly Development Control Plan 2016.

On 9 November 2017 the applicant provided an Economic Analysis Report.

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1.1 DESCRIPTION OF SITE AND SURROUNDING AREA



Figure 1 Aerial Image

The subject site is zoned B2 Local Centre. The site has an area of 1715 square metres. It is located in the Picton business precinct and is surrounded by retail shops and cafes. The site is located within Wilton Mine Subsidence District, in Wollondilly's Heritage Conservation area and is located within the Stonequarry Creek flood zone.

The proposal seeks to rebuild a storm damaged building that occurred after a flood event in June 2016. The site has Council car parking to the rear (on Council land nearby).

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The proposal is to rebuild a damaged building after a flood event and to be used as a restaurant.

1.2 DESCRIPTION OF DEVELOPMENT

The application proposes to rebuild a flood damaged Commercial building for use as a restaurant.

The development as described in the applicant's Statement of Environmental Effects includes:

The Design of the Proposed Re-built Building:

The design has been based on the prior Building in its internal layout & façade treatment. The Floor Area is the same as previously constructed, occupy almost the same footprint. The re-building will include the pergola area at the street frontage along with the fence and gate entry on the street boundary.

The roof has been simplified to omit the previous 'extensions'. The room layouts are as previously constructed with the Restaurant Dining Area, Kitchen, Store Room & Toilet facilities as per the prior construction.

Format of the Proposal:

The Shop Building will remain as per previously built on the Argyle Street front boundary. The re-built Building will be attached to the shop Building as before and the unused garage will remain unchanged.

Proposed Construction:

The re built Building will be constructed similar to its prior construction except it will be built up off a concrete floor slab on concrete piers.

Flood Planning:

The Building will be timber framed construction to comply with the following: - Australian Building Code Boards: Construction of Buildings in Flood Hazard Areas, - SES: Guidelines for Building in Flood Prone Areas and the - Australian Standard. - Building Code of Australia.

The Fit out of the construction will have all electrical service points & equipment to be above the Council's designated flood level for Climate Change Floor Level' as noted on Councils correspondence of Mr Michael Nelson.

Evacuation of the Building. The simple layout of the Building and its relatively small floor area & its' simple egress pathway to Argyle Street, would make the evacuation of the Building efficient. The Staff of the Restaurant would normally be able to evacuate the premises on their own without the need for emergency services.

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Description of the Buildings & Finishes:

The Property is located within the Heritage Conservation Area, but we understand the previous Buildings on the property were not identified as heritage items. But as the Buildings have been part of this streetscape for many years, accordingly the rebuilding of the prior Building will re-instate this contribution to the mix of the streetscape.

Proposed Building - Floor Areas:

With the Application being for the re-building of the mm Building the floor areas of the Proposal are very similar to that of the previously built Buildings, as follows:

<i>Proposed re-build:</i>	<i>158.1 sm</i>
<i>Retained Shop:</i>	<i>56.8 sm</i>
	<i>214.9 sm</i>
<i>Pergola Area:</i>	<i>71.6 sm</i>
<i>Gross Floor areas (Site Cover)</i>	<i>222.5 square metres.</i>

CONSULTATION

Referral	Outcome
Development Engineer	Application has been reviewed by Council's Engineer. Conditions are recommended. Refer to draft conditions.
Building Surveyor	Comments received by Council's Building Surveyor on 13 October 2017. Conditions are recommended. Refer to draft conditions.
Design Engineer	Comments received on 9 November 2017. Council's Flood Engineer required further comments by the applicant in relation to Flood Analysis. A number of concerns were raised with regard to the calculations provided in the Economic Analysis report on 9 November 2017, an amended report was submitted to Council and has been supported by Council's Flood Engineer.
Health Officer	Comments received on 25 October 2017, amended plans are requested, see file for comments
Heritage Adviser	Comments received from Heritage Advisor on 7 October 2017 indicating the proposal is acceptable from a heritage perspective, although the drawings do not provide enough information to gauge final appearance. Conditions are recommended. Refer to the draft conditions.
Fire Safety Officer	Comments received by Fire Safety Officer on 13 October 2017. Conditions and fire safety schedule will apply.

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1.3 SECTION 79C ASSESSMENT

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.

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.

