

Report of Development Application

Environmental Planning and Assessment Act 1979

Application Details	Application Number	DA22/0132.01	Applicant	Matt Jenkins Builder Pty Ltd 18 Dobney Ave WAGGA WAGGA NSW 2650
	Date of Lodgement	03/04/2023		
	Proposal	Proposed Demolition of Dwelling and Proposed Dwelling – Remove condition C.5	Description of Mod.	N/A
	Development Cost	\$548273	Other Approvals	Nil
Site Details	Subject Land	17 Hodson Ave TURVEY PARK NSW 2650 Lot 2 DP 362232	Owner	CD Granger & KE Granger

Recommendation: The application be approved subject to conditions of consent as detailed in the draft Notice of Determination.

Delegation to Determine Application:- Officer Delegation 7.39

Report Prepared by:



Lani Hudson
Cadet Town Planner

Date: 14/06/2023

Report Approved by:



Steven Cook
Senior Town Planner

Date: 14/06/2023

☐ Section 4.55 Modification of Consent

☒ Section 4.55(1) Modification of Consent - Minor

☐ Section 4.55(1A) Modification of Consent – Minimal Environmental Impact

Legislative Provisions	Comment
<i>(a) it is satisfied that the proposed modification is of minimal environmental impact.</i>	<p>The development as approved under DA22/0132 was for the Demolition of Dwelling and construction of a new dwelling.</p> <p>The subject Section 4.55 (1A) modification seeks consent to remove condition C.5 which requires the applicant to install a privacy screening along the entire Northern side of the alfresco area of the dwelling, to prevent overlooking of the property to the north.</p>
<i>(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).</i>	<p>The proposed modification does not to change the approved dwelling design in terms of floor area, location of doors and windows, finishes and materials or location on site. The modification is therefore considered substantially the same development as the development for which the consent was originally granted.</p>
<p><i>(c) it has notified the application in accordance with—</i></p> <p><i>(i) the regulations, if the regulations so require, or</i></p> <p><i>(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent.</i></p>	<p>The Section 4.55(1A) Modification Application was notified as outlined within the notification provisions outlined in Section 1.10 of the DCP 2010.</p> <p>Dates: 18/05/23 to 25/05/23</p>

<p><i>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</i></p>	<p>One submission was received – issues raised were the potential for lack of privacy and overlooking concerns should the hedge currently present ever be removed.</p> <p>A deck of this size, with a floor height less than 1m, and setback greater than 900mm, can be erected as exempt development under State Environmental Planning Policy (Exempt and Complying Development) 2008. Therefore, it is considered unreasonable to impose a more onerous standard in this instance.</p> <p>In future, if the hedge is removed, there will be an opportunity for the neighbouring properties to negotiate the erection of a taller fence up to 1800mm in height. This would increase the screening between the properties. In any event, even without the hedge, it is assessed that impacts on privacy are not significant, with any overlooking not significant and of the back of the rear yard of the adjoining property away from primary areas of private open space.</p>
<p><i>In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.</i></p>	<p>See assessment below</p>

Section 4.55(2) Modification of Consent – Other

Section 4.15(1) Matters for consideration - general

Description	Dwelling
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Matters for consideration

GIS & System Check	Section 4.15(1) EP&A Act 1979	Issue	Legislative Provisions	Not Relevant	Satisfactory	Comment
◀	(b) (c) (e)	DA History		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
LEP 2010 Zones	(a)(i) (b) (c) (e)	Zoning	LEP 2.2 Zoning of land to which Plan applies 2.3 Zone objectives and Land Use Table	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	Zoning of land (cl 2.2): R1 The development is permissible in the zone (cl. 2.3(1)) The development is consistent with the following objectives of the zone (cl. 2.3(2)): <ul style="list-style-type: none"> To provide for the housing needs of the community. To provide for a variety of housing types and densities.

Land Parcels & DP	(b) (c) (e)	Land Title Correct legal description and ownership Easements & Building Envelopes Open Deposited Plan (including 88b) Registered title (deferred commencement)		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
LEP 2010 Listed item and Conservation	(a)(i) (a)(iii) (b) (c) (e)	Heritage Conservation Area Listed item		<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
		LEP 5.10 Heritage conservation <i>DCP 3 Heritage Conservation</i>		<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
LEP 2010 Urban release Area	(a)(i) (b) (c) (e)	Urban Release Area	LEP 6.2 Public utility infrastructure	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
			LEP 6.3 Development control plan	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
Natural resource Sensitivity	(a)(i) (a)(iii) (b) (c) (e)	Natural Resource Sensitivity	LEP 7.3 Biodiversity	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
		<i>DCP 5.4 Environmentally sensitive land</i>	LEP 7.4 Vulnerable land	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	

