



Report of Development Application

Pursuant to Section 79C of the Environmental Planning and Assessment Act 1979

APPLICATION DETAILS

Application No.:	DA16/0212
Modification No.:	N/A
Council File No.:	D/2016/0212
Date of Lodgement:	15/04/2016
Applicant:	Debbie Cox Debgar Holdings Pty Ltd 11 Tallowood Cres LAKE ALBERT NSW 2650
Proposal:	Change of Use to Transitional Group Home, New Front Fence, Covered Outdoor Living area and Deck.
BCA Classification:	1b, 10 a and 10 b
Development Cost:	\$50000
Assessment Officer:	Adriaan Stander
Description of Modification:	N/A
Type of Application:	Development Application
Other Approvals:	Nil
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	Yes, between 05/05/16 and 23/05/16
Advertising:	Yes, between 29/06/16 and 15/07/16
Determination Body:	Council
Reason:	Section 1.11 of the DCP requires that where more than 10 submissions are received the application must be determined by Council. More than 10 submissions in the form of objections have been received for and against the development proposal; it therefore must be determined by Council.
Meeting Date:	8/08/16

Owner's Consent Provided: Yes, 15/04/16
Location: Located on the north-western corner of the Gurwood Street and Gossett Street

SITE DETAILS

Subject Land: 199 Gurwood St WAGGA WAGGA NSW 2650
Lot 23 Sec 2 DP 12856, Lot 24 Sec 2 DP 12856
Owner: Debgar Holdings Pty Ltd

PLANNING CONTROLS / STATUTORY CLASSIFICATION

Pursuant to Part 4 (Division 1)

Environmental Planning Instrument: Wagga Wagga Local Environmental Plan 2010
Zoning: R1 - General Residential Zone
Land Use Definition: Transitional Group Home
Statement of Permissibility: Permitted with consent

DESCRIPTION OF DEVELOPMENT

The application is for a Transitional Group Home at 199, Gurwood Street, Wagga Wagga. The proposal is to convert the existing house (previously used for Bed and Breakfast accommodation) into a facility that would provide accommodation for people recovering drug and alcohol addiction.

The facility will operate as the *Riverina Recovery House*.

The facility will have 16 bedrooms, 10 bathrooms, one kitchen, one laundry, an office, two therapy rooms, living rooms and a dining room. Because only 12 residents will be allowed, the remaining 4 bedrooms will be reserved for multi-purpose uses, including storage, administration or recreation.

The application indicated that the facility will employ 12 to 14 local people with no more than 7 staff members on-site at any one time and that it would include the house manager, an administration officer, a chef, 3 therapists and groundskeeper. Typically there would be approximately 5 staff members on-site. On weekends there will be no more than 2 staff members. Of the staff, only one residential care worker (night carer) out of a permanent part-time team will reside at the facility on any night, usually on a shift from 6pm to 8am but there will be staff coverage 24 hours a day. In the first six months, training/senior managerial staff from the Sanctuary Byron Bay will also be in residence (one at a time), likely on a week on/a week off schedule.

The facility will provide accommodation for suitably-detoxed residents (i.e. they have already completed an approved drug and/alcohol detox/treatment programs) where they receive support during recovery from drug and/or alcohol addiction. Residents will be provided with a range of therapies and services to assist in establishing, practising and maintaining a comfortable and healthy routine including therapy sessions, educational sessions, health and wellness activities (such as yoga and meditation) and fitness training. All residents will be subject to compulsory curfews which mean that no resident

can leave the premises after an agreed time. During the day, residents have scheduled activities planned but are free to come and go between any arranged commitments.

A typical week at the facilities includes:

- *Daily morning meetings to review individual daily plans and house issues;*
- *a mix of interventions including process groups and educational groups intermingled with recreation, exercise and engagement with external community (allied health practitioners, bodywork, volunteer work etc.)*
- *Individual counselling twice a week in addition to other structured interventions such as groups and activities. Individual therapy allows faster resolution of personal issues and encourages consistent self-reflection.*
- *Encouragement for residents to seek out and utilize community resources (gyms, yoga studios, complementary health practitioners, libraries etc.) so they are better resourced upon leaving.*
- *Strong focus on building healthier relationships - with peers, with family, with staff and with others in the community. Education about healthy communication, healthy boundaries and healthy support giving and receiving.*
- *Focus on emotional recognition, management and self-regulation. Residents are encouraged to become more emotionally intelligent and exercise self-restraint countering habitual reactivity.*
- *Strong focus on relapse prevention - residents are encouraged to become more aware of their triggers, their vulnerabilities to relapse and any habitual thinking patterns leading them astray.*
- *Domestic work periods to maintain the house and grounds.*
- *Volunteer periods where residents make contributions to the community.*
- *Compulsory curfews between 11pm and 7am on weeknights (slightly later on weekends) where no resident is to leave the premises without permission.*

A minimum stay for residents at the facility will be 8 weeks, but residents can choose to stay longer, for up to 4 months typically.

The original application included a 1.8m high open style fence along Gurwood Street and Gossett Street; however the application has been amended now requesting permission for a 1.5m high open style fence.

The proposal also includes a new covered outdoor living area and an open deck area between the main living areas and along the western side of the site.

Some minor internal changes are proposed to accommodate the proposed use.

THE SITE & LOCALITY

The development site comprises of two lots, being Lot 22 and 24 Section 2 on DP 12856 and is located on the north-western corner of the Gurwood Street and Gossett Street. The total site area is approximately 1,385sqm in size and the existing building on the site has been used up to recently for Bed and Breakfast accommodation.

The locality is an existing populated residential area and is surrounded by dwellings.

MATTERS FOR CONSIDERATION UNDER THE ENVIRONMENTAL PLANNING AND

ASSESSMENT ACT 1979

The following information/documentation was submitted by the applicant that was considered as part the assessment.

- Statement of Environmental Effects by MJM, dated 13/04/16.
- Additional Information and response to submissions by MJM, dated 24/06/16.
- Additional Information demonstrating a need for the facility, lodged by the applicant on 15/05/16.