Wollondilly Local Environmental Plan 2011

The land is zoned B2 Local Centre. Commercial Premises, Restaurant or Café and Food and drink Premises are permissible with consent.

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	The proposal is located within a heritage conservation area. As this proposal is a replacement of a storm damaged building, the design of the external features must complement the area and it is considered to conserve the built environment of the area. All features have been reviewed by Council's Heritage Officer
(c) to protect water quality in land that is situated within water supply catchments,	The proposal is not located within the water catchment supply.

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Clause 1.2 Aims of Plan	
(d) to encourage development that provides for an integrated transport and infrastructure system and adequate facilities and service provision for future growth,	The proposal will not alter the integrated transport and infrastructure system in the future.
(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

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	Clause	Comment
2.7	Demolition requires consent	The building was storm damaged and as a result the building was demolished. A report by Fusion Engineering dated July 2016 is on record.
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 height of building is 9m. Plans indicate height of building being approx. 6.5m.
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 zone	NA
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

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	Clause	Comment
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	The proposal is in a Heritage Conversation area. The proposal was referred to the Heritage Advisor, no issues identified.
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 197 metres from Stonequarry Creek the work will not affect the natural resources.
7.4	Flood planning	The site is flood prone. The proposal has been reviewed by Council's Flood Engineer. Conditions recommended.
7.5	Earthworks	No 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

Not applicable

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1.3.3 PROVISIONS OF RELEVANT DEVELOPMENT CONTROL PLANS

The development proposal is subject to Wollondilly Development Control Plan 2016 Volume 1 - General and Volume 5 - Commercial and Community Uses. Part 3 of Volume 1 provides for the consideration of variations to the controls set out in the DCP.

There are two variations to the DCP proposed for this development. The variation is as follows:

1. Proposed Variation: Parking and Manoeuvring

Volume 5, Clause 2.10, requires numerical parking rates for food and drink premises being the greatest of:

- 12 spaces per 100m square of GFA or
- 1 space per 5 seats (internal and external) or
- 1 space per 2 seats (internal)

The application seeks approval for the same car parking rate as per the existing use. The previous restaurant building would have required 18 car parking spaces if it was assessed under the current DCP. The application is not proposing any spaces to be constructed and is instead seeking a variation that relies on using the nearby car parking spaces on Council's land.

The proposed variation is 100%. Reasons for the variation has been requested by the applicant identifying the controls to be varied are as follows:

Car Parking Variation: -

- *As per our email of the 19th of October, the Application is submitted based on the original Building & existing use. Accordingly we request the Council to vary from the DCP requirement for onsite car parking based on 'existing use'.*
- *We support this request for variation as follows:*
- *The 'existing use' having operated for a number of years and we understand without any issue.*
- *The Restaurant is located between two public car parking areas, to the east & opposite the site, in Argyle Street adjacent to the IGA Supermarket & to the west in Walton Street an off street public car park.*
- *The Restaurant operates generally of an evening when the demand for customer parking would not be in competition to the standard commercial premises operating hours.*

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Comment:

The applicant has not indicated the number of seats that will be proposed for the restaurant, therefore the variation will be based on the rate of spaces per 100m square control. The proposed gross floor area for the new building is stated as being 158.17 square metres which will result in 18 car spaces that will be required.

The applicant is seeking a 100% variation i.e. to have no parking constructed, however, a recent approval for a new commercial building by Council nearby (DA 010.2015.00000842.001 of a similar size) was required to construct 18 spaces on the land at the rear of that site. An alternative for the applicant to car parking construction would be to provide a contribution to Council per space. The applicant has asked that Council consider the waiving of the car parking requirement as the circumstances of this case are related to a storm rebuild.

2. Proposed Variation: Proposed Glazing Area

The DCP requires an active frontage with a minimum of 75% glazing area which must be transparent. The front glazing measures at 6.3m but needs to be 16.8m to comply with the 75% glazing.

It is noted that the design is an appropriate Urban Design outcome which has been considered by Council's Heritage Advisor and is also consistent with the previous building design.

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:	
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.	



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Volume 5 – Commercial and Community Uses		
Relevant Provisions		Comment
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 specially pine and all the like.
2	Impacts to groundwater must be minimised by:	No 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 be 158.17 square metres, not applicable.
4	Water from rainwater collection tank(s) must be used for at least one of the following:	Refer to National Construction Code Section J Compliance report on file, conditions will apply.
a)	Irrigation and maintenance of landscaped areas;	
b)	Cleaning and maintenance of built development;	
c)	Toilet flushing;	
d)	Laundry purposes; or	
e)	Car washing.	

