



City of
Wagga Wagga

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

APPLICATION DETAILS

Application No.:	DA19/0537
Modification No.:	DA19/0537.01
Council File No.:	D/2019/0537
Date of Lodgement:	01/03/2021
Applicant:	Gurwood Pty Ltd Po Box 866 WAGGA WAGGA NSW 2650
Proposal:	Concept Development Application
Description of Modification:	Additional House Typology, update to Urban Design Report; Update Condition A1
Development Cost:	\$870,000
Assessment Officer:	Amanda Gray
Determination Body:	Council
Other Approvals	Nil
Type of Application:	s4.55(1A) Modification Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	17-31 March 2021
Advertising:	Not required
Owner's Consent Provided:	Yes
Location:	Land bound by Kincaid Street to the north, Shaw Street to the east, Thomas Street to the west and Gurwood Street to the south.

SITE DETAILS

Subject Land:	Eric Weissel Oval 231 Gurwood St WAGGA WAGGA NSW 2650 Lot 11 DP 20812, Lot 1 DP 726729, Lot 328 DP 823293, Part Lot 12 DP 20812
Owner:	Gurwood Pty Ltd

REPORT

Description of Development

The original Development Application (DA19/0537) for a 'Concept Development Application' was approved by Council on 14 February 2020. The application approved an overall concept plan for the site that was for a medium density residential neighbourhood providing a diverse

range of housing typologies. The concept application was supported by an Urban Design Report and proposed development standards for the site. Original conditions of approval required the report to be finalised with specific DCP controls that could be applied to all future applications for dwellings across the site.

A modification application pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act* 1979 has been received that seeks to amend the concept approval by incorporating an additional house type to the urban design report with associated DCP controls where applicable. The new house type known as “Typology G” is for a compact studio apartment with a footprint of approximately 50sq.m. The layout includes a single garage, bedroom and bathroom at ground floor with another bedroom, living area and kitchen at first floor. The alternate house type is to allow for lower cost housing and a subsequent wider range of socio-economic groups living within the subdivision.

The Urban Design Report has been updated to include the new house type alongside the previously approved range of house types. In addition the different tables of controls, such as setbacks, frontages and parking that are throughout the document have all been updated to include house type G. A further modification is to allow the upper floor of house types B (detached), C (semi-detached) and D (detached) to completely cover the footprint of the ground floor.

The house type is introduced to the Concept Approval as an alternative to the originally approved concepts. There are nine locations identified as potential sites for the type G dwellings. These are generally corner lots that would allow for two compact apartments. If the market demand is such that future developers and land owners choose to build the smaller House Type G it has the potential to increase dwelling yields across the site by up to nine.

There is an approved subdivision application across the subject site for 84 lots that is consistent with the yields identified in the original concept approval. If yields do increase as a result of an uptake of house type G then a modification application will also be required to the subdivision application. At the time of preparing the subject report no such modification is required.

The Site and Locality

The subject site is legally identified as Lot 1 DP 726729, Lots 11 and 12 DP20812 and Lot 328 DP 823293 and is known as 231 Gurwood Street. The site is generally square in shape and extends to an area of approximately 3.4ha. There are road frontages to all sides with Kincaid Street to the north, Shaw Street to the east, Gurwood Street to the south and Thomas Street to the west.

The subject site is predominantly vacant with previous development consents covering the demolition of the original leagues club and grandstand structures. Tree removal has recently been completed also in accordance with previous approvals on site. There is a shed in the north-eastern corner of the site.

The surrounding area is predominantly characterised by residential houses on single title lots. On the opposite side of Kincaid Street to the north there is a take-away shop and two storey town houses.

Previous Development Consents

DA20/0210 - Residential Subdivision - Staged Development of 84 lots. Approved 3.8.2020.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.55(1A).

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if-

(a) it is satisfied that the proposed modification is of minimal environmental impact

The modification proposes an amendment to the Urban Design Report to incorporate an additional house typology as described earlier in the report.

The modification is deemed to be of minimal environmental impact and therefore can be assessed as a 4.55(1A) modification application.

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

The proposed modifications sought are considered to be substantially the same development as that previously considered in the initial development application.

(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.*

Applications made in accordance with s4.55(1A) of the *Environmental Planning and Assessment Act 1979* are not required to be notified under the provisions of the *Wagga Wagga Development Control Plan 2010*.