For the purpose of reviewing this determination, the following matters pursuant to the provisions of *Section 79(C)1 of the Environmental Planning and Assessment Act 1979*, have been taken into consideration:

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

Wagga Wagga Local Environmental Plan 2010 (LEP)

Part 2 Permitted or prohibited development

2.3 Zone objectives

Under the provisions of the LEP, the subject site is zoned R1, General Residential. The objectives of the R1, General Residential Zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure co-ordinated and cost-effective provision of physical, social and cultural infrastructure in new residential areas.*

The proposed development is considered consistent with the above objectives, in particularly the first and second objectives that aim to provide a mixture of housing types for the need of the community. Residents of the facility will be provided with a range of therapies and services to assist in establishing, practising and maintaining a comfortable and healthy routine including therapy sessions, educational sessions, health and wellness activities and fitness training which in turn will contribute to the social infrastructure of the city in accordance with the third and fourth objective.

Permitted land uses in the zone

The proposed land use is best defined in the LEP, as a *Transitional Group Home* which means *a dwelling*:

- (a) *that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and*
- (b) *that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary*

accommodation comprising refuges for men, women or young people, but does not include development to which the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

A Transitional Group Home is permitted with consent in the R1, General Residential Zone.

Part 3 Exempt and Complying Development

The proposed development is not for Exempt or Complying Development. The application is seeking consent.

Part 4 Principle Development Standards.

There are no principle development standards applicable to this development application.

Part 5 Miscellaneous Provisions

There are no miscellaneous provisions applicable to this development application.

Part 6 Urban Release Areas

The site is not in an urban release area.

Part 7 Additional Local Provisions

7.2 Flood Planning

The site is identified as being located in a 'flood area'.

(1) *The objectives of this clause are as follows:*

- (a) *to minimise the flood risk to life and property associated with the use of land,*
- (b) *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) *to avoid significant adverse impacts on flood behaviour and the environment.*

The impact of the proposed development is considered to have no significant impact on flooding as the proposed development is for a land use change of an existing developed site which is protected by the main city levee. This is discussed in more detail under the flood controls of the *Wagga Wagga Development Control Plan 2010* (refer to part a(iii) of this report).

State Environmental Planning Policies

The following state planning policies have been considered as part of the development assessment.

- **State Environmental Planning Policy (Affordable Rental Housing) 2009**

Clause 8 of the above SEPP requires that if there is any inconsistency with other environmental planning instruments (e.g. the Wagga Wagga Local Environmental Plan, 2010), this policy prevails.

Under Clause 43(b) of the SEPP, a public authority is able to establish a transitional group home of no more than 10 bedrooms in certain zones (including the R1, General Residential Zone) without obtaining development consent. A transitional group home may also be established as complying development under the provisions of clause 45 (1) of the SEPP if it does not result in more than 10 bedrooms and satisfies the relevant development standards listed under Schedule 2 of the SEPP.

The application will be established by a private entity and the proposal is for more than 10 bedrooms and therefore is not considered as Exempt Development or Complying Development.

For development where development consent is required (therefore other than exempt or complying development as mentioned above) the following applies:

Clause 46 (1)(a) of the SEPP states that the consent authority *“must not refuse a development application for the purpose of a group home (a transitional group home) unless the consent authority has made an assessment of the community need for the group home”*. This clause requires assessment of the community need for the group home before a refusal of consent can occur. The applicant has provided information which demonstrates that there is a need for the development, and this is also supported by the amount of submission by the general public in favour of the proposal. An assessment of the application in consideration of the need for the facility satisfies the requirements under this provision of the SEPP.

In addition to the above, Clause 46(1)(b) states that the consent authority *“must not impose a condition on any consent granted for a group home only for the reason that the development is for the purpose of a group home”*. The practical implication of this clause is that Council may not be able to impose conditions that would unreasonably restrict the use. If Council decides to approve the application, the recommended conditions of consent are not considered inconsistent with this provision of the SEPP.

- **State Environmental Planning Policy No 55-Remediation of Land (SEPP 55)**

SEPP 55 prescribes a statutory process associated with the development of land that is contaminated and needs remediation. The subject land is not listed on Council's register of potentially contaminated land. No evidence was found on-site of any activity that may have contaminated the land and the landholder is unaware of any land contamination. It is considered that the land is not contaminated and the provisions of SEPP 55 have been satisfied.

- **State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

Clause 2.3.4 of the SEPP allows front fences of up to 1.2m in height to be erected within the residential zone without development consent. The proposal is for a 1.5m high front fence which therefore requires Council consent.

(a)(ii) - The provisions of any draft environmental planning instrument

Draft local environmental plans

There are no draft local environmental plans relevant to this application.

Draft state environmental planning instruments

There are no draft state environmental planning instruments relevant to this application.

(a)(iii) - Any development control plan

Wagga Wagga Development Control Plan 2010 (DCP)

Section 1 - General

1.10 Notification of Development Application

Pursuant to this provision, notification and advertising of the application are required. Notification was conducted to properties surrounding the development and an advertisement was placed on the site and in the local newspaper between 4/05/16 and 23/05/16. The application was re-notified between 29/06/16 and 15/07/16. See later in this report under S79C(1)(d) for further discussion of this matter.

Section 2 - Controls that apply to all development

2.1 Vehicle access and movements

This section of the DCP contains controls to ensure the safe and efficient operation of roads within the local government area of Wagga Wagga. The potential impacts of traffic generated by the proposed development are considered minor and will not result in any traffic safety issues. Existing road infrastructure is able to accommodate the use. The proposed development makes provision for suitable access to existing movement systems. Access to the facility is proposed off Gurwood Street. Recommended conditions of consent also provides an opportunity to provide access of Gossett Street.

