



ATTACHMENTS PROVIDED UNDER SEPARATE COVER

ORDINARY MEETING OF COUNCIL

22 July 2024

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Report of Development Application Pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979

APPLICATION DETAILS

Application No.:	DA21/0604
Modification No.:	DA21/0604.01
Council File No.:	D/2021/0604
Date of Lodgement:	25/03/2024
Applicant:	Damasa Pty Ltd Po Box 5664 WAGGA WAGGA NSW 2650
Proposal:	Modification of Consent for Multi-level Commercial Office & Car Park
Description of Modification:	Amendments to Approved Plans including Facade Changes, Increase in Leasable Floor Area from 6730m2 to 6860m2, Removal of Two Car Parking Levels (with Reduction in Car Parking Spaces from 483 to 316), and Reduction in Building Height by 725mm - Amend C.1, C.4, C.5, C.51 and C.61. Insert C.1A and C.15A.
Development Cost:	\$25,500,000
Assessment Officer:	Steven Cook
Determination Body:	Council
Other Approvals	Nil
Type of Application:	Section 4.55(2) Modification
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	16/4/24 - 15/5/24
Advertising:	16/4/24 - 15/5/24
Owner's Consent Provided:	Yes
Location:	North-eastern corner of Docker St and Morgan St, approximately 300m north of Edward St.

SITE DETAILS

Subject Land:	199-205 Morgan St WAGGA WAGGA NSW 2650 Lot 7 DP 203835, Lot 1 DP 375748, Lot A DP 331461
Owner:	Damasa Pty Ltd

REPORT

DESCRIPTION OF DEVELOPMENT

DA21/0604 for a 'Multi-level Commercial Office & Car Park' was approved by Council at its Ordinary Meeting on 11th April 2022 (with a consent issued with an operative date of 13th April 2022).

An application has now been submitted to modify the consent pursuant to Section 4.55(2) of the Act. The modification seeks to amend the plans approved under the consent in the following ways:

- Design variations to the façade and architecture of the building.
- Increasing commercial leasable floor space from 6730m² to 6860m² across five levels.
- Increasing gross floor area from 7595m² to 7634m².
- Removal of two car parking levels (from six levels to four).
- Reduction of car parking spaces from 483 to 316.
- Reduction of motorcycle spaces from 20 to 12.
- Increase of bicycle spaces from 10 to 18.
- Overall reduction in building height by 725mm.
- Relocation of sub-station; and
- Other minor access and internal feature alterations.



Figure 1 - Approved Building Façade under DA21/0604



Figure 2 - Proposed Modified Building Façade

THE SITE & LOCALITY

The site, being Lot 7 DP 203835, Lot 1 DP 375748 and Lot A DP 331461, 199-205 Morgan St, Wagga Wagga, is located on the north-eastern corner of Docker St and Morgan St, approximately 300m north of Edward St. Works are also proposed in the Morgan St road reserve adjacent to the site.

An open stormwater drain also crosses Lot A, taking water from the east, and directing this water to the north, towards the Wollundry Lagoon. Works have commenced under DA21/0604, with demolition of buildings on, and removal of vegetation from, the site.

All vehicular access to the land is currently from Morgan St.

The site is flat, and subject to inundation from overland flow from heavy rainfall events.

The locality is mixed in character. To the north, west and south of the site residential uses, including single dwellings and multi-unit developments prevail. To the southwest is an area of open space.

Land to the east and northeast is used for a range of commercial purposes, including retail, medical and office space. A four storey commercial building stands on land immediately to the east. This land has not historically been used for residential uses.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.55 OR 4.56

For the purpose of determining this application to modify consent, the following matters pursuant to the provisions of Section 4.55 or 4.56 of the Environmental Planning and Assessment Act 1979, have been taken into consideration.

Section 4.55(2) Other modifications



(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).

The modifications seek a number of changes to the approved Development Consent. The most significant in terms of scale of change are the removal of the car parking levels (and changes to car parking numbers) and the building façade changes.

The changes to the car park, despite reducing car parking numbers, are not significant enough to result in the carparking component of the development to be used entirely ancillary to the commercial offices. Despite the reduction, there remains sufficient additional carparking so as to remain partially an independent, non-ancillary car parking land use. In that sense, the approved and proposed land uses are unaltered.

There is a small overall reduction of building height (725mm), but the envelope essentially remains largely unchanged. The removal of parking levels is entirely internal to the structure and does not alter how the building relates to the street in terms of bulk and scale.

The façade changes do result in changed impacts to streetscape, however, the building mass is essentially unaltered, with the changes being predominantly to materials and design features. The structure retains the appearance of a commercial building with an attached multi-level carpark.

Overall, taking into consideration these and all proposed modifications, it is considered that the proposed development as modified is substantially the same development as the development for which consent was originally granted.

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent.

There were no concurrences required, nor was the original Development Application Integrated Development, therefore there are no requirements under this clause. Relevant public authorities were notified as required under other legislation, and these are discussed in the main body of the report.

(c) it has notified the application in accordance with:

- i. the regulations, if the regulations so require, or*
- ii. a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent.*

Section 1.10 of the WWDCP 2010 states that:

C11 Modifications made under Section 96(1A) will be notified at the discretion of Council Officers. Applications made under Section 96(2) will be notified/advertised consistent with the original application.

The original Development Application was notified for an extended period, greater than that required under the WWDCP 2010. This was due to it being exhibited over the Christmas-New Year period, and due to the public interest in relation to the development. The requirement under the WWDCP 2010 was for a minimum 14-day public exhibition. The original Development Application was notified for a total of 51 days – which is consistent with this minimum 14-day requirement.



It is considered that the requirement under C11 relates to the minimum exhibition requirement, rather than any extended period, and therefore this modification was also required to be notified for a minimum 14 days. The application was notified from 16th April 2024 to 15th May 2024, which is 28 days and consistent with this requirement.

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

10 submissions were received into the proposed modification and these are discussed in detail in the Section 4.15(1)(d) assessment below.

Section 4.55(3)

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

An assessment against Section 4.15(1) of the Act, as well as the reasons given for the granting of the original consent, follow below.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

For the purpose of determining this development application, the following matters that are of relevance to the development have been taken into consideration pursuant to the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act, 1979.

(a)(i) - The provisions of any environmental planning instrument (EPI)

Local Environmental Plan

Wagga Wagga Local Environmental Plan 2010

The nature of the modifications are such, that compliance of the development with the WWLEP 2010 is generally consistent with the original assessment under the Development Application assessment. The following matters addressed for additional consideration:

Permissibility and Zoning

Under the provisions of the WWLEP 2010 the part of the site previously zoned B4 Mixed Use is now zoned MU1 Mixed Use. The zones are more or less identical, with the change mostly in zone numbering.

'Office premises' (as a type of 'commercial premises') and 'car parks' continue to be permitted with consent in the MU1 zone. With regard to the car park, whilst the parking to service the development would be ancillary to the office use, the scale of the car park proposed continues to go well beyond servicing that need and would be considered an independent land use.

A car wash is indicated on the plans. There are no further details provided around the operation of the car wash. It is recommended that conditions of consent be imposed restricting the use of this car wash to being an ancillary development to the commercial land uses on the site.

The objectives of the MU1 zone differ from the B4 zone and are as follows:

