



Report of Development Application

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

APPLICATION DETAILS

Application No.:	DA16/0692
Modification No.:	N/A
Council File No.:	D/2016/0692
Date of Lodgement:	08/12/2016
Applicant:	JD Bentley 16 Thorne St WAGGA WAGGA NSW 2650
Proposal:	Demolition of Existing Garage. Construction of a Garage with Attached Verandah (Heritage Conservation Area)
Development Cost:	\$30000
Assessment Officer:	Camilla Rocks
Description of Modification:	N/A
Type of Application:	Development Application
Other Approvals:	Nil
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	5-20 July 2017
Advertising:	No
Determination Body:	Delegation
Reason:	N/A
Meeting Date:	N/A
Owner's Consent Provided:	5/12/2016
Location:	Located on the southern side of Morgan Street, the site is on the south-western corner of the intersection of Thorne and Morgan Streets.

SITE DETAILS

Subject Land: 144 Morgan St WAGGA WAGGA NSW 2650
Lot 4 DP 308132

Owner: JD Bentley & EJ Bentley

PLANNING CONTROLS / STATUTORY CLASSIFICATION

Pursuant to Part 4 (Division 1)

Environmental Planning Instrument: Wagga Wagga Local Environmental Plan 2010

Zoning: R1 General Residential

Land Use Definition: Dwelling (ancillary development)

Statement of Permissibility: Permitted with consent

Description of Development

The proposal is for the demolition of an existing outbuilding and construction of a metal, 2 bay garage with attached storage area, bathroom and verandah in the heritage conservation area. For brevity, the report will call the structure a “garage”. The cost of works is submitted as \$30,000.

The application was lodged without prior consultation with either planning staff or Council’s heritage advisor. The proposed garage is significantly deeper and higher than DCP controls would permit. As the design was not supported by either the planning staff or the heritage advisor, negotiations commenced with the building designer to reduce the scale of the structure. At the time of assessment, the design was modified to relocate the bathroom and the Statement of Environmental Effects revised to address the design in relation to the legislation. Following extensive and extended discussion, the application was further modified to add a garden bed with 3 trees along the southern elevation and to add a hinged cladding panel to fit over the top section of the garage door in order to reduce its visual impact.

The application seeks approval for the demolition of the existing shed. It is proposed to construct a double garage with attached storage area, bathroom, mezzanine storage area and verandah to the rear of the existing dwelling, addressing the side street (Thorne Street), with a setback to the western side boundary of 500mm and to the southern rear boundary of 2800mm.

The garage is proposed to be constructed with timber framework and clad with corrugated metal over a concrete slab. A 5400mm wide panel lift door is proposed to the Thorne Street elevation, with a personal access door and window to the northern elevation (facing into the property). Roofing is to be Colorbond™ corrugated metal sheeting. The design of the proposed garage includes a bathroom in the north-western corner and verandah along the northern elevation.

The proposed garage has 3000mm high walls to eaves, with the ridge running east-west. The pitch is proposed at 27°. The total height of the proposed garage is approximately 4800mm. The proposed garage proper is 6510mm wide, with a further 3000mm width to the verandah and 8780mm deep, with boundary setbacks as detailed above.

The application seeks variation of several DCP controls and, as the variation has not satisfied the criteria in determining whether a departure from the DCP is warranted, the application is recommended for refusal. Council staff have delegation to refuse development applications therefore the application can be determined under delegation.

The Site and Locality

The site is known as 144 Morgan Street and is identified as Lot 4, DP 308132. Located on the southern side of Morgan Street, the site is on the south-western corner of the intersection of Thorne and Morgan Streets. The block is oblong, with a street frontage to Morgan Street of 12.573m and to Thorne Street of 40.278m and an approximate site area of 505.9m².

The existing development is a single storey Inter War cottage with an ancillary outbuilding and minimal landscaping.

The existing metal, pitch-roofed garage, is approximately 38m² in size, with a skillion roofed area of an additional 12m² approximately. It is located in the south-western corner of the site, with minimal setback to the western and southern boundaries.

There is a boundary fence to Thorne Street constructed of metal corrugated sheeting, with metal gates.

Adjoining the subject site, there are single dwellings to the west and south. Morgan Street is to the north and Thorne Street to the east, with low density residential development the dominant land use.

The site is located within the heritage conservation area. The existing streetscape is quite consistent, with Inter-war single dwellings the predominant presentation.

Easements and Covenants

The subject land is not burdened or benefitted by any easements, according to Council records.

Previous Development Consents

DA05/1147 Replacement of boundary fence

BA53/61 Garage

BA262/60 Additions to dwelling

MATTERS FOR CONSIDERATION PURSUANT TO SECTION 79C(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 79C(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 (WWLEP2010)

Part 2 Permitted or prohibited development Land Use

Under the provisions of the WWLEP2010, the subject site is within the R1 General Residential zone. The proposal is consistent with the zone objectives, being demolition of an outbuilding and construction of a garage ancillary to the principal dwelling on the site.

Part 5 Miscellaneous provisions

Clause 5.9 Preservation of trees or vegetation The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation. The development application was amended so that the removal of trees to facilitate the development was not required.

5.10 Heritage Conservation

(1) *Objectives:*

The objectives of this clause are:

(a) *to conserve the environmental heritage of Wagga Wagga*

(b) *to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views*

Clause 5.10(1) The existing outbuilding is a utilitarian structure, constructed in approximately 1961, according to Council records. The form of the building is simple, symmetrical and reflective of the function as an outbuilding. It is clearly a minor structure on the site, ancillary to the dwelling, set into the rear corner of the lot and subservient to the surrounding development. It is considered to have minor heritage significance and its demolition is not considered to materially affect the heritage significance of the site or the conservation area in general. Furthermore, the application states that the shed is “in need of repair /demolition due to widespread rot throughout the frame and general wear and tear of cladding materials” and it is considered acceptable to allow for a more sturdy, secure and visually attractive outbuilding on the site.