2.2 Off-street parking

This section of the DCP requires developments to provide off-street parking to meet anticipated demands. The applicant provided the following information in relation to the demand for parking:

- *There will be no more than 12 residents.*

- *There will be no more than 7 staff members at the facility any given point in time. Generally there will be 5 staff members during the week and 2 over weekends.*
- *Residents are not allowed to drive or to have vehicles at the site.*
- *A mini bus will be available to transport residents.*
- *Visitation will be restricted.*
- *The property has long frontages to both Gurwood Street and Gossett Street. There is space for approximately 3 vehicle in Gurwood Street and 6 along Gossett Street.*
- *The parking requirement for the subject development is to be calculated, according to the WWDGP 2010 methodology, by subtracting the current/previous use's parking requirement (16 spaces) from the proposed use's parking requirement (not more than 16 spaces as per other legislation and comparable DCP's consulted) to determine any additional parking necessary to be provided. Consequently, the development does not require the provision of any additional off-street parking spaces.*

The following matters have been considered by Council staff to determine the on-site parking requirement for the facility:

- There are no specific parking controls in the DCP for Transitional Group Homes.
- There appears to be no requirement in terms of previous consent for the Bed and Breakfast facility to provide parking.
- The State Environmental Planning Policy (Affordable Rental Housing) 2009 provides guidance on parking requirements for group homes. Clause 16(1) of the SEPP requires a minimum 2 off-street car parking spaces. In the absence of any parking requirement in the DCP for transitional group homes, the parking requirement of the SEPP is considered appropriate and applied to the use.
- There is sufficient space to provide 2 parking spaces on-site. One parking space may be able to be provided off Gurwood Street and one off Gossett Street.

If Council decides to approve the application, recommended conditions of consent require 2 parking spaces on-site and that a revised layout plan to this effect be submitted for approval.

2.3 Landscaping

No additional landscaping is proposed as part of this application.

2.4 Signage

No signage is proposed as part of this application.

2.5 Safety and Security

This section of the DCP requires that the design of new buildings and public spaces to consider potential safety and security issues. The proposal is not for a new building or public space. The proposed use will operate from an existing building and with the exception of some minor internal changes and the addition of the front face and covered patio area and deck, the design of the building will remain

generally the same. In addition, with the implementation of appropriate lighting, the new proposed fence, the application will be able to comply with the provisions under this section of the DCP.

This section of the DCP also requires a crime risk assessment for certain types of development, however the transitional group home is not a listed use for this purpose and a crime assessment is therefore not required.

Nonetheless, the application has raised some community concerns with regards to safety and security.

An assessment of the application concludes that, while the concerns about safety and security are real, they are generally not supported by evidence that these impacts will occur and that many of these concerns are based on perception. There is also no evidence that the staff or residents of the proposed development will have a need to access to police or other emergency services that is greater than any other members of the community.

The application makes reference to a number of operational practices proposed to address these concerns including regular drug testing of residents, a caretaker to monitor all visitors and a selection criteria of residents.

2.6 Changing the land form - cut and fill

No cut and fill is proposed.

2.7 Erosion and Sediment Control Principles

Temporary sediment and erosion control measures will be implemented during construction. Conditions of consent are imposed in this regard.

2.8 Development adjoining open space

The proposed development is not located directly adjacent to a public open space, however it is located approximately 30m south-west of Cox Park opposite Gossett Street. The objectives of this section of the DCP are to ensure that development that adjoins open space contain its impact within the boundaries of the development site and to encourage a positive visual and physical relationship with the open space.

The relevant controls under this section relate to new building construction and are therefore not considered applicable to this development application. The submissions received against the application do raise concerns about the impact of the proposed use on the amenity of the park. This is discussed in more detail in the section of the report that deals with the submissions.

Section 4 - Environmental Hazards and management

4.2 Flooding

The Wagga Wagga Floodplain Risk Management Study 2009 identifies flood risk precincts. The subject site is located in Central Wagga Wagga and is protected by

the main city levee. Although the locality is protected by the main city levee, the levee only provides protection to a level below the 1:60 ARI flood event. Major flood events therefore possibly still may have an impact on infrastructure within the flood plain. It is generally required as a condition of consent that floor levels of all new habitable structures be raised 225mm above the existing ground level and that actions may be undertaken to ensure that residential development is built at 500mm above the 1:100 year flood event. The proposed use will operate from an existing building and it does not include any additional habitable rooms. The risk to property and life as a result of potential flooding is therefore considered minor. There are no further requirements applicable to this development under this section of the DCP.

Section 9 - Residential Development

9.2.2 Streetscape

The aim of the controls under Section 9.2.2 is to maintain good streetscapes in residential environments. This includes well defined front gardens with fences that allow good relation with the street frontage. The objectives are:

- O1 *Encourage compatibility with existing built form.*
- O2 *Encourage attractive streetscapes.*
- O3 *Ensure a strong street edge with good definition between the public and private domain.*
- O4 *In locations where front fences are an important feature of the established streetscape, ensure that new fences complement the character of the streetscape.*

The application seeks to vary the following controls to permit a 1.5m high fence.

- C2 *Front fence height forward of the building line is not to exceed 1200mm. However, a side boundary fence forward of the building line may be permitted to taper from the maximum permitted height (1.8 metres) at the building line down to the 1200mm maximum permitted height at the front boundary.*

The applicant has provided the following justification to vary the control,:

“ .. the surrounding area is not cohesive in terms of the architectural style of the dwelling and visible fencing. As such, the proposed fence does not present an opportunity to disrupt any streetscape rhythm in this regard. We content that the proposed fence is consistent with the objective of Section 9.2.2 and further, that the pier and timber panel fence style will be a significant improvement on the present style employed on the property. The proposed fence is important for the purpose of providing residents of the facility with a sense of privacy and sanctuary so they can enjoy leisure and recreation activities in the ground of the dwelling. The visual permeability of the timber slat infill panels from both the inside and outside provide this desired sense of privacy, whilst also ensuring it does not feel isolated from the neighbourhood. From the submission, it is also apparent that privacy of surrounding residents is a concern and the proposed fence will provide as much benefit to surrounding residents as the residents of the facility.”

The proposed fence is 300mm higher than the DCP requirement and the height of front fences that would generally be considered as exempted development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

The predominant height of fences in both streets does not exceed 1.2m. The 1.5m high open style fence is not considered consistent with the predominant height of fences in locality, but it is still able to meet the overall objectives under section 9.2.2 as it will be compatible with the existing built form and will still be able to provide a strong street edge with good definition between the public and private domain.