However, as the proposed modification results in an amendment to the house types that will be permitted on site as well as the required supporting DCP controls it is necessary to notify these details to surrounding properties. Subsequent applications for dwellings that are consistent with the approved house typologies and development standards will not require notification to neighbouring properties.

The modified details were notified for a period of 14 days.

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

The notification resulted in two individual submissions of objection.

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)

Section 4.15(a)(i) - The provisions of any environmental planning instrument (EPI) Wagga Wagga Local Environmental Plan 2010

Under the provisions of the WWLEP 2010 the land is zoned R3 Medium Density Residential. The objectives of the R3 Zone are:

- ☐ *To provide for the housing needs of the community within a medium density residential environment.*
- ☐ *To provide a variety of housing types within a medium density residential environment.*
- ☐ *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- ☐ *To ensure that medium density residential environments are of a high visual quality in their presentation to public streets and spaces.*

The original application found that the proposed use of the site as a medium density residential development directly supports the residential objectives of the zone.

The modified house type has no impact upon the compliance of the development with the zone objectives.

There are no controls within parts 3, 4, 5 or 6 of relevance to the modification application.

Part 7 Additional Local Provisions

The objectives of clause 7.2 'Flood Planning' are to minimise the flood risk to life and property associated with the use of land, to allow development on land that is compatible with the land's flood hazard and to avoid significant adverse impacts on flood behaviour and the environment.

Notwithstanding that both the original concept and the subdivision application found that the site was suitable for redevelopment it is worth noting that since both of those consents were issued the levee has been completed and the site is no longer mapped as flood prone.

Clause 7.6 of the WWLEP 2010 relates to groundwater vulnerability, the subject site is identified as sensitive on the Water Resources Map. The modification has no impact upon the original assessment report with regards to groundwater vulnerability.

In accordance with Clause 7.9 the development for a residential subdivision in a residential zone will have no detrimental impact upon the primacy of the CBD.

There are no other relevant additional local provisions.

State Environmental Planning Policies (SEPPs)

The original assessment of the application against *SEPP 55 Remediation of Land* remains applicable to the proposed modification.

Section 4.15(1)(a)(ii) - The provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)

No relevant planning instrument under this clause is currently the subject of public exhibition or comment.

Section 4.15(1)(a)(iii) - The provisions of any development control plan

Wagga Wagga Development Control Plan 2010

The modified development remains consistent with the applicable controls of the WWDCP2010 as described below.

Section 1 General

1.10 Notification of a Development Application

The modification was notified to neighbouring properties for a period of 14 days. Two individual letters were received in objection to the modification. The details of the submissions are discussed within section (d) of this report.

Section 2 Controls that Apply to All Development

The modification makes no changes to the vehicle access arrangements and parking layout across the subject site. The new house type includes a single garage for a two-bedroom dwelling that is compliant with the controls for off-street parking. The proposed landscaped areas and corridors across the site all remain as originally approved.

There are no controls within chapters 3, 4, 5 or 6 applicable to the modification application.

Section 7 - Subdivision

As noted earlier in the report there is an approved subdivision application for 84 lots across the site. The proposed modification does not result in any change to the approved subdivision plan.

If future developments do include the new house type G on smaller sized lots than currently approved a modification to the subdivision approval will be required and subject to assessment against the approved controls within the urban design report.

There are no controls within this section applicable to the subject application.

Section 9 - Residential Development

The modification does not alter the overall concept of a medium density residential development and therefore remains consistent with the key priority of section 9.1.3 of the DCP as follows:-

Encourage contemporary medium density sustainable building design that increases housing choice while respecting the setting, layout and form of adjoining developments

The overall site layout also does not change with new houses to front onto each of the existing perimeter roads with all garages accessed to the rear from new internal roads and laneways.

The mixed lot sizes and range of house types, including the additional 'House type G' results in a diverse, high quality presentation to the streetscape. The modified house type if taken up will face onto the internal roads within the development and therefore have no impact externally to existing streetscapes.

As the land is zoned as R3 it is subject to maximum lot size limitations as opposed to minimum lot sizes that are stipulated within the R1 zoned areas. The modified house type proposed by the modification has the potential to result in smaller sized lots being created, these lots would all be consistent with the maximum lot size control of 300sq.m.

The original concept approval allowed for a site cover of up to 80% for lots less than 150sq.m in area. The compact apartments known as House Type G are subject to the same site cover limitations.