The proposed garage is large in comparison to the existing and surrounding development, being a footprint of 81.3m² (16% of the site area). The existing garage is approximately 38m². Significant concern is raised regarding the proposed height of the garage, with 3000mm walls to eaves and a total height of approximately 4800mm. The large garage is not considered to relate sympathetically to the scale of the host dwelling or the adjoining dwelling to the south because of the bulk and scale. The proposed materials are consistent with this provision, being corrugated metal cladding and corrugated metal roofing.

The site is a corner block and the northern and eastern elevations of the site form an important part of the heritage conservation area. The corner block has more significance in defining the character of the area because it is visible from two streets and it is an important component in distant vistas. Therefore, additional consideration is required to ensure that the characteristics of the Heritage Conservation Area are considered from both streets.

Heritage significance can be defined as all the values that make a place special to past, present and future generations. The values may not only be evident in the fabric or physical material of the place but also in its relationship with its surroundings. The subject site is within a heritage conservation area, indicating that the streetscape character, groups of buildings and subdivision layout has heritage value and should be protected.

The large garage as proposed is not considered to relate sympathetically to the streetscape and is therefore not considered to conserve the heritage significance of the heritage conservation area.

As Council is required to consider the effect of the proposed development on the heritage significance of the heritage conservation area, and it is considered that the proposal will not conserve the heritage significance of the heritage conservation area, the proposal is assessed as being inconsistent with the WWLEP2010.

(2) Requirement for consent:

Development consent is required for any of the following:

(a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,

(b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior

(c) altering a heritage item that is a building by making structural changes to its interior

Clause 5.10(2) This proposal is for the demolition of a building therefore requires consent from Council under this clause. Submission of this application satisfies this provision.

(3) Effect on heritage significance

The consent authority must before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted.

Clause 5.10(3) The proposed garage is large in size in relation to the existing development. The garage as proposed is expected to be clearly identified from Thorne Street and approaches to the site due to the height and setback. The eaves height is similar to that of the host dwelling and adjoining dwelling and its subservience as an outbuilding is not delineated clearly. Further assessment of the merits of the development is contained in the DCP section below. Council's assessment officer has considered the effect of the proposed development on the heritage significance of the heritage conservation area and considers that the proposal has a detrimental effect by virtue of the scale and bulk of the proposal on the heritage significance of the site and its overall contribution to the heritage conservation area.

Part 7 Additional Local Provisions

7.2 Flood planning

(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.

(2) This clause applies to:

(a) land that is shown as "Flood planning area" on the Flood Planning Map, and

(b) other land at or below the flood planning level.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

(a) is compatible with the flood hazard of the land, and

*(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
(c) incorporates appropriate measures to manage risk to life from flood, and
(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

The subject site is located in Central Wagga protected by the levee. Although the levee does not protect this site from a 1:100yr event, the protection is such that the Council is satisfied that suitable development can continue to occur. Council's flood modelling software indicates that a portion of the site (the north-eastern corner) would be inundated in the event of a 1:100 year flood to a maximum of 300mm. The site of the proposed garage (south-western corner) is shown to be flood free. The proposed work will therefore have negligible impact on flood behaviour and is not expected to result in unsustainable social and economic costs to the community as a result of flooding, noting that a mezzanine level is proposed for storage above the flood level.

Clause 7.6 Groundwater vulnerability

The objective of this clause is to protect and preserve groundwater sources. This clause applies to land identified as "Groundwater" on the Water Resource Map. The subject development is not development specified for the purposes of this clause therefore this clause does not apply.

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy 55 - Remediation of Land (SEPP 55)

Clause 7 of SEPP 55 - Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Consideration has been given to the history of the site as a dwelling and there is no reason to suspect that the site is subject to any contamination. Based on a review of the site's previous uses, the site is unlikely to be contaminated and Council is satisfied that the land is suitable for the proposed use.

Section 79C(1)(a)(ii) - 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 79C(1)(a)(iii) - The provisions of any development control plan Wagga Wagga Development Control Plan 2010

Proposed development complies with the development standards of the Wagga Wagga Development Control Plan 2010 as follows:

Section 1 - General

1.5 Guiding Principles

The Guiding Principles (GP) underpin the DCP and inform the assessments and decisions made regarding development applications. The relevant GPs are addressed below:

GP2 Site responsive development

- i. To design for compatibility with topography, physical characteristics and setting*
- ii. To achieve a positive contribution to the streetscape and/or natural environment*

GP3 Design quality

- i. To achieve quality sustainable development*
- ii. To respond to site conditions*

In response to GP2, it is noted that the subject site is within the heritage conservation area and the proposed garage has been assessed as being incompatible with the setting. The garage is further assessed as not responding to the site conditions and inconsistent with GP3.

Clause 1.10 - pursuant to this provision, notification of the application is required. The adjoining property owners adjacent and opposite the subject site were notified of the development application. See further in this report for relevant dates and submissions. The proposal is not advertised development.

Clause 1.11 - complying with WWDCP 2010

The proposal seeks a variation of the following numerical controls:

- Clause 3.3.2 - Garages and carports - Control 4
- Clause 9.4.4 Control 3

Where an application involves the variation of one or more controls within the DCP Council staff have delegation to approve variations but limited to the following circumstances;

- Where adequate justification is provided by the applicant for the number of controls being varied and,
- Any development, other than development that is for multi dwelling housing, where a variation to any numerical control by greater than 10% is proposed, and
- Where no objections have been received in relation to any numerical control that is being varied by greater than 10%, and
- Where the number of submissions in the form of objections received in response to an advertised or notified development application, is less than 10.