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5	All plumbing fittings connected to potable water supply must be Triple A or higher rated devices.	Compliant as per National Construction Code Section J Compliance report.
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	Not applicable
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, the proposed does not adjoin a public open space.

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Volume 5 – Commercial and Community Uses		
Relevant Provisions		Comment
2.	Colourbond materials shall not be used in the external construction of buildings within the Business (B) Zones unless they account for less than 25% of each front elevation.	Plans indicate cladding to be used on external construction.
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.	Conditions will apply and colour scheme will be in conjunction with Part 5, Figure 3 of Volume 1 of Wollondilly Development Control Plan 2016 (DCP 2016).
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.	The proposed building will be readily identified to 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.	The proposal will not create any significant bulk or scale to the area and the architectural features will enhance the area.
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.	Variation requested and considered acceptable.

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Relevant Provisions		Comment
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.	The proposal will have aluminium bi-fold doors that address the street. Complies with CPTED guidelines
9.	There must be a universally accessible and continuous path of travel to connect the public footpath to all car parking areas and the main public entry and exit point of a building.	A continuous path of travel is connected to the main entrance and the footpath. 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 not for a mixed use development.
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.	The proposal indicate air conditioning units and downpipes to the side facades, complies as no fitting are indicate to the frontage of the public street.
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.	No signage has been proposed with this proposal.

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Relevant Provisions		Comment
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 an air conditioning unit, this is 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 of users without obstructing the free movement of pedestrians and others within the public footpath and must be structurally protected to prevent ram-raid opportunities.	No ATM tellers are incorporated with this proposal
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

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Relevant Provisions		Comment
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.	Not applicable
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 proposal accommodates a gross floor area of 158.17 square metre and does not exceed the thresholds tabulated in DCP table. The proposal is located in the B2 Local centre zone and is not residential development.
2.	Communal open space for residential development on the same or adjoining land cannot be counted towards open space required by this clause. Public open space on land immediately adjoining the commercial development site may be considered as an offset to the provision of Communal Open Space within a development site providing it is suitably embellished.	
3.	Communal Open space shall not be narrower than 3 metres in each and every direction.	
4.	Communal Open space must be located and designed to be compatible with any nearby residential uses. There must be no direct line of sight to residential private open spaces and windows.	

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5.	Communal open space must be suitably embellished for outdoor eating and must be provided with waste management facilities.	
6.	Communal open space must be sited and designed to achieve a minimum of 3 hours of solar access (measured at ground level) to at least 50% of its area between the hours of 9:00am and 3:00pm on the winter solstice.	
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,	
Controls		
1.	A minimum 1.8 metres wide linear, unobstructed pedestrian movement pathway must be maintained through the public footpath at all times.	A paved alfresco area is proposed and will not have an impact on the pedestrian footpath.
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	

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Relevant Provisions	Comment
	reference should be made to Council’s policies relevant to use of public spaces for commercial activities.
2.6 Landscaping	
Objectives	
1.	To achieve landscaping that is integrated with the design, layout and scale of development and is sensitive to site attributes, streetscape, views and vistas.
Controls	
1.	Landscaping around the external perimeter of new commercial buildings with a GFA greater than 1,000m ² must be provided at the rate of at least 20m ² of consolidated / continuous planted area for every 500m ² GFA and address the street frontages.
2.	Landscaping for new commercial developments shall be in the form of garden beds and achieve the following:
a)	Use at least 50% native vegetation;
b)	Use only low maintenance vegetation;
c)	Reduce or eliminate the need for fencing;
d)	Use only vegetation that will not damage infrastructure; and
e)	Provide adequate landscaped area for plants when fully grown.
3.	All plant species in landscaping must be non-toxic and low-allergen.
4.	Contiguous landscaping areas with an area greater than 50m ² shall be provided with and automatic irrigation system(s).
No landscaping is proposed with this development.	
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	

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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 separated to provide a pedestrian refuge within the footpath.	Driveway is existing.
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.	On street parking is provided along Argyle Street.
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 500m ² . This	The proposal is for a new replacement building and it is