The original proposed 1.8m high fence was not supported by Council's Assessment Officer, however the revised proposal for a 1.5m high open style fence (even though not ideal) will improve the privacy for residents and surrounding neighbours.

The proposed variation of control C2 to allow a 1.5m high open style fence is therefore supported and recommended for approval. The submitted plan still depicts a 1.8m high fence and if Council supports the recommendation, the recommended conditions of consent requires a revised plan with a 1.5m high fence to be submitted for approval.

Section 1.11 of the DCP requires any numerical control being varied by greater than 10% to be determined by Council. The proposed variation constitutes a variation of 25% and must therefore be determined by Council.

There are no other provisions under Section 9 of the DCP applicable to the development application.

(a)(iia) - any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

There are no planning agreements in place for this proposal.

(a)(iv) - any matters prescribed by the regulations

Matters prescribed by the *Environmental Planning and Assessment Regulation 2000* have been satisfied.

(b) - The likely impacts of the development

Context and setting

The locality of the proposed development is residential in nature. The proposal is to operate a new use from an existing building and with the exception of some minor internal changes and the addition of the new front fence and covered patio area and deck, the building will remain generally the same, therefore it would be difficult to argue that the structures on the site is out of character or not consistent with the context and setting.

However, the proposed use is not necessarily one that would be expected in the locality.

The Wagga Wagga LEP permits *Transitional Group Homes* in the zone with Council consent and as previously explained, the Affordable Housing SEPP also allows this type of development in the zone as exempted development or as complying development. Because the SEPP allows the use in the zone as exempted or complying development, it could be interpreted that the impact of such a use in a residential setting would generally be considered minor or of very little concern.

The application has raised some fears in the community particularly from people living in the vicinity of the development site. The applicant has put in considerable effort to provide information about the operation and the management of facility and to address the concerns of people opposed to the development. An assessment of the application has concluded that the use is compatible with the existing context and setting.

Socio - Economic Impacts

Section 79C(1)(b) of the NSW Environmental Planning & Assessment Act 1979 specifies the matters that Council should take into consideration when assessing development applications. One of the main considerations is to assess *“The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.”* Clause 46 (1)(a) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 also requires Council to consider the need of the facility before making a determination.

The applicant has provided the following information to demonstrate the socio -economic impact of the proposed development:

“The Riverina Recovery House is a private venture with no local, state or federal government funding involved. It receives no public grant monies, no subsidies and no other support from the public purse. It is intended as a fee for service residential service targeted at a middle class to upper middle class demographic.

While we acknowledge that media publicity about opposition to the Riverina Recovery House has in the short term caused uncertainty and fear about the impact of the Riverina Recovery House on property prices, we have no doubt that once established, no long-term impact will be suffered. This is borne out by many studies examining the impact of residential group homes on property prices showing no long-term adverse effects.

More specifically, we have recently commissioned two reports from independent property valuers in Byron Bay and in Wagga Wagga to review the impact of the existing Sanctuary Recovery House in Byron Bay and the likely impact of the proposed Riverina Recovery House in Wagga Wagga. These independent reports agree with the wider research and concluded that no long-term adverse impact is likely.

We note that despite short term skittishness about the impact of the facility, local residents, namely the previous owners of Millie’s Guesthouse have already been the beneficiaries of the recent sale of the property to the developers. These economic gains are likely to continue for the rest of the local community as

residents of the recovery house live, shop and utilise services within the local neighbourhood, spending money on goods and services that might have otherwise been spent on drugs and alcohol.

The Riverina Recovery House will also be employing local people, creating job opportunities where none previously existed.

We would also like to make note of the real social and economic costs of drug and alcohol addiction, already indirectly borne by all local residents, and residents of the wider Wagga Wagga region, whether they realise it or not. An Australian government study surmised that alcohol and illicit drug use throughout Australia costs the community up to 23 billion dollars in 2004/2005. These costs relate to lost economic productivity due to drug use, drug related mortality, health treatment costs, criminal activity etc. Similarly a study commissioned by the Australasian Therapeutic Communities Association (ATCA) in 2002 found that for a single person abusing substances, the cost to the Australian community averaged some \$180,000 per person per year.

Treatment helps reduce these costs. Drug addiction treatment has been shown to reduce associated health and social costs by far more than the cost of the treatment itself. Treatment is also much less expensive than its alternatives, such as hospitalisation or incarceration.

Following the ATCA 2002 study, every 12 residents successfully completing a program and remaining abstinent for a year will save the Australian community at least \$2.16 million that year. Even if we treat 40 residents in a year with a conservative expectation that 2/3 will remain abstinent for a year, this will still save the Australian community \$6 million a year. If most of these residents come from the Wagga Wagga region, these savings will be felt in those local communities.

According to several conservative estimates, every dollar invested in addiction treatment programs yields a return of between \$4 and \$7 in reduced drug-related crime, criminal justice costs, and theft. When savings related to healthcare are included, total savings can exceed costs by a ratio of 12 to 1. Major savings to the individual and to society also stem from fewer interpersonal conflicts; greater workplace productivity; and fewer drug-related accidents, including overdoses and deaths.

There is little doubt that the provision of drug and alcohol treatment takes people out of active addiction into more productive lives, resulting in enormous savings to the community at large, let alone intangible benefits such as improving social functioning of people in recovery, otherwise lost to addiction.”

The rationale for facilities like the proposed development is their contribution to achieving broader public objectives around general public health, social cohesion and liveability. The proposed development will not only assist in improving people’s lives but will also contribute and improve the overall social structure and profile of the city.

An assessment of the application, in particular reference to the need of such a facility, has demonstrated that there is an overriding social-economic benefit to the broader community. In terms of the local community, the applicant has put in considerable effort to address the concerns of local residents. This is discussed in more detail in the section of the report that deals with the submissions.

Operational impacts, Safety and Security

As mentioned before, the application has raised some community concerns about safety and security. While the concerns about safety and security are real, they are generally not supported by evidence that these impacts will occur and that many of these concerns are based on perception. The application makes reference to a number of operational practices proposed to address these concerns including regular drug testing of residents, a caretaker to monitor all visitors and a selection criteria of residents.