The applicant has attempted to justify the variations proposed. Whilst the variations are not supported, it is acknowledged that the applicant has complied with the requirement to provide a reason for the departure. The proposed departure from controls is greater than 10% although the development is not for multi dwelling housing and no submissions or objections were received in relation to the proposal therefore Council staff may determine the application under delegation.

Section 2 - Controls that Apply to All Development

Clause 2.1 - Vehicle access and movements - Access is currently from the secondary frontage in Thorne Street and this arrangement is proposed to be retained. As the lot does not have laneway access, this arrangement is supported.

Clause 2.2 - Off-street parking - Controls for the provision of one car space are satisfied. The proposed garage would accommodate 2 vehicles.

Clause 2.3 - Landscaping. The site is a single dwelling and landscaping plans are not required.

Clause 2.4 - Signage. Not applicable for a dwelling.

Clause 2.5 - Safety and Security. Public, semi-public and private areas are well defined within the development through the use of fencing.

Clause 2.6 - Erosion and Sediment Control Principles. Standard conditions of consent should be attached to any consent to ensure protection of the environment.

Clause 2.7 - Development adjoining open space. Not applicable.

Section 3 - Heritage Conservation

Comment:

Clause 3.1 - the dwelling situated on the subject property is characterised as an Inter War Bungalow with a later addition to the rear. The sleepout and verandah at the rear were approved by Council in 1960 and constructed shortly after, according to Council records. The existing garage was constructed in approximately 1961, according to records held by Council.

Clause 3.3.2 contains provisions relating to development in the residential precinct of the heritage conservation area.

Colour schemes

The applicant did not detail the proposed colour scheme. A condition of any consent would require the submission of a colour scheme for assessment.

Garages and carports

The applicant seeks approval to demolish the existing shed. No objection is raised to the demolition as the existing garage has minor heritage significance and is reported to be in poor condition.

The DCP preamble states: *Heritage items and conservation areas have special qualities that make them significant. Development needs to take particular care to ensure that the particular themes, features or characteristics that make the item or area significant are not compromised by change. This can include:*

- *Retaining heritage items and encouraging changes to occur away from significant elements or sections of heritage items*
- *Ensuring new work has suitable bulk, scale, proportions and detailing so that it does not dominate or compromise the ability to interpret heritage items (including adjacent or nearby items) or the heritage conservation area*
- *Encouraging suitable materials.*

The absence of garages and carports in the streetscape is an important characteristic of the conservation area. A number of the streets have rear lanes, and where the property is adequate, consideration can be given to a double garage/ carport on the rear lane.

Objectives

O1 Minimise visual intrusion from garages and carports, and require structures to be located behind the building line.

O2 Establish parameters for the proportion and detailing of garage and carports.

In the considered opinion of the assessment planner, the proposed development does not respond positively to the first objective.

The height of the proposed garage and in particular, the additional height required for the garage door, located on a prominent corner lot, is judged to result in a visual intrusion onto the streetscape. It is noted that the revised design places the proposed garage behind the building line for the secondary street (Thorne Street), which is considered to achieve a better result than the original design.

The final revision of the plans proposed a hinged panel and 3 deciduous trees to try to minimise the visual intrusion of the structure. The trees are problematic, being deciduous and of the birch species, which is a cool climate species that requires close attention during the first years of life to ensure survival in the Wagga Wagga climate. It is noted, however, that landscaping does not require consent and the proponent may choose to plant any species in any location on the site without Council approval. The hinged panel is not a convincing treatment of the industrial scaled panel door. It is a matter for the property owner to attach the panel after use of the door and relies on Council compliance action to ensure it is fulfilling its role of minimising the appearance of the door. Future owners are not likely to have knowledge of the role of the panel and it is assessed that it is not a convincing treatment of an overscaled element of the development.

The proposed garage does not meet the parameters for the proportion of garages, with justification based on the personal needs of the owner and no robust planning reason.

Controls

C1 Where possible, car access should be from a rear lane.

Comment: The site does not have access to a rear lane. Access is proposed from the secondary street, which is acceptable in this circumstance.

C2 Where no rear lane access is available locate the garage or carport behind the building line, or preferably to the rear of the property. Alterations that require removal of original features on a front elevation or require demolition of significant building fabric to enable car access will not be supported.

Comment: The proposed garage is located at the rear of the property and the location was amended to place the garage behind the side building line, with a setback of 3293mm.

C3 Materials are to be compatible with the materials of the main building. Any detailing is to be subservient to the detailing or decorative features of the main building.

Comment: The garage is proposed to be clad with corrugated wall cladding, with aluminium windows and a panel lift garage door. These materials replicate the finish of the existing garage on the site and could potentially complement the existing brick dwelling, depending on the selected colour scheme, profile and door design, details of which were not submitted with the application. It is recommended that any consent be conditional on submission of the proposed colour scheme and assessment of that proposal by planning staff.

C4 Max size of garages:

Single garage - 3000mm wide x 7500mm long, 2400mm walls, 27 degree roof pitch rising to an apex 3400mm high. Garage roller door 2600mm wide.

Double garage - 6000mm wide x 7500mm long, 2400mm walls, 27 degree roof pitch rising to apex 3900mm high. Two roller doors 2600mm wide in 3 equal wall bays.

Roof pitch 27 degrees (quarter pitch) or steeper to match the roof pitch of the house. Roof pitches can be broken with a 10 to 12.5 degree pitch verandah skillion.

Comment: The proposal is for a double garage.