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Relevant Provisions		Comment
	access may not be shared with the access to be used by patrons of the development.	considered that the existing loading/unloading access at the rear of the premises is adequate for the redevelopment. The use/s does not generate frequent or large vehicles delivering or picking up from the site. Variation is therefore supported.
2.	Commercial premises must be provided with a minimum of one (1) loading / unloading space with sufficient capacity for the site.	
3.	Forward entry/exit onto the street from the loading/unloading space must be provided.	
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)	
5.	Premises exceeding the threshold in control (4) above must provide showering amenities and personal storage lockers for staff for the storage of clothing and other personal items.	
6.	Where secured storage areas are required the minimum dimensions shall be 2 metres wide in each and every direction.	
7.	Sites located on a shared pathway route adopted by Council must construct the section of the pathway within the appropriate frontage(s) of the site and connect to the	

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	existing pathway network where required by the Consent Authority.	
8.	Bicycle racks shall be provided for any retail development subject to this plan with a GFA greater than 500m ² . Bike racks shall be provided at the rate of 1 bicycle “space” per 100m ² of retail GFA.	
9.	Where new public roads are created street lighting shall be provided in accordance with relevant Australian Standards.	
10.	Where existing public roads adjoining commercial developments are not provided with adequate street lighting, additional lighting shall be provided in accordance with relevant Australian Standards.	
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.	The proposal is to replace a storm damaged building. A search of Council records could not locate approvals from the demolished building.
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.	18 spaces are required however none are proposed to be provided onsite. A variation is requested based on available nearby parking.

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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.	Future shop tenancies will be the subject of separate DAs and will be assessed on merit. It is noted that the current public car park at the rear of the property can cater for the increase in tenancies and was a consideration with the previous occupation on site.
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.	The proposed was referred to Council's Engineer's, conditions 7(1) to 7(5) have been recommended. However, if the variation are supported these conditions will not be required.
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.	
6.	Parking areas must be linked via a pedestrian path with the nearest public footpath.	
7.	Parking spaces adjoining pedestrian accesses must be provided with wheel stops or upright kerbs to protect the safety of pedestrians.	
8.	Parking areas for developments that operate outside of daylight hours must be lit in accordance with relevant Australian Standards.	
9.	Multi-unit complexes must provide a consolidated car parking area for patrons. No more than 50% of the total	

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Sustainable and Balanced Growth
Report to the Ordinary Meeting of Council held on Monday 11 December 2017

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	parking spaces on site shall be allocated to a single unit.
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)
11.	Car parking areas shall be designed, embellished and located to minimise adverse visual impacts in the locality.
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 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,

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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.	A waste management plan will be conditioned accordingly.
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).	
3.	Every development must include adequate waste/recycling storage area(s) to accommodate all relevant waste management processes and storage.	
4.	Special arrangements for storage, collection and disposal of medical and hazardous waste must be detailed in the Site Waste Minimisation and Management Plan (SWMMP)	
5.	Waste/recycling storage areas must not be visible from outside of the building or by patrons.	
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	

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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 proposed building will maintain these requirements reinforced by conditions.
2.	All stormwater management systems shall comply with Council`s Design & Construction Specification.	
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.	
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)	
4.5 Picton		
Objectives		
1.	To ensure commercial and community development contributes to the character and amenity of Picton.	

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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.	Plans indicate setback from street boundary to be 50mm, complies
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.	Plans indicate 50mm setback from alfresco structure, complies.
3.	Commercial buildings within the Margaret Street Intersection Key Site shown in Map 4.1.4 shall:	Not applicable
a)	Be designed to principally address the intersection of Cliffe, Argyle and Margaret Streets;	
b)	Incorporate adequate setbacks to allow for safe sight distances at the intersection;	
c)	Minimise setbacks to each street frontage	
d)	Ensure no vehicular access is provided directly to Argyle Street	
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.	Not applicable
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	Noted. Existing use remains

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	through financial contributions as part of a Voluntary Planning Agreement.	
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.	Noted
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
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

Not applicable

1.4 IMPACT OF THE DEVELOPMENT

Head of Consideration	Comment
Natural Environment	The natural environment will not be affected by this proposal
Built Environment	The built environment will be enhanced with this proposal
Social Impacts	Social impacts will be positive with this proposal
Economic Impacts	Economic impacts will be positive with this proposal

1.5 SUITABILITY OF THE SITE

The site is considered suitable for the development and there are no physical constraints to the development. The services required for the redevelopment are available to the site. The development would occur within an existing retail/commercial footprint, which is located within the Picton Commercial Precinct.