Noise

Section 48A of the Environment Protection Act 1970 makes it an offence to cause unreasonable noise from any residential premises. Residential noise may be unreasonable at any time of the day, depending on its volume, intensity and duration, and the time, place and other circumstances in which it is emitted. The proposed development is unlikely to produce any noise impacts greater than those of a typical large dwelling in the area.

Access, transport and traffic

Matters regarding traffic generation and access have been discussed elsewhere in this report. It is considered that the proposed development will have an impact on traffic and the existing road infrastructure. Conditions of consent include requirements to provide a minimum of 2 parking spaces on-site.

Infrastructure services

The development is already connected to all required services. The previous use was for a 16 bedroom guesthouse and the proposed facility will provide accommodation for a maximum of 12 people. No additional infrastructure is required or proposed as part of the application.

Property values

A number of submissions state that approval of the proposal will decrease land and property values in the area and suggest that this is grounds for refusal of the application. While decline in property values is often raised as an issue of concern with development proposals, the generally accepted assessment position is that property values should not be assessed in isolation of other potential impacts that may result from the development (such as amenity impacts). The valuation of property is not a planning ground and cannot be considered as a relevant reason to refuse an application.

Natural hazards

As mentioned elsewhere in this report, the site is in a flood area, but is protected to the

main city levee. The risk in to property and human life event of a flood is considered low.

The Principles of Ecologically Sustainable Development

The proposal is considered to comply with the principles of Ecologically Sustainable Development such as inter-generational equality and conservation of biological diversity and ecological integrity.

(c) - The suitability of the site for the development

The impacts on the existing environment are dependent on a range of factors, which is not limited to the matters that have been covered in this report. The subject site is located within an area that is zoned and designated for the type of development proposed by the application. The suitability of the use being located in a central location with easy access to shops, medical facilities and other services is considered appropriate.

As the city continues to grow, local officials and community members are constantly challenged by the need to balance fiscal, social, economic, and environmental goals. One aspect of this challenge is deciding how much and what types of new development the community can accommodate without compromising the day-to-day quality of life for residents. Also of importance, however, are the perceptions of community members about whether the proposed development is consistent with a commitment to preserving the character of the area they live in.

Council officers have tried to strike a balance between the various aspects of public interest and in this instance it is considered that the benefits of the proposed development will outweigh any potential negative impacts associated with the subject approval.

Is considered that the concerns about the management of the facility can be addressed under the recommended conditions of the consent which requires the applicant to undertake a range of actions to mitigate potential impacts of the development on the existing environment; this includes a requirement to submit a management plan and to regularly meet with residents in the locality to address any concerns that may arise as a result of the approval of the facility.

This assessment report has demonstrated that the development is compatible with adjoining uses and that there are no site constraints that would render the site unsuitable for the proposed development.

(d) - Any submissions made in accordance with this Act or the Regulations

Referrals

Standard internal referral occurred. All referrals are in support of the application, subject to conditions.

Notification and advertising

- In accordance with the Council's advertising and notification provisions outlined in Section 1.10 of the *Wagga Wagga Development Control Plan 2010* the application was notified to properties surrounding the development and an advertisement was

placed on the site and in the local newspaper between 4/05/16 and 23/05/16.

- The application was re-notified between 29/06/16 and 15/07/16 with the additional information provided by the applicant.

Other public consultation

Public meetings are not a requirement under the provisions of the DCP. The applicant provided an open invitation to the public as part of the additional information submitted to Council to meet with individuals to discuss their concerns.

Public Submissions and those from public authorities

A total of 46 submissions have been received of which 40 (including 2 petitions signed by 115 people are opposed to the development. A total of 6 submissions (including a petition signed by 625 people) are in support of the development.

It is anticipated that more submissions for and against the proposal will be received by Council prior to the Policy and Strategy Committee Meeting. The above-mentioned submissions and any additional submission after the closing date for submissions (15/07/16) will be provided to the committee members.

The submissions in support of the facility not only indicate a need for the facility, but also indicate that the community would not be opposed to the development at 199 Gurwood Street.

The following is a summary of the objections received with the applicant response (partially taken from the SEE as well as the response to Council's information request). The table also includes Council officers' comments on the submissions.

Objection/concern	Applicant's response	Council officer's comment
Land use definition and Permissibility The original application indicated the use is for a Hostel. The use includes recreational facilities which are not permissible in the zone. The development is of a commercial nature and should not be allowed in the neighbourhood.	<i>We acknowledge there has been some confusion about the change of use classification. Initially we submitted application for change of use of the site to a Hostel as at the time, this classification seemed the most appropriate, but Council subsequently advised that the category of Transitional Group Home was more appropriate for our intents, so subsequently the DA was revised to reflect this advice. Please note that as operators and developers, we do not invent these categories to confuse or to mislead the public. These categories pre-exist and</i>	<p>The proposed use is best described as a Transitional Group Home in terms of the LEP definitions. The recreational use would be ancillary to the main component of the use.</p> <p>The original application was lodged as a Hostel and the Council assessment officer indicated that the land use definition of a Transitional Group Home would be a more suitable land use description in terms of the LEP definitions. A Transitional Group Home is</p>

	<i>are part of State planning definitions. In order to submit a Development Application, we have to adopt a pre-existing category that suits best. In the case of the Riverina Recovery House, which is an unusual model in its scope and scale, Council were satisfied that the category Transitional Group Home was the most appropriate.</i>	a form of residential development and permitted in the R1, General Residential Zone with Council consent.
Zone objectives The proposal is inconsistent with the zone objectives.	<i>The core function of the R1 General Residential zone is to provide area for residential accommodation. The proposed development, a group home, is a type of residential accommodation that is permitted in the R1 zone. The proposal will achieve the objective of improving the variety of accommodation types in the zone. The proposed will provide essential service to local and regional residents who require next-stage treatment in dealing with alcohol and drug addiction. It is necessary to provide this type of service in a normalised residential setting, where the residents are supported in their transition to a clean and sober lifestyle. Despite the intended treatment to be provided to residents, the property will be used in a manner that is compatible with the surrounding residential setting and certainly in quite a manner to which the property is currently used as bed and breakfast accommodation.</i>	<p>The proposed development is considered consistent with the zone objectives, in particular to provide a mixture of housing types for the need of the community.</p> <p>Residents of the facility will be provided with a range of therapies and services to assist in establishing, practising and maintaining a comfortable and healthy routine including therapy sessions, educational sessions, health and wellness activities and fitness training which in turn will provide additional social infrastructure in accordance with the third and fourth objective of the zone.</p>
What Alternative locations have been	<i>The Lake Albert site was proposed only as a possibility as</i>	There is no requirement under Section 79(C)1 of the