The proposed dimensions are for a garage 6600mm wide, with an additional 3000mm verandah x 8780mm long, 3000mm walls, 27° roof pitch, apex of 4800mm and one panel lift door 5400mm wide. The application is clearly non-compliant with Control 4.

The original application did not contain the details required under Clause 1.11 of the DCP for the proposed variation of controls. This information was requested by Council and was submitted. Supporting information requests the following variations (copied verbatim from the applicant's report with Council planner's comments in bold font):

1. Increase the allowable width of the double garage from 6000mm to 6600mm (10% increase)
2. Increase the allowable length of the double garage from 7600mm to 8700mm (17% increase) **Note that the allowable length is 7500mm which is a percentage change of 16%**
3. Increase the wall height from 2400mm to 3000mm (25% increase)
4. Increase the apex height from 3900mm to 4800mm (23.1% increase)
5. Increase the cumulative floor area of the outbuilding from 8% to 11.9% (48.8% increase) **Note that Council's planner assesses the cumulative floor area of outbuildings at 16% of the site based on the only Planning definition of "outbuilding" which is found in the State Environmental Planning Policy (Exempt & Complying Development Codes) 2008:**

"outbuilding means any of the following class 10a buildings under the Building Code of Australia:

- a) balcony, deck, patio, pergola, terrace or verandah that is detached from a dwelling house,***
- b) cabana, cubby house, fernery, garden shed, gazebo or greenhouse,***
- c) carport that is detached from a dwelling house,***
- d) farm building,***
- e) garage that is detached from a dwelling house,***
- f) rainwater tank (above ground) that is detached from a dwelling house,***
- g) shade structure that is detached from a dwelling house,***
- h) shed."***

Based on this definition, the verandah attached to the garage forms part of the outbuilding and should be included in calculations for the purpose of Clause 9.4.4 of the WWDCP. 8% of the site area is 40.5m² and 81.3m² (the proposed garage size) is 16% of the site area (site area stated on plans as 506.72m²). The percentage change is therefore 100%.

The applicant states that the proposal is acceptable for the following reasons:

- Residents should be able to provide outbuildings for the various vehicles they own
- There are poor examples of garaging in the vicinity and the proposal is consistent with these
- "positive contribution" is not defined in the DCP and the development is considered to make a positive contribution by the designer
- The proposed garage is in keeping with existing development on the site (the document erroneously refers to the Existing Use provisions, which are not relevant to this proposal)
- The proposed garage is not seen to be visually dominant
- The proposed development is consistent with the Guiding Principles and other relevant principles
- The proposed development is consistent with the relevant objectives

- The parameters for proportion and detailing of garages contained in the DCP are flawed and mathematically impossible to achieve

The application also cites examples of garages in the vicinity that appear to be non-compliant with the DCP provisions. The sites that were referenced were inspected and the relevant development application files examined. It was found that the cited examples were approved prior to the adoption of the Wagga Wagga Development Control Plan 2010, which did not have prescriptive controls for garage height, width or length. Notwithstanding this, the cited garages were found to be dissimilar to the subject site in significant ways that would make them incomparable to the proposed garage. For example, two of the cited examples were adjacent to a lane, which provides for physical separation from adjoining sites. They are also detailed with decorative features to match their respective host dwellings and this detail helps in addressing the scale of the developments. The example of 52 Thorne Street was a garage attached to the dwelling, with two single vehicle roller doors, which further breaks down the scale of the street elevation. None of the cited examples had a door of the height proposed under this application (2850mm). It is impossible to speculate how these developments would be assessed if submitted however all applications are assessed against current legislation with regard to the individual site analysis.

A further example of a large garage near the site that was referenced by the applicant was for a garage with secondary dwelling above. The WWDCP contains controls specific to secondary dwellings, allowing greater proportions to accommodate residential use above the garage in response to State government infill development policies encouraging this type of development. Council's planning staff do not consider that the proportions of this type of structure would be appropriate for a garage alone.

The height and width of the proposed garage door is a significant aesthetic element in the design and it is considered it would make the proposed garage a prominent element in the street. The location of the site on a corner requires careful assessment of streetscape impact and this assessment is contained within this report.

Council planning staff have given consideration to the applicant's reasons with regard to the issues that should be considered under Clause 1.11 and conclude that the development should not be supported. See discussion below:

Whether there will be any detrimental impact on the amenity of the existing and future residents/occupants, as well as, its surrounds.

The proposal is for the replacement of an existing garage at the southern end of the residential lot. Apart from the visual intrusion of the proposal, it is not likely to detrimentally impact the existing or future occupants of the subject property. The adjoining dwelling to the south has two windows in the northern elevation that may suffer a loss of solar access under the proposal. Shadow diagrams were not supplied to confirm the impact of the proposed shed and it is noted that one of the windows has a hood that would shade the glazed area. The assessment is that the southern neighbour would suffer some loss of solar access and views from the northern windows would be impacted so that the view would be the wall and roof of the proposed shed but that generally, amenity impact would be minor, noting also that the application was notified to adjoining property owners and no submissions were received.

The nature and magnitude of the departure.

As detailed above, the nature of the departures is to increase the height and floor area of the proposed garage to greater than that permitted under the controls. The magnitude varies from 10% to 100%.

To construct the garage as proposed requires approval from Council to vary every control relevant to garages in a conservation area. Generally, this would be taken as a demonstration that the site is not suitable for the development. It is considered by the assessing planner particularly important to enforce the development controls on corner lots, which are highly visible. In properties with rear lanes, any new garage is likely to abut existing garages and outbuildings whereas on corner lots, the garage generally forms part of the streetscape and is likely to abut an existing, heritage significant dwelling therefore the scale and design is critical.

The degree of compliance with other relevant controls, objectives and principles and any compensatory measures proposed to offset the departure.