1.6 SUBMISSIONS

No submissions were received as part of the proposal.

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1.7 THE PUBLIC INTEREST

It is considered that the development would not have any detrimental impact to the public interest not the interest of any government agency, representative of the public interest.

FINANCIAL IMPLICATIONS

The developer contributions payable are Section 94A. Based on the estimated cost of \$250,000 on the development application form, a 1.0% levy works out to be \$2500. Subject to payment of the required developer contributions, the proposed will not have a significant financial impact on Council.

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Amended Plans submitted on 2 November 2017
2. Amended Site Plan submitted on 8 November 2017
3. Economic Analysis Report

RECOMMENDATION

That the application 010.2017.00000678.001 for a Commercial building and use as food and drink premises at 89-91 Argyle Street, Picton be approved subject to the following conditions:

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 Rebuild of Commercial Building to Use as Food and Drink Premises (Restaurant) at Lot: 6 DP: 1057352, No. 89-91 Argyle Street PICTON.
- (2) Development shall take place in accordance with the submitted plans below, prepared by Drake Designs and submitted in respect of Development Application No. 010.2017.00000678.001 dated January 2017, except where varied by the following conditions:

Plan Name	Drawn By	Drawing No	Issue
Site Plan	Drake Designs	CC 01.B	7/11/17
Floor Plan	Drake Designs	CC 02.C	2/11/17
Elevation Plan	Drake Designs	CC 04.C	2/11/17
Section Plan	Drake Design	CC 03.A	18/7/17
Kitchen and Amenities Plan	Drake Design	CC 06.B	2/11/17
Electrical Plan	Drake Design	CC 05.A	18/7/17

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- (3) The applicant is informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 010.2017.00000678.001 received on 28/09/2017 except where varied by the following conditions of consent.
- (4) Unless permitted by another condition of this consent, there shall be no tree clearing unless the vegetation is:
- (a) Within the footprint of an approved building, access driveway or other structure; or
 - (b) Within three (3) metres of the footprint of an approved building; or
 - (c) Preventing the achievement of the minimum asset protection zone requirements under the relevant planning for bushfire protection guidelines.
- (5) 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.
- (6) Works 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.

2. 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 consistent throughout the total development and/or match those of the existing development. These should include:
- New metal roofs to be Custom Orb profile in galvanised finish.
 - Gutter to be quad or ogee or half round profile in galvanised finish.
 - Downpipes to be round profile in galvanised finish.

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- Ridgcap and barge cap to be roll-capping in galvanised finish.
 - Weatherboards and fascia's on street frontage to be solid timber.
- (2) Prior to the issue of a Construction Certificate, a final external colour scheme, fence details and sign work mock-up are to be provided to Council's Heritage Advisor for review and approval. The building shall incorporate earthy colours. Pale or patterned brickwork or multi-coloured shall not be used.
- (3) All external painted finishes shall be undertaken in accordance with Part 5, Figure 3 of Volume 1 of Wollondilly Development Control Plan 2016 (DCP 2016). Close equivalents from other manufacturer's colour ranges may be used.
- (4) The building shall comply with AS1428 – Design for access and mobility in respect of accessibility for people with a disability. Prior to the issue of any Occupation Certificate a certificate certifying compliance with this condition prepared by a suitably qualified person must be provided to Council or the nominated Accredited Certifier.
- (5) Any above ground water storage tanks shall be coloured or painted in earthy colours to blend with the natural environment or building immediately adjoining the water tank to reduce their visual impact.
- (6) Sanitary and other facilities must be provided in accordance with the deem-to-satisfy provisions of the National Construction Code.
- (7) To reduce the visual impact of building services, fittings and utilities (including, without limitation, downpipes, conduits and vents and air conditioning units and components) the person having the benefit of this shall integrate the services with the features of any facade fronting public open space or a public street.
- (8) Water from rainwater collection tank(s) must be used for at least one of the following prior to the issue of any Occupation Certificate:
- a) Irrigation and maintenance of landscaped areas;
 - b) Cleaning and maintenance of built development;
 - c) Toilet flushing;
 - d) Laundry purposes; or
 - e) Car washing.