<p>considered? A similar proposal was considered at Lake Albert and that did not go ahead. Why did the applicant choose 199 Gurwood Street? Should this development not be established in a new residential area where people can choose to live?</p>	<p><i>the land intended for development had already been owned by the developers for some time, with a DA already approved for the building of four new residential units. However given the site was undeveloped and required a change of use application to build the proposed facility, a formal community consultation was planned for the 16th of December 2015 to gauge resident response before a formal new DA was to be prepared and lodged. At the community consultation, we received considerable opposition with the most vociferous voices deriding the possibility of residents being able to genuinely maintain abstinence from substances; the inference being that relapses would be commonplace and in fact, be a fait accompli. We decided not long after that community meeting, that we would not proceed to lodge a development application and that we would seek an alternative site. The Gurwood Street site was identified as a potentially suitable site and was purchased this year by the developers. A quiet residential neighbourhood is the most appropriate place to site a recovery house precisely because the safety, security and peace of the neighbourhood is conducive to the building of stability and social inclusion.</i></p>	<p><i>Environmental Planning and Assessment Act 1979</i> to address alternative locations.</p> <p>The subject site is located within an area and zone that is designated for the type of development proposed by the application. The suitability of the use being located in a central location with easy access to shops, medical facilities and other services is considered appropriate.</p> <p>Is considered that the concerns about the management of the facility can be addressed under the recommended conditions of the consent which requires the applicant to undertake a range of actions to mitigate potential impacts of the development on the existing environment; this includes a requirement to submit a management plan and to regularly meet with residents in the locality to address any concerns that may arise as a result of the approval of the facility.</p>
<p>How will safety and security be managed?</p>	<p><i>The fear that the facility will bring people in active addiction</i></p>	<p>While the concerns about safety and security are</p>

	<p><i>and dealers into the neighbourhood is unfounded and based on a mistaken assumption that we are providing a 'doss house', a shelter or a hostel for transient, unstable people. Nothing could be further from the truth. The RRH is an abstinent environment with a highly structured assessment and admission pathway where applicants don't just turn up on our doorstep, and where visitors are vetted and require approval. Applicants are screened and assessed by experienced clinicians on the telephone initially, and admitted into program only after completion of a period of assessment and negotiation. This is a planned process, and certainly not ad hoc. Only applicants assessed as being committed to abstinence are admitted and new resident admissions are always planned in advance. Those who are ambivalent or those who are simply not ready to stop using will not be attracted to our services. Only those who sincerely want to live life without substances and who are willing to pay the necessary private fees will end up being residents. This is an important fact to consider.</i></p>	<p>noted, they are generally not supported by evidence that these impacts will occur and that many of these concerns are based on perception. The application makes reference to a number of operational practices proposed to address these concerns including regular drug testing of residents, a caretaker to monitor all visitors and a selection criteria of residents.</p> <p>Recommended conditions of the consent requires the applicant to undertake a range of actions to mitigate potential impacts of the development on the existing environment; this includes a requirement to submit a management plan and to regularly meet with residents in the locality to address any concerns that may arise as a result of the approval of the facility.</p>
<p>The nearby parkland facilities, playground are at risk of becoming short cuts to establishments serving alcohol or a congregation point to take</p>	<p><i>The fear that residents of the Recovery House will take to the nearby parks to partake in drugs, alcohol or crime is unfounded, unsubstantiated and based upon a stigmatising</i></p>	<p>The applicant's comments on this issue are considered reasonable.</p>

<p>drugs and participate in criminal behaviour.</p>	<p><i>depiction of potential residents as desperate, dishonest 'junkies' in active addiction. They are not. They are people committed to living abstinent lifestyles with support. They have also invested in their future by paying significant fees to stay at this proposed facility, knowing full well they forfeit any deposits and payments if they break the rules of the program. In public programs, breaking rules and guidelines might result in expulsion but rarely do people breaking the rules incur financial disadvantage. In our case, the financial disincentive alone of foregoing paid fees in the event of breaching rules and guidelines acts as a strong safeguard against sneaking use of drugs and alcohol. Other safeguards include regular urine drug screens and breathalyser tests and the cultivation of a direct reporting culture where residents are encouraged to report any suspected drug and alcohol use by another resident.</i></p>	
<p>Nearby licensed premises The proximity of the site to several establishments that serve or sell alcohol presents too many temptations to residents of the Recovery House. As it stands, residents of the Edel Quinn shelter congregate at the RSL club. Will this be the same?</p>	<p><i>Residents of the proposed Riverina Recovery House are of a completely different demographic and subject to more supportive constraints. Most are professionals, some will have a trade, others might own their own businesses, yet all will be subject to a principal requirement to remain abstinent at ALL times throughout their stay. They are required to avoid licensed establishments and expected to develop daily living</i></p>	<p>While the concerns about nearby licence premises are real, they are generally not supported by evidence and many of these concerns are based on perception. The application makes reference to a number of operational practices proposed to address these concerns including regular drug testing of residents, a caretaker to monitor the movements and actions of</p>