The proposed garage is generally compliant with the controls that apply to all development but is non-compliant with the specific controls that relate to such development under Sections 3 and 9. The original plans were amended to set the garage back further into the lot and to reduce the height. Initially, the applicant had offered no compensatory measures to offset the significant departure from controls however, following the most recent on-site meeting, plans were submitted including trees and a hinged panel to offset the departure. Neither of these measures is considered to adequately compensate for the significant departure of controls.

The circumstances of the case, including whether the particular control(s) is unreasonable and/or unnecessary.

The property owner stated in conversation with the assessment planner that the proposed garage was for the purpose of storage of the owner's campervan and boat. The proposed use is not particularly relevant to the case as, regardless of what is stored within the building, it is an outbuilding ancillary to the dwelling on the site. The campervan has particular storage needs, being some 2.6m high and 5.9m long. It is Council's position that the individual storage needs of the property owner are not sufficient justification to significantly vary a number of controls. The controls are in place to protect the heritage significance of the conservation area. Whilst there is scope for some variation according to unique site attributes, this application seeks to vary all relevant garage parameters. The subject site is on the corner of two streets therefore any development of this site must be subject to greater scrutiny than a site with only one street frontage. Furthermore, there are numerous storage facilities in the city that are designed to accommodate large items that would be unreasonable to store on a residential property. It is preferable that such vehicles and items be stored in a purpose built facility and not in the residential areas, based on the amount of room these items take up and the visual impact on residential areas. The application has not demonstrated that the controls are unreasonable or unnecessary therefore the variations as proposed are not supported.

Priorities identified in a site analysis being of greater importance than what is being departed from.

Priorities identified in analysis of the site are the corner location and the location of the adjoining dwelling to the south, both of which deserve a high level of protection from overscaled development.

These priorities, in the opinion of the assessing planner, are of greater importance than the individual storage needs of the property owner, particularly when there are other options available for storage off site.

Whether non-compliance will prejudice the objectives of the zone and the aims of the DCP.

Non-compliance is considered to prejudice the objectives of the DCP. The zone (R1) allows for ancillary development to a dwelling and the proposal is consistent with this objective. The DCP has sections for heritage development and residential development and the proposal is inconsistent with the objectives for both these sections.

The proposal requires every control applicable to garages in the conservation area to be varied in order to gain approval. Council has consistently encouraged development for new garages in the conservation area to have minimal visual impact, whilst permitting some flexibility based on site analysis. As previously stated, the fact that none of the controls can be satisfied would indicate that the development was not suitable for the site. As there are no robust planning grounds on which to approve the development, it is considered that approval would prejudice the objectives of the DCP sections relevant to residential and heritage development.

79C of the Environmental Planning and Assessment Act 1979 - matters for consideration in the determination of a development application.

79C matters are addressed within this report and will demonstrate that the proposal is inconsistent with the objectives and controls for residential development in the heritage conservation area.

C5 Specifications:

Walls can be in Custom Orb corrugated metal, weatherboards, fibre cement sheet or face brick

Galvanised corrugated metal roof preferred rather than Zinalume.

- *Roll barge and roll top.*
- *Gutters are to be quad or ogee profile and galvanised.*

The application does not provide detail about the cladding except to reference “select corrugated roof/wall cladding”. If an approval was recommended, it is suggested that a condition of any consent require the submission of more detailed information about the proposed external treatment of the structure.

C6 Doors may be tilt doors of a simple design and neutral colour. Roller doors may be considered on merit.

The application proposed a panel lift door however no further details were submitted. It is recommended that any approval be subject to submission of those details for assessment.

Section 4 - Environmental Hazards and Management

Comment: The site is not bushfire prone. The site is mapped as being floodprone. As the proposal is for ancillary development in a corner of the site that is not considered to be flood affected, it is not considered that flood risk or behaviour would be affected and the proposal is assessed as meeting the objectives of this section.

Section 9 - Residential Development

Clause 9.1.1 Central Wagga Wagga - no relevant controls but the proposal is not largely responsive to the principles.

Clause 9.2.1 Site layout - objectives are not satisfied - the proposal is not site responsive and is not compatible with existing built form. No relevant controls in this section.

Clause 9.2.2 Streetscape - the proposed works are to the rear and address the secondary street. The controls in this section relate to new construction of a dwelling and fence height and are not relevant to the subject proposal therefore assessment must be based on the objectives.

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 garage as proposed, is not considered to be compatible with the existing built form, mainly due to the increased wall height and garage door height that are of an industrial scale rather than domestic. Based on a streetscape review submitted by the building designer, the walls are of the same or higher height of the host dwelling and adjoining dwelling, which is not the scale considered appropriate in the conservation area. The scale is also of concern with regard to O2 to encourage attractive streetscapes. It is considered that the site provides scope for an attractive outbuilding that would contribute to a quality streetscape and the proposed outbuilding does not fit this brief.

Clause 9.2.3 Corner lots and secondary facades

Sites with dual frontages need to ensure that the side (or secondary) façade is attractive as it contributes to neighbourhood character.

Objectives

O1 Encourage development on corner sites to respond to all street frontages.

Note: this objective relates to both building lines and fences.

C1 Houses on corner lots are to ensure an acceptable address to both frontages.

Continue materials around the corner to the secondary road so that the building “turns the corner”.