3. CONSTRUCTION GENERAL

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

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- (1) Construction shall not commence on the site, including the placement of temporary buildings, site sheds, earthworks, site excavation, filling 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.
- (2) 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.
- (3) 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.
- (4) 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.

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

- (5) 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. Where Council is to be the nominated Accredited Certifier Council's Building Services Section may be contacted between 8:00am and 10:00am Monday to Friday on 02 4677 1100 if further clarification is required.
- (6) Construction shall not commence until a Construction Certificate has been obtained from Council or a nominated Accredited Certifier.
- (7) An appropriate fence preventing public access to the site shall be erected for the duration of construction works.
- (8) 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.
- (9) There shall be no burning of builder's rubble, felled trees or other material on site.
- (10) Dust shall be controlled so that it will not leave the construction site.
- (11) Any damage to the Council footway, road or other land shall be restored in accordance with Council's specifications prior to the issue of any Occupation Certificate for the development.
- (12) Prior to the issue of any construction certificate for this development, the following is to be paid to Wollondilly Shire Council, if not paid at Development Application stage:
 - (i) Payment of Road Damage Inspection Fee (if development cost >\$5,000 in residential zones R2, R3 & R5 or for BCA class 2, 3, 5, 6, 7, 8 and 9 construction work in all zones).
 - (ii) Payment of a Road Opening Fee (only applies to the first structure on the site).
 - (iii) Payment of Damage Bond for class 2, 3, 5, 6, 7, 8 & 9 construction work in all zones.

The amount to be paid shall be in accordance with Wollondilly Shire Council's adopted fees and charges at the time of payment.

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4. 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 parts of the commercial building and car park below the Designated Flood Level shall be constructed of flood compatible (flood damage resistant) materials. 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.
- (2) 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.
- (3) A certificate from a registered Surveyor shall be supplied to the Principal Certifying Authority prior to pouring the floor slab (or placing the flooring), verifying compliance with the designed floor level.
- (4) 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.

5. 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 Specification.
- (2) Engineering design plans for access, carparking, turning areas 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.

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- (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) Prior to any occupation of the development or the issue of any Occupation Certificate, an Engineer's Certification shall be provided to the Principal Certifying Authority for all civil works (access, carparking, drainage etc.) carried out within the private property.
- (5) Prior to any occupation of the development or the issue of Occupation Certificate, a Certificate of Practical Completion for all roadworks, including road drainage, shall be obtained from Council.
- (6) All reasonable efforts shall be taken to protect the public footway and road pavement from damage during the course of construction. Restoration of any damaged road or footway shall be at the applicant's expense. A builder's security deposit is to be lodged with Council prior to any work being undertaken on the property. Any costs incurred by Council as a result of repairing damages caused directly or indirectly by the development will be deducted from the security deposit.
- (7) 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 the nominated Accredited Certifier with the Engineering Plans. The measures shall be in accordance with Council's Construction Specification and the Department of Housing's "Blue Book".

6. 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.
- (3) Stormwater drainage plan shall be prepared by a qualified person for future connection to Council's Stormwater drainage network system.

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7. CARPARKING/LOADING/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) A commercial duty concrete vehicular footway crossing shall be provided at all locations where vehicles cross the footway in accordance with Councils Design Specification.
- (2) Provision shall be made for vehicles to access and leave the site in a forward direction. A manoeuvring area for the loading bay shall be provided suitable for the expected delivery and service vehicles accessing the site. Where a restriction on the size of vehicles utilising the loading area is required, clearly visible signs shall be placed to inform drivers of the vehicle size restrictions. Details and turn path simulations shall be shown on the Engineering design plans for approval.
- (3) The development is to be provided with 18 car parking spaces and are to measure not less than 2.6m x 5.5m and are to be constructed and marked in accordance with Wollondilly Shire Council's adopted Design and Construction Specification.
- (4) Car parking spaces shall be reserved for people with mobility impairment in accordance 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.
- (5) Provision shall be made for an access link in accordance with Australian Standard AS1428.1 – Design for Access and mobility from the carpark across Walton Street to the footpath adjacent to the proposed commercial building (Lot 6 DP 1057352). Details of the access link shall be shown on the Engineering Plans.