	<i>plans encouraging healthy structure and routine aimed at helping them live fulfilling lives WITHOUT recourse to substances. Residents will risk expulsion from the program if they are found to have visited pubs and clubs.</i>	<p>residents.</p> <p>As mentioned by the applicant, residents will risk expulsion from the program if they are found to have visited pubs and clubs.</p>
<p>Public benefit What is the public benefit of the facility for the wider community and does that compare with rights of people living in the locality.</p>	<p><i>We agree that it makes no sense to prioritise the well-being of residents of a recovery house in a good neighbourhood at the expense of the comfort of existing neighbours. That would indeed be unfair. But this would only be the case where the situation is painted as an either/or outcome where the happiness and well-being of one party comes only at the expense of the other. This is an unnecessary dichotomy that we do not wish for to be the case. We are striving instead for an outcome where all parties prosper together. What is good for the neighbours of Gurwood Street and what they value is exactly what residents of the Recovery House will value themselves: that is, peaceful and harmonious co-existence, respect for others, healthy living, and general good neighbourliness with regards to the offering of support and assistance where required. We note that many people struggling with substance use are ALSO law abiding, tax and rate paying citizens, just like their neighbours. Recovery House residents, if given the chance, can contribute greatly to</i></p>	<p>Council officers have tried to strike a balance between the various aspects of public interest and in this instance it is considered that the benefits of the proposed development will outweigh any potential negative impacts associated with subject approval.</p> <p>The proposed development will contribute to general public health, social cohesion and liveability. The proposed development will not only assist in improving people's lives but will also contribute and improve the overall social structure and profile for the city. The application has demonstrated that there is an overriding social-economic benefit to the broader community.</p>

	<i>the safety and security of the neighbourhood.</i>	
As a bed and breakfast, there were problems with people smoking and drinking - this will get worse with people who are detoxing.	<p><i>First, we wish to clarify that no-one will be detoxing at the Riverina Recovery House. It is a requirement of admission that new residents have completed a suitable detox program.</i></p> <p><i>Secondly, we agree and note that in its previous guise as Millie's Guest House, no restrictions existed to moderate smoking or drinking, or indeed, drug taking by previous Bed and Breakfast residents, but as a Recovery House, very strict guidelines are enforced regarding abstinence. In short, the Recovery House is a 'dry' facility - no alcohol or drugs are allowed on the premises and use of alcohol and drugs is prohibited both on and off site during residency. Smoking is also restricted to designated outdoor zones situated so as to not inconvenience neighbours, with very strict guidelines as to how butts, foils and ash are to be disposed. No smoking will be allowed indoors, near doorways, or in shared outdoor recreational spaces. The aim is to make smoking a vaguely uncomfortable experience so as to remind smokers of the harms associated with smoking.</i></p>	The applicant's response to this concern is considered reasonable. Rules and regulations are to be included in the operational management plan which is required by the recommended conditions of consent.
If residents are asked to leave, how will their exit be managed and monitored?	<i>All new residents will be requested to complete a Safety Plan on Exit prior to their admission. Once admitted, they have to be willing to refine this plan in consultation with Riverina Recovery House staff.</i>	Recommended conditions of consent require an operational management plan to be submitted to Council for approval. The operational management plan is to include general

	<i>The Safety Plan on Exit is a comprehensive contingency plan that outlines how they are to leave the Riverina Recovery House in particular circumstances, one of them being, if they relapse and use drugs and alcohol and are asked to leave.</i>	provisions of Safety Exit Plans.
Will there be curfews for residents?	<i>All residents of the Riverina Recovery House will be subject to a nightly curfew, usually around 10.30-11pm. This means no resident can leave the premises after an agreed time. During the day, residents have scheduled activities planned but are free to come and go between any scheduled commitments. Restrictions on movement of clients apply only in the first week or two, when we want them to settle into their new environment. Initially, we ask them not to go out without escort and we limit the boundaries of their movement to begin with, relaxing such constraints over time. As residents are not allowed to drive cars, their movements will be naturally restricted by their choice of transport, be it walking, bicycle or public transport.</i>	Recommended conditions of consent require an operational management plan to be submitted to Council for approval.
Number of residents The existing building has 16 bedrooms. What guarantee will there be that the 12 bed capacity is upheld?	<i>The Gurwood street site has 16 available bedrooms but the resident capacity is capped at 12 to ensure a manageable domestic environment while still enabling commercial viability. Any unused bedrooms will be assigned as multi-purpose rooms, meeting rooms or offices</i>	Recommended conditions of consent restrict the number of residents to 12.

	<i>as required.</i>	
Noise Potential loud playing of music and musical instruments will be stressful to surrounding residents.	<i>There is no provision to deny anyone the right to have a musical instrument or to prevent them playing music providing they do so during reasonable times and at a reasonable volume. We urge anyone affected by noise or inappropriately loud music to contact us immediately so we can take steps to rectify any inconvenience to neighbours.</i>	<p>Section 48A of the Environment Protection Act 1970 makes it an offence to cause unreasonable noise from any residential premises.</p> <p>Residential noise may be unreasonable at any time of the day, depending on its volume, intensity and duration, and the time, place and other circumstances in which it is emitted. The proposed development is unlikely to produce any noise impacts greater than those of a typical of a large dwelling in the area.</p>
Accreditation Is there an independent accreditation process or legislation to protect us? Who regulates the industry?	<i>Private sector drug and alcohol services are not subject to any government regulation or oversight unless such services are provided by private hospitals licensed under the Private Health Facilities Act 2007. As a non-medical facility, we are not subject to this Act, however, we believe this situation is not ideal for consumers of private sector services. We actually believe regulation and oversight is necessary and we are currently lobbying for uniform standards to be applied across private sector drug and alcohol residential services. Private sector services can however, choose to be accredited under several existing quality frameworks, with the Australian Service Excellence Standards (ASES), the Australian Council</i>	<p>Accreditation is voluntary, however the facility is required to utilise the guiding drug and alcohol and/or mental health policy and services delivery for public funded program in NSW.</p>