The additional house type has no greater impact upon solar amenity than the previously approved house types within the subdivision. A mix of two and three storey dwellings are anticipated within the medium density development with many house designs incorporating upper floor living areas and balconies to achieve appropriate solar access into the dwellings. The modification also has no impact upon previously assessed solar impacts outside of the subject site.

The concept application, as modified, remains consistent with the original assessment against chapter 9 of the DCP acknowledging that the concept approval resulted in the variation of many of the controls to be applied to future dwelling applications.

There are no controls within chapters 10, 11, 12, 13, 14, 15 or 16 applicable to the modification application.

Section 4.15(1)(a)(iiia) - Planning Agreements

There is no draft or current planning agreement applicable to this application under Section 7.4 of the *Environmental Planning and Assessment Act 1979*.

Section 4.15(1)(a)(iv) - any matters prescribed by the regulations

There are no applicable matters prescribed by the regulations.

Section 4.15(1)(b) - likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, development

The modification relates to a new house typology that may impact upon future yield numbers. The modification also includes the possibility of increased upper floor areas with certain house types extending across the full footprint of the ground floor area.

The impacts associated with the modifications are negligible and minor. The footprint of two compact apartments is comparable to that of previously approved house typologies on the identified lots that would be of two-three storeys. The concept approval continues to provide a compact urban form of development with modified development standards intended to achieve the objectives and priorities of the medium density zone.

The varied house type will add to the housing diversity and supply with nearby access to employment areas, services and amenities and the overall development will contribute to economic activity during construction. The modified development therefor continues to have a positive socio-economic impact.

Section 4.15(c) - The Suitability of the site for the development

The site is considered suitable for the proposed modification. An assessment of the development indicates that the modification will not cause significant adverse impacts to the local character and general amenity of the area.

Section 4.15(d) - any submissions made in accordance with the Act or the regulation

Referrals

The application was referred to relevant internal referral groups. Recommended conditions of consent have been included.

Notification

The modified application was not notified to surrounding properties for a period of 14 days between 17 and 31 March 2021.

Advertising

The modified application was not required to be advertised.

In response to the notification two letters were received in objection to the development. The grounds of submission are exactly the same in both letters and can be summarised as follows:-

1.Traffic Impact: a new driveway onto Thomas Street will significantly impact the quiet surrounds and cause significant congestion in the street.

Comment: The modified application does not change the previously approved driveway locations that connect to the existing local road network.

2.Solar Amenity Study: no details are provided it just states that an appropriate level of light is achieved.

Comment: The solar study is contained within the Urban Design Report and includes shadow diagrams between 9am and 3pm in the winter based upon the site being developed to its maximum capacity and height.

3.Four Storey Residences will overshadow Thomas Street and impact views from upper floor windows that provide the only natural light into rooms.

Comment: No four storey residences are approved within the concept application. Whilst the south-western corner of the lot is identified as a potential apartment site this will be subject to a separate application that will be required to address overshadowing and overlooking.

4.Noise and Mess: Building of this site will create significant noise, dirt and dust causing disruption to our way of life; builder's vehicles will cause further impacts.

Comment: Standard conditions of consent will apply to subdivision works and future dwelling construction to minimise impacts upon surrounding residences. The development will also be subject to standard hours of construction. The redevelopment of the site will result in short term disturbance but result in an improved streetscape presentation as the cleared, vacant block is developed.

Section 4.15(e) - the public interest

The public interest is best served by the consistent application of the requirements of the relevant planning controls and by Council ensuring that any adverse effects on the surrounding area and the environment are avoided. The modified development introduces one new house typology that has been described earlier in the report. The changes to the previously approved

concept application are minor and the overall plan of the site remains as existing. The range of house typologies proposed at the site is intended to attract a wide range of investors and families and approval of the modification is considered to be in the public interest.

Other Legislative Requirements

Section 1.7 of the EPA Act 1979 and Part 7 of the *Biodiversity Conservation Act 2016* (Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats)

The modified development does not result in the removal of any native vegetation and is not within an area identified as having significance in terms of native vegetation and/or threatened habitats and species. There is no vegetation on site and no further assessment is required under these provisions.

Council Policies

None

Development Contributions - Section 7.11/7.12 Environmental Planning and Assessment Act 1979 & Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000

No contributions are payable as a result of the modification. Developer contributions will be linked to the future subdivision of the land.