8. PUBLIC ROADS

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

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- (1) The existing footpath on Argyle Street frontage shall be replaced with a full width concrete footpath from kerb to the property boundary including any adjustment to the adjoining paths to provide standard cross falls.
- (2) The existing redundant vehicle crossings in Argyle Street shall be replaced with kerb and gutter.
- (3) Provision of Vehicular Access to the site through the construction of layback gutter crossings/concrete footpath crossings in accordance with Council's Design & Construction Specifications. All obsolete vehicular crossings must be reconstructed as kerb.

Note: Any adjustment to services shall be at the expense of the applicant and is additional to the contributions required by Council.

- (4) All works to be carried out within the road reserve must be approved and inspected by Council under Section 138 of the Roads Act. A Section 138 Consent Certificate must be obtained from Council's Infrastructure Planning a minimum 7 days prior to commencement of work. A fee is payable for issue of this Consent Certificate. Engineering plan checking and inspection fees will be advised for payment prior to the issue of the approved plans.
- (5) Council acknowledges its responsibility to construct concrete footpath on both sides of Walton Street. The applicant is to provide design details on the Engineering Plans for a minimum 1.5 metre wide concrete footpath to the back of kerb on both sides of Walton Lane. Within seven (7) days of the issue of the Construction Certificate, the applicant shall advise Council, in writing, of the anticipated timeframe for the completion of the building, and request the provision of the footpath and make reference to this Consent.

9. EROSION AND SEDIMENT CONTROL

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

- (1) Runoff and erosion controls are to be installed prior to the commencement of any site works and incorporate:

Diversion of uncontaminated up-site runoff around cleared and/or disturbed areas.

Containment of the downslope perimeter of the cleared and/or disturbed area with a silt fence and/or other devices to prevent sediment and other debris escaping from the land.

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Maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated after completion of construction.

- (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.
- (6) Stockpiles of construction and landscaping materials, and site debris are to be located clear of drainage lines and in such position that they are within the erosion containment boundary or are equivalently protected from erosion and do not encroach upon any footpath, natural strip or roadway.
- (7) All excess material shall be removed from the site. The spreading or stocking piling of excess material on site is not permitted.

10. 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 Building Code of Australia and associated approvals. Where Wollondilly Shire Council is nominated as the Principal Certifying Authority these inspections shall include:
 - Pier holes before pouring of concrete
 - Steel reinforcing before pouring of concrete
 - Wet area damp proofing and flashing before lining
 - Stormwater drainage before backfilling
 - Frame work before internal cladding or lining is fixed
 - Completion of the building work before occupation or use

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11. SIGNS

These conditions have been imposed to ensure that signs are properly designed, located and maintained so as not to impact upon 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.
- (2) The signage approved as part of this development proposal must be maintained in good condition at all times to the satisfaction of Council.
- (3) At no time shall the intensity and hours of illumination of the sign/s adversely affect the amenity of the neighbourhood. If in the opinion of Council the amenity of the neighbourhood is likely to be adversely affected, the intensity and hours of illumination must be varied to ensure that this condition is complied with.
- (4) The sign may not at any time imitate road signs in respect of colour, shape, wording or layout. This includes, but is not limited to:
 - Words such as “stop”, “halt”, “slow” or “warning”;
 - Excessive use of red, orange, yellow or green colour scheme; or
 - Imagery of traffic management devices.
- (5) The sign shall, when active, be continuously illuminated and shall not flash.
- (6) The sign shall not be activated prior to the issue of an Occupation Certificate by the Principal Certifying Authority.
- (7) The sign shall be fixed to the building in a secure and safe manner and in such a manner so that its removal will not cause irreversible damage to the building.
- (8) No advertising flags or banners or the like are to be erected on, or overhang Council’s footpath, or be attached to street lights or telegraph poles.

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- (9) In accordance with the requirements of State Environmental Planning Policy No. 64 – Advertising and Signage the approved sign and any associated structure must be removed and the building/site reinstated, within a period of 15 years from the date of consent. If the sign is to be retained after this period, a new development application must be submitted to the consent authority and approved prior to the end of the 15 year period. If the approved use is abandoned prior to the 15 year period, then the approved sign must be removed.