The original plans submitted for this development were revised on request from Council to increase the setback of the proposed garage to Thorne Street. The proposed garage will be prominent both from a direct view from Thorne Street as well as an oblique view from Morgan Street. Whilst this control directly references the “house”, the objective relates to “development” therefore it is considered to be relevant to the subject development. The proposed garage is designed using corrugated metal panelling, referencing the existing shed and reinforcing its ancillary nature. The proposed verandah helps reduce the bulk of the structure when viewed from the dwelling and from Morgan Street. The high, wide garage door raises concern with regard to streetscape impact. The overall height and scale of the structure in relation to adjoining development also raises concern with regard to contributing to neighbourhood character. Whilst the overall design of the proposed garage is not of concern, being a double garage with attached verandah, the scale of the garage is considered to be at odds with the site and the streetscape.

C2 Use articulation to avoid excessively long blank walls.

The northern elevation facing into the subject property is articulated but the southern elevation facing the neighbouring property is an 8.7 metre long blank wall. As the structure is a garage, there is limited opportunity for articulation.

C3 A fence on the secondary frontage is permitted to have a height not exceeding 1800mm except in the following circumstances where its height is not to exceed 1200mm:

- *Where it enters and is within the building line of the primary road - within the building line a fence will be permitted to taper down from 1800mm maximum permitted height to the 1200mm maximum permitted height at the primary road boundary"*
- *Where a dwelling "addresses" the secondary road*

The existing complying fence is retained under the proposal. No change to existing fencing apart from removal of the section required for construction is proposed.

Clause 9.3.2 Site cover

Maximum site cover permitted is 60%. Proposed site cover is calculated at approximately 38% and complies with this provision.

Clause 9.3.4 Solar access -There will be some impact on solar access to the adjoining dwelling to the south under the proposal as it has two windows to the northern elevation. The distance of the proposed garage to the boundary (2800mm) will reduce the impact and it is noted that one of the subject windows is covered by an awning. The proposed garage would also cast significant morning shadow across the rear of the adjoining property to the west. It is noted that the site has no buildings located in this area and that a significant proportion of the private open space retains adequate solar access.

Clause 9.3.5 Private open space - the proposal retains the required 24m² therefore is compliant with this provision.

Clause 9.3.6 Front setbacks - the proposal maintains the existing front setback however there are controls in this section that are relevant to the setback from the secondary frontage.

C1 Minimum front setbacks for residential development (site area smaller than 2000m²):

Primary frontage to a main or arterial road 9m #

Primary street frontage (other roads) 6m #

Secondary frontage (corner site) 3m

- For residential accommodation in R3 Zones a minimum setback of 3m may be considered.

The amended plan submitted by the applicant places the proposed garage with a setback to the secondary frontage of 3293mm, which would comply with this control.

C2 In the older areas of Wagga Wagga front setbacks are typically 7.5m. Where the setback of existing adjoining buildings is greater than 6m increase the front setback to the setback of the adjoining building closest to the street boundary.

This control is not relevant to the subject application as no change to front setback is proposed.

C3 For residential accommodation with a site area greater than 2000m² building setbacks from the property boundary fronting a road shall be 10m and maximum front setback shall be 50m.

This control is not relevant to the subject application as the site is less than 2000m².

C4 The front elevation of a dwelling as visible from a public road shall include at least one change in plane of the dwelling wall (that encloses a habitable room) of a minimum of 500mm. The front of the garage shall not protrude in front of the face of the forward most wall of the dwelling enclosing a habitable room. In all instances, the garage shall not encroach on the front setback identified under C1. The forward most part of a building/dwelling wall shall not project forward of the building line.

The garage proposal was revised to ensure the garage did not project forward of the wall of the dwelling.

C5 Variations to the minimum setback can be considered on corner sites where the primary street frontage is not the widest street or in accordance with the established streetscape character.

No variations to the minimum setback are required.

Clause 9.3.7 Side and rear setbacks - the objectives of this section are:

- *Ensure adequate separation between buildings for landscaping, privacy, natural light and ventilation;*
- *Ensure new development continues the rhythm or pattern of development in the locality;*
- *Provide access for maintenance;*
- *Building setbacks from the side and rear boundaries shall have careful regard to the impact of proposed structures on adjoining landowners.*

Side setbacks are proposed at 500mm to the western boundary and 2800mm to the southern boundary. This is responsive to the objectives of this section. Any required maintenance to the proposed building should not require access to the neighbouring properties.

Clause 9.4.1 Building elements - see discussion under Section 3.

Clause 9.4.2 Materials and finishes - see discussion under Section 3.

Clause 9.4.3 Privacy - the submitted plans do not indicate the location of adjoining development however the proposed garage is not considered likely to impact on privacy of residents of the subject site or those adjoining. Screening is not required and the proposal complies with this section.

Clause 9.4.4 Garages, carports, sheds and driveways -

The total cumulative area of all outbuildings is not to exceed 8% of the site area. 8% of the site area (506.72m²) would be 40.5m². The total area of the proposed outbuilding, taking into consideration the definition of "outbuilding" as discussed earlier in this report, is 81.3m² which results in a building twice as large as permitted under the controls. Justification for this significant variation to floor area was based on the owner's storage requirements and the positive contribution of the structure to the streetscape and is detailed under DCP Section 3 of this report. Council staff are of the opinion the variation is not justified and the proposal is not supported.

Section 79C(1)(a)(iiia) - Planning Agreements

No planning agreement has been entered into in relation to the subject property.

Section 79C(1)(a)(iv) - any matters prescribed by the regulations

Matters prescribed by the Environmental Planning and Assessment Regulation 2000, have been satisfied and prescribed conditions attached.

Section 79C(1)(b) - likely impacts of the development

Context and setting

The site is located within an established residential precinct, influenced by the high vehicle movement rates along Morgan Street. Surrounding development is generally low density single storey residential and the majority of development in the vicinity has some heritage significance.

This proposal maintains the residential use of the site, which is entirely compatible with adjoining residential uses.

The existing shed is utilitarian and of minor heritage significance and its demolition is supported.