Other Approvals

None required

Conclusion

The modified development is considered to be satisfactory based on the foregoing assessment. The proposal complies with the requirements of the Environmental Planning and Assessment Act 1979 and Councils Policies.

RECOMMENDATION

It is recommended that application number DA19/0537.01 to modify Development Consent DA19/0537 for Concept Development Application – modify urban design report to include additional dwelling type and minor variations be approved subject to the following conditions:-

Approved Plans and Documentation

This development application is for concept development approval under Part 4.4 of the Environmental Planning and Assessment Act 1979. This approval is to establish the authority of DA19/0537 documentation for lands at 231 Gurwood Street for master planning and development control purposes. It does not give consent for physical works to the site.

- A.1 The future development on the site must be assessed and carried out and in accordance with the approved plans and specifications as follows.

Plan/DocNo.	Plan/Doc Title	Prepared by	Issue	Date
-	The Leagues Urban Design Report	Roberts Day	M	2/2/2021
-	Statement of Environmental Effects	Iris Planning	-	09/2019
	Statement of Environmental Effects - Addendum 2021	K Montgomery		January 2021
-	Geotechnical Investigation & Pavement Design	Aitken Rowe	-	19/11/ 2014
-	Electromagnetic Survey	Terrabyte Services	-	04/2014
180763	Traffic Impact Assessment Report	Traffic Works	-	15/11/2019

The Concept Development Application has been determined by the granting of consent subject to and as amended by the conditions of development consent specified below.

REASON: It is in the public interest that future development on the site is carried out in accordance with the approved plans.

A.2 Prior to the lodgement of any future development application(s), taking up the provisions of the concept development approval, a revised Urban Design Report shall be prepared and submitted for approval by the General Manager or his delegate addressing and incorporating the following:

- ☐ Provide a set of development controls in the Urban Design Report that apply to all future development on the site. This is to incorporate the proposed provisions of the Urban Design Report and where relevant, the provisions of the Wagga Wagga DCP 2010 that will still apply.

Note 1: The Urban Design Report provides new precinct controls that will be applicable to future development the site. These controls are in lieu of a number of provisions in the Wagga Wagga DCP 2010. Other parts of the Wagga Wagga DCP 2010 will apply to future development on the site. This must be clarified and reflected in the Urban Design Report.

- ☐ Provide an updated version of the Urban Design Report that provides direction for the notification of future development applications on the site.

Note 1: The concept development application has been the subject of public consultation. Excepting the site identified as 'apartment site or residential age care', future development applications that are consistent with the provisions of the approved Urban Design Report and supporting Master Plan shall not be subject to the public consultation requirements of Section 1.10 of the Wagga Wagga Development Control Plan 2010.

- ☐ Provide an updated version of the Urban Design Report to address solar access for the entire development site.

Note 1: Section 08 of the Urban Design Report only addresses the solar amenity of the “apartment site” and not the remainder of the site. It is noted that solar access within the site will not be able to comply with the solar access provisions of the Wagga Wagga DCP 2010, however this needs to be reflected and clearly illustrated in the Urban Design Report for future reference and assessment purposes.

- ☐ Provide and include a Staging Plan in the Urban Design Report, clearly outlining the sequence of future development and works included in each stage.
- ☐ Provide an updated version of the Urban Design Report and supporting Master Plan to incorporate the following recommendations of the Traffic Impact Assessment Report;

REASON: It is in the public interest to ensure that future development is assessed and carried out in accordance with the concept approval and supporting information.

- A.3 Prior to the lodgement of any future development application(s), taking up the provisions of the concept development approval, the applicant is to provide Council with an asbestos clearance certificate by a suitably qualified person.

Note 1: A previous development consent under DA14/0536 for the demolition of the club building on the site required an asbestos clearance certificate. This has not been provided at the time of the assessment of this application.

REASON: It is in the public interest that to minimise the risk of contamination to human health and the environmental prior to occupation of the site.

- A.4 Prior to the lodgement of any future development application(s), taking up the provisions of the concept development approval, a stormwater management plan is submitted for approval.

REASON: It is in the public interest that stormwater is managed on site without impacting on adjoining properties.

- A.5 Prior to the lodgement of any future development application(s), taking up the provisions of the concept development approval, a revised Urban Design Report shall be prepared and submitted for approval by the General Manager or his delegate addressing and incorporating the recommendations of Traffic Impact Assessment Report.

REASON: It is in the public interest that traffic is managed consistent with the recommendations of Traffic Impact Assessment Report.