12. SERVICES

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

- (1) 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 Occupation Certificate for the development.

- (2) All power and services provided to the development within the site shall be underground.
- (3) The proposed building 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) Disposal of construction and building waste material shall be undertaken in accordance with the Waste Management Plan submitted with the Development Application.

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14. 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 structure shall not be occupied as a residence or domicile.
- (2) The premises shall be maintained in a clean and tidy state at all times.
- (3) The footpaths shall be kept clear of signs, fixtures and goods at all times.
- (4) 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 of discharge of noise, fumes, vapour, steam, soot, ash, dust, waste water, waste water products, grit, oil or other harmful products of the industry.
- (5) Dust shall be controlled so that it will not leave the site.
- (6) The business shall be conducted between the hours of 11.00am and 9.00pm Monday's to Thursday's inclusive, between 11.00am and 12.00pm Friday's and Saturday's and 11.00am to 9.00pm Sundays and public holidays.
- (7) The building shall not be occupied or used until an Occupation Certificate is issued by the Principal Certifying Authority.
- (8) The servicing, loading/unloading associated with the premises shall not have any impact upon the operation of the public road system.
- (9) All vehicles shall enter and leave the site in a forward direction.

15. SECURITY AND SAFETY

These conditions are imposed to ensure that the development is compliant with Safer by Design principles

- (1) All essential services (i.e. emergency lighting, exit signs, portable fire extinguishers, hose reels, smoke alarms, hydrants, fire blankets, etc) are to be inspected and certified with the regulations under the Environmental Planning and Assessment Act (as amended) 1979, every 12 months from the date of this approval. Council shall be provided with the compliance certificates in accordance with the Environmental Planning and Assessment Act (as amended) 1979.

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16. SECTION 94 CONTRIBUTIONS

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

- (1) A Section 94A Development Contribution of \$2500 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 \$250,000.

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.

17. PRESCRIBED CONDITIONS

These conditions are imposed as they are mandatory under the Act.

- (1) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA AND INSURANCE REQUIREMENTS UNDER THE HOME BUILDING ACT 1989
- (a) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
- (i) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- (ii) 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.
- (b) For the purposes of section 80A (11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia .
- (c) This clause does not apply:

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- (i) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
 - (ii) to the erection of a temporary building, other than a temporary structure to which subclause (b) applies.
- (d) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:
- (i) development consent, in the case of a temporary structure that is an entertainment venue, or
 - (ii) construction certificate, in every other case.

Note: There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.

(2) Erection of signs

- (a) For the purposes of section 80A (11) of the Act, the requirements of subclauses (b) and (c) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition 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.
- (c) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (e) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

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- (f) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note. Principal Certifying Authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A of the Environmental Planning and Assessment Regulation 2000 which currently imposes a maximum penalty of \$1,100).

18. 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 given due consideration to the flood damages associated with over floor flooding as demonstrated by the provision of the Economic Analysis Report prepared by Drake Designs dated 9 November 2017.
- (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., which require alterations shall be altered at the applicants expense and to the satisfaction of Council and the authority concerned.
- (3) The following service providers should be contacted before commencement of construction to establish their requirements:
- Dial before you dig (various services) 1100
Telstra (telephone) 1 800 810 443
Endeavour Energy (electricity) 131 081
AGL (gas) 131 245
Sydney Water (water & sewer) 132 092
- (4) This Consent does not permit the commencement of construction unless a Construction Certificate has been issued. For details about obtaining a Construction Certificate contact Council's Building Services Section for building works.

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- (5) The land is subject to the provisions of Clause 5.9 of Wollondilly Local Environmental Plan, 2011 and Part 10 of Volume 1 of Wollondilly Development Control Plan 2016 with regard to the preservation of trees and vegetation. Under these plans consent may be required for tree clearing beyond the limits set by this consent. If you intend to remove any vegetation you should make yourself familiar with the provisions of both plans. The plans may be viewed on Council's website at www.wollondilly.nsw.gov.au or at Council's offices at 62-64 Menangle St, Picton.
- (6) 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.
- (7) A Road Opening Permit must be obtained from Council before trenching or other excavation work is undertaken within the public road reserve. It is the responsibility of each contractor and/or subcontractor to obtain such a permit. The permit must be held on site and produced when requested by a Council Officer.
- (8) 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.