The proposed garage is utilitarian, with limited architectural merit in terms of design and materials. It is, nonetheless, ancillary to the dwelling and permitted to be constructed in metal, which should not be detrimental to the existing dwelling.

The street is presently dominated by low scale residential development and the proposed garage will not be appropriately scaled with development in the immediate vicinity due to the height required to accommodate the campervan.

Overshadowing of adjoining buildings and gardens is expected to occur, although this will be somewhat mitigated by the increased setback to the southern boundary. Although the DCP only requires a setback of 3 metres, a greater setback such as the existing garage setback would be encouraged as this places the garage level with or behind the adjoining dwelling, reinforcing the ancillary nature of the garage and keeping the dwellings dominant in the streetscape.

The proposed garage requires a variation to the controls for garage size in the heritage conservation area - this variation is not supported for the reasons outlined within the report.

The proposal garage also requires a variation to the controls for the cumulative site area of outbuildings in residential lots - this variation is not supported for the reasons outlined within the report.

Access, transport and traffic

The site has access from the side street only and this access is proposed to be utilised under the proposal.

Traffic to the site is not expected to increase under the proposal. The proposal would provide for off street parking for 2 vehicles, noting it is scaled to accommodate a campervan and boat.

Services

The existing development is adequately serviced and required services are able to be connected to the proposed development.

Heritage

Heritage impacts are discussed in detail under Section 5 of the WWLEP section of this report.

Grave concern is held for the impact the proposed development would have on the heritage conservation area and for the reasons outlined in this report, the development is not supported and recommended for refusal.

Natural Hazards

The site is situated in a flood prone area. Council's flood modelling software indicates the majority of the site would not be inundated during a 1:100 year flood event and only a small portion of the front would be inundated therefore no flood management works or construction requirements are necessary.

The site is not mapped as bushfire prone.

Man-Made Hazards

The site has been in continual use as a dwelling therefore it is not expected that the site would be contaminated. It is not listed on Councils' Contaminated Land Register.

Asbestos materials, synthetic mineral fibre materials and lead based paint are likely to be found on the site, due to the age of the existing development. Any consent should be conditional on appropriate treatment of any potentially contaminating items removed from the site.

Economic Impact in the Locality

The construction phase may see the employment of trades for a period of time.

Social Impact in the Locality

The proposed works are likely to improve amenity for the occupants of the subject property.

Pollution and off-site environmental effects

Standard conditions should be attached to any consent for construction to secure management of sediment and erosion during construction.

Stormwater will drain to Council's stormwater system. On-site detention is not required.

Flora and fauna

The site has not been identified as habitat and is not considered likely to impact on flora and fauna in the vicinity. The site is within the biocertified area.

Noise and Vibration

Ambient noise levels in the vicinity are consistent with the location of the site adjacent to the CBD. The proposed development is not considered likely to significantly impact on noise levels.

Demolition and construction will increase noise and vibration levels in the vicinity in the short term. Any consent would contain a standard condition limiting the days and hours of construction.

Energy Impacts

The proposed new building has been designed as a utilitarian structure. Energy usage is not expected to be high, given the non-habitable nature of the structure.

Site Design and internal design

The design utilises the secondary street frontage for vehicular access to the property, continuing the arrangement that has historically been in place for the property.

Construction

Construction of the development is likely to be disruptive in the vicinity of the subject site. Any impacts will be temporary and short term and there are no long term impacts from construction that raise concern.

Cumulative Impacts

The cumulative impact of similarly sized outbuildings in the conservation area would have a detrimental impact with regard to the heritage significance of the area, which, under the WWDCP provisions, is afforded protection from overscaled development. The sort of development being considered has a nibbling effect on the conservation area, where impacts gradually erode the development pattern.

The cumulative impact of development that is inconsistent with the development controls for that type of development is a further erosion of the confidence in the DCP controls. The DCP is a Council and community owned document, placed on public exhibition for comment from the public and endorsed by the elected Council. It provides certainty to owners and developers of the accepted limits of development as well as a certain amount of flexibility for proposals of merit.

Although a departure from garage sized controls has been sought, the departure has not been well justified by the application and is not supported by Council planning staff.

Section 79C(c) - the suitability of the site for the development

The subject land located at 144 Morgan Street, Wagga Wagga is a developed residential allotment within the heritage conservation area. It is noted that:

- the site is zoned to accommodate the proposal; and
- the site is fully serviced and existing services can be extended to accommodate the demand generated by the proposal.

Having regard to the characteristics of the site and its location, the proposed development is considered inappropriate in that:

- the size and dimensions of the land are not appropriate for the accommodation of the proposal;
- the site is located in an area, being the heritage conservation area where the use and built form are not consistent with Council's desired future character and vision for the locality;
- it will result in material environmental impacts to the adjoining properties and surrounding public domain; and

- the proposed use, density and scale is generally inconsistent with that of the surrounding existing and approved development.

The development in its current form is not considered to be suitable for the site and the application is recommended for refusal.

Section 79C(d) - any submissions made in accordance with the Act or the regulation

Referrals Building, Plumbing, Subdivision. Council's officers have reviewed the application in accordance with Council's processing procedures. Relevant comments or requirements are available on the file.

The application was referred to Council's heritage advisor, being development in the conservation area.

Notification Referred to adjoining properties 5 July 2017 to 20 July 2017. See map and list in the DA file for details of recipients.

Advertising Not advertised development under the provisions

Public Submissions and those from public authorities

One public submission was received in relation to the development. Council's heritage advisor made the following comment:

Previous Discussion

The applicant has submitted revised drawings reducing the scale of the proposed garage and the following comments follow a discussion of the proposal with the planner.