	<p><i>on Healthcare Standards (ACHS), and International Organisation for Standardization (ISO) being notable examples. Accreditation is voluntary, not compulsory but quality private sector services tend to agree that accreditation is worthwhile pursuing. However the process of accreditation can only commence once a service is established and running. Accreditation assesses real-time workings of an organisation, not merely the ideas and policies behind it. The Riverina Recovery House intends to pursue accreditation once established, although which quality framework would be the most appropriate is yet to be determined.</i></p>	
<p>Visual impact and proposed fence height The proposed development will chance the character and visual amenity of the area. The proposed 1.8m is not compliant with the DCP fence height restrictions</p>	<p><i>From the outside, the facility will look like any other house on the street with no identifying signage.the surrounding area is not cohesive in terms of the architectural style of the dwellings and visible fencing. As such, the proposed fence does not have the ability to disrupt any streetscape rhythm in this regard. We contend that the proposed fence with piers and timber panelling will be a significant improvement on the present fence style employed on the property. However, having established that precedence does exist with regards to fences up to 1800mm in the neighbourhood, please note we are willing to compromise and reduce the height of our</i></p>	<p>The locality of the proposed development is residential in nature. The proposal is to operate a new use from an existing building and with the exception of some minor internal changes and the addition of the new front fence and covered patio area the building will remain generally the same, therefore it would be difficult to argue that the structures on the site is of character and not consistent with the context and setting.</p> <p>The predominant height of fences in both streets does not exceed 1.2m. The applicant has agreed to reduce the original proposed</p>

	<i>proposed fence to a maximum of 1500mm as a gesture of goodwill.</i>	1.8m high fence to 1.5m. A 1.5m open style fence is still not considered consistent with the predominant height of fences in locality but it is able to meet the overall objectives under section 9.2.2 of the DCP as it will be compatible with the existing built form and will still be able to provide a strong street edge with good definition between the public and private domain. The proposed fence will improve privacy for residents and surrounding neighbours.
Proposed decking There is a concern that the new proposed outdoor area in particular the new deck area will impact on the privacy of the adjoining neighbour.		The outdoor area is located on the western side of the building with an outlook on a shed on the adjacent property. There is a potential that people making use of the new deck area will be able to look into the adjacent property. Recommended conditions of consent require screening to improve the privacy of both the residents at the new facility and people living next door.
Parking There is a concern that that no parking is proposed.	<i>The parking requirement for the subject development is to be calculated, according to the WWDCP 2010 methodology, by subtracting the current/previous use's parking requirement (16 spaces) from the proposed use's parking requirement (not more than 16 spaces as per other legislation and comparable DCP's consulted) to determine any additional parking</i>	There are no specific parking controls in the DCP for Transitional Group Homes. The State Environmental Planning Policy (Affordable Rental Housing) 2009 provides guidance on parking requirements for group homes. The SEPP requires a minimum 2 off-street car parking spaces. In the

	<i>necessary to be provided. Consequently, the development does not require the provision of any additional off-street parking spaces.</i>	absence of any parking requirement in the DCP for transitional group homes, the parking requirement of the SEPP is therefore considered appropriate and applied to the use.
Market Value The proposed development will have a negative impact on the market value of properties in the locality.	<i>While we acknowledge that media publicity about opposition to the Riverina Recovery House has in the short term caused uncertainty and fear about the impact of the Riverina Recovery House on property prices, we have no doubt that once established, no long-term impact will be suffered. This is borne out by many studies examining the impact of residential group homes on property prices showing no long-term adverse effects. More specifically, we have recently commissioned two reports from independent property values in Byron Bay and in Wagga Wagga to review the impact of the existing Sanctuary Recovery House in Byron Bay and the likely impact of the proposed Riverina Recovery House in Wagga Wagga. These independent reports agree with the wider research and concluded that no long-term adverse impact is likely.</i>	The valuation of property is not a planning ground and cannot be considered as a relevant ground to refuse an application.

(e) - The public interest

The public interest is a broad consideration relating to many matters and is not limited to the issues raised by the submissions. This application has been considered in respect to the benefits of the community and the matters discussed in this report are all reflections of the public interest and community expectations. Taking into account the full range of matters for consideration under Section 79C of the Environmental Planning and Assessment 1979 (as discussed within this report) it is considered that approval of the

application is in the public interest.

Section 5A ("Seven Part Test" - Threatened Species) and Section 79B(3)

An assessment of the likely significance of impacts of the development concluded that the development is unlikely to have a significant impact on threatened species.

Council Policies

Not applicable.

Comments by Council's Officers and/or Development Assessment Team

Council's other relevant officers have reviewed the application in accordance with Council's processing procedures and are in support of the application, subject to conditions.

Contributions

Section 94/94A of the Environmental Planning and Assessment Act 1979 and the City of Wagga Wagga's Section 94 Contributions Plan 2006-2019 / Levy Contributions Plan 2006 enables Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. A Section 94A contribution does not apply to this development as the development cost is less than \$100,000.00

Section 64 of the Local Government Act 1993, Section 306 of the Water Management Act 2000 as well as the City of Wagga Wagga's Development Servicing Plan for Stormwater 2007 and/or City of Wagga Wagga Development Servicing Plan for Sewerage 2013 enable Council to levy developer charges based on the increased demands that new development will have on sewer and/or stormwater.

No Section 64 sewer contribution is payable for this development as it will have no additional impact on sewer infrastructure. The existing bed and breakfast facility could host more than 16 guests; the proposed group home will accommodate 12 residents.

No Section 64 stormwater contribution is payable as the proposal will not result in additional impervious areas.

Conclusion

An assessment of the application has resulted in this application being supported based on the following grounds:

- The application is for a use which is permitted in the R1- General Residential Zone.
- The benefits of the proposed development will outweigh any potential negative impacts associated with subject approval.
- The proposed development will achieve broader public objectives around general public health, social cohesion and liveability.

- The proposed development will be able to be managed in a way to mitigate any potential environmental impacts raised by the submissions.
- The development complies with the requirements of the Environmental Planning and Assessment Act 1979 and will not compromise the outcomes sought for the Wagga Wagga Local Environmental Plan 2010 and Wagga Wagga Development Control Plan 2010.

The application is subsequently recommended for approval, subject to conditions.



RECOMMENDATION

That Council refuse Development Application DA16/0212 for a change of Use to a Transitional Group Home and covered outdoor living area at 199 Gurwood Street, Wagga Wagga.

Reasons for Refusal of Application No DA16/0212

The development Application is REFUSED for the following reasons:

It is not in keeping with the amenity of the locality.

<p>Report by:</p>  <hr/> <p>Adriaan Stander Senior Town Planner Date:</p>	<p>Report Approved by:</p>  <hr/> <p>Amanda Gray Acting Development Assessment Coordinator Date:</p>
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