Heritage Comments

The garage is too large for the location and the reduction in scale has not met Council's concerns over the proposal. The garage is to a street frontage not a rear lane and is larger than the current structure on the site.

The proposal does not meet the size and height controls in the DCP and is set further forward than the current garage. There are no mitigating reasons for allowing such a departure from the controls and reference to poor precedents in the area is not sufficient justification for approving the scheme.

Recommendation

Refusal.

The heritage advisor's comments are endorsed by the assessing planner and the application is recommended for refusal.

Section 79C(e) - the public interest

The public interest is a broad consideration relating to many issues and is not limited to those addressed in this report. 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 not in the public interest.

Development Contributions - Section 94/94A & Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000

Section 94/94A of the Local Government Act, 1993 and the City of Wagga Wagga's Section 94/94A Levy Contributions Plan 2006 enable Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. The cost of works was submitted as \$30,000. As the cost of works is under \$100,000, the development does not require a contribution under this Plan.

A Section 94A contribution does not apply to the development.

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 / Development Servicing Plan for Sewerage 2006 enable Council to levy developer charges based on increased demands that new development may have on sewer and/or stormwater infrastructure. A Section 64 contribution is payable for this development.

Section 64 stormwater contribution

The site development has previously occurred with no developer contributions. In these instances, the developer charge for stormwater will be based upon the impervious area created by the development. The impervious area will include the building footprint and roads, carparking, etc.

The charge will be calculated as follows:

Additional impervious area = 42.5m²

The developer charge for the Urban West of Willans Hill DSP is \$3007.

$42.5/800 \times 3007/0.74 = \215.87 base figure payable.

Apply CPI $2153.87 \times 110.9/87.9 = \272.35 , noting that the application is recommended for refusal

Section 64 sewer contribution

The subject site is located within a serviced area for sewerage and the developer charge for the City of Wagga Wagga is \$3,538 per ET. The existing property contains a dwelling on a standard residential lot. The proposed alterations and additions will not substantially increase the impact on the sewer system. A developer charge does not apply to the proposed development.

REFERRALS:

Building Surveyor:- Yes - recommended conditions attached

Plumbing Inspector: - Yes - recommended conditions attached

Subdivision Engineer:- Yes - recommended conditions attached

Environmental Officer: - Not required

Parks & Recreation Officer:- Not required

Other Approvals

No other approvals were sought

CONCLUSION:

This proposal, for demolition of garage and construction of a garage with attached bathroom, verandah and mezzanine storage area within the conservation area at 144 Morgan Street, Wagga Wagga, is generally inconsistent with the objectives and controls for buildings in the heritage conservation area. The proposed garage requires a variation of the garage size controls for garages and site coverage controls for outbuildings in both



the conservation area and residential areas and this was not well justified in the application. This application has been assessed having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wagga Wagga Local Environmental Plan 2010 and all relevant Council DCPs, Codes and Policies. It is recommended that DA16/0692 for the Demolition of Existing Garage and Construction of Garage With Attached Verandah (Heritage Conservation Area) at 144 Morgan Street, Wagga Wagga be **refused**, for the following reasons:-

1. The proposed development is not consistent with Clause 5.10(1) of the Wagga Wagga Local Environmental Plan 2010 because it does not conserve the heritage significance of the Wagga Wagga Conservation Area;
2. The proposed development would have a detrimental impact on the heritage significance of the Wagga Wagga Conservation Area and would therefore be inconsistent with Clause 5.10(3) of the Wagga Wagga Local Environmental Plan 2010;
3. The application does not satisfactorily demonstrate that a departure from the Wagga Wagga Development Control Plan 2010 (the DCP) is warranted, pursuant to Clause 1.11 of the DCP;
4. The garage is contrary to the following provisions of the Wagga Wagga Development Control Plan 2010:
 - a. Clause 3.3.2, in relation to garage size in the Conservation Area
 - b. Clause 9.2.2, in relation to compatibility with existing built form
 - c. Clause 9.4.4, in relation to the ratio of outbuildings to site area.
5. For the abovementioned reasons it is considered to not be in the public interest to approve this development application.
6. For the abovementioned reasons, the development is therefore not in accordance with Section 79C(1) of the *Environmental Planning and Assessment Act 1979*, as amended.

RECOMMENDATION

It is recommended that DA16/0692 for be refused, for the following reasons:-

1. The proposed development is not consistent with Clause 5.10(1) of the Wagga Wagga Local Environmental Plan 2010 because it does not conserve the heritage significance of the Wagga Wagga Conservation Area;
2. The proposed development would have a detrimental impact on the heritage significance of the Wagga Wagga Conservation Area and would therefore be inconsistent with Clause 5.10(3) of the Wagga Wagga Local Environmental Plan 2010;
3. The application does not satisfactorily demonstrate that a departure from the Wagga Wagga Development Control Plan 2010 (the DCP) is warranted, pursuant to Clause 1.11 of the DCP;
4. The garage is contrary to the following provisions of the Wagga Wagga Development Control Plan 2010:
 - a. Clause 3.3.2, in relation to garage size in the Conservation Area
 - b. Clause 9.2.2, in relation to compatibility with existing built form
 - c. Clause 9.4.4, in relation to the ratio of outbuildings to site area.
5. For the abovementioned reasons it is considered to not be in the public interest to approve this development application; and
6. For the abovementioned reasons, the development is therefore not in accordance with Section 79C(1) of the *Environmental Planning and Assessment Act 1979*, as amended.

<p>Report Prepared & approved by:</p>  <p>Camilla Rocks Senior Town Planner</p> <p>Date:22/9/17</p>	<p>Report Reviewed by:</p>  <p>Amanda Gray Senior Town Planner</p> <p>Date:22.9.17</p>
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