			LEP 7.5 Riparian lands and waterways	● NR	○ Sat	
			LEP 7.6 Groundwater vulnerability	○ NR	● Sat	
Flooding (including MOFFS)	(a)(i) (a)(iii) (b) (c) (e)	Flooding Overland flow <i>DCP 4.2 Flooding</i>		● NR	○ Sat	
			LEP 5.21 Flood Planning	● NR	○ Sat	
Bushfire Prone Land	(a)(iii) (b) (c) (e)	Bushfire <i>DCP 4.1 Bushfire</i>		○ NR	● Sat	The site is not mapped as bush fire prone land and a site inspection has confirmed that the site or surrounding area is not a bush fire risk. No further assessment is required.
Environmental - Contaminated Land & PFAS	(a)(i) (b) (c) (e)	Contaminated Land PFAS Study Area Site observations	SEPP (Resilience and Hazards) 2021	○ NR	● Sat	There is no indication that the site has previously been occupied by any use that could have led to contamination of the site. Furthermore, the land is not identified on Councils register of contaminated sites.
Airport Constraints	(a)(i) (b) (c) (e)	Airport Constraints	LEP 7.11 Airspace operations	○ NR	● Sat	
			LEP 7.12 Development in areas subject to aircraft noise	○ NR	● Sat	

Assets – Sewer and Stormwater	(b) (c) (e)	Services/Utilities (Septic area? Health referral)) Sewer/stormwater infrastructure (Build over, encroachment, earthwork impacts) Stormwater issues – overland flow Electricity infrastructure (including setbacks to substations) (Transport/infrastructure SEPP referral)		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>	
Aerial Imagery (*Topographic – Hydrology)	(b) (c) (e)	Existing site conditions Buildings on site Retaining walls Cut and fill Deposited fill Boundary fencing and walls Private open space Vegetation *Proximity to natural waterways Other observations		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>	Site visit undertaken on: 15/5/23

Aerial Imagery (*Topographic – Hydrology)	(b) (c) (e)	Off site observations Buildings Window locations Private open space Retaining walls Cut and fill Boundary fencing and walls Vegetation *Proximity to natural waterways Other observations		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(a)(iii) (b) (c) (e)	Traffic, access and parking Manoeuvring Site Distance Issues Driveway grade Check Driveway location and grade <ul style="list-style-type: none"> • Side entry pit • Service lids/pits • Poles/turrets/substations • Street Trees <i>DCP</i> <i>2.1 Vehicle access and movements</i> <i>9.3.6 Front setbacks</i>		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	

	(a)(iii) (b) (c) (e)	Context, setting and streetscape <i>DCP</i> <i>9.2.2 Streetscape</i> <i>9.2.3 Corner lots and secondary facades</i> <i>9.2.4 Sloping Sites</i> <i>9.3.1 Site area per dwelling</i> <i>9.3.2 Site cover</i> <i>9.3.6 Front setbacks</i> <i>9.3.7 Side and rear setbacks</i> <i>9.4.1 Building elements</i> <i>9.4.2 Materials and finishes</i> <i>9.4.4 Garages, carports, sheds and driveways</i> <i>9.4.5 Site facilities</i>		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>	
	(a)(iii) (b) (c) (e)	Public Domain Impact on street or adjoining public place Condition/Dilapidation Construction access <i>DCP</i> <i>2.7 Development adjoining open space</i> <i>9.4.5 Site facilities</i>		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>	
	(a)(iii) (b) (c) (e)	Safety, security and crime prevention <i>DCP 2.5 Safety and security</i>		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>	

	(a)(iii) (b) (c) (e)	Site and internal design <i>DCP</i> <i>9.2.1 Site layout</i> <i>9.4.1 Building elements</i> <i>9.4.4 Garages, carports, sheds and driveways</i>		○ NR	● Sat	
	(a)(iii) (b) (c) (e)	Solar impact <i>DCP</i> <i>9.3.4 Solar access</i> <i>9.3.7 Side and rear setbacks</i>		○ NR	● Sat	
	(a)(iii) (b) (c) (e)	Visual Privacy Private open space Boundary fencing and screening <i>DCP</i> <i>9.3.5 Private open space</i> <i>9.3.7 Side and rear setbacks</i> <i>9.4.3 Privacy</i>		○ NR	● Sat	Discussion below
	(a)(i) (b) (c) (e)	Noise and Vibration Acoustic privacy conflicts Impacting nearby landuses (Rail, Road, Infrastructure SEPP referrals)		○ NR	● Sat	

	(a)(i) (b) (c) (e)	Air and microclimate Impacting nearby landuses (Rail, Road, Infrastructure SEPP referrals)		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(a)(i) (a)(iii) (b) (c) (e)	Earthworks and Soils Cut and fill Stability and erosion control Stormwater quality <i>DCP</i> <i>9.4.6 Changing the landform – cut and fill</i>		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
		LEP 7.1A Earthworks		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(b) (c) (e)	Landscaping		<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
	(b) (c) (e)	Waste Construction waste management Asbestos		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(a)(iii) (b) (c) (e)	Energy & Water <i>DCP</i> <i>9.3.7 Side and rear setbacks</i> <i>9.4.1 Building elements</i> <i>9.4.2 Materials and finishes</i>		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	

	(a)(i) (b) (c) (e)	BASIX (Use assessment checklist)	BASIX SEPP 2004	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(b) (c) (e)	Other hazards Natural Technological		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(a)(iii) (b) (c) (e)	Flora and Fauna (on and off-site) Check for native veg requirements (R5 and RU4 Land) <i>DCP</i> <i>5.2 Preservation of trees</i> <i>5.3 Native Vegetation Cover</i>		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
			Section 5AA and Part 7 of the Biodiversity Conservation Act 2016 <i>Test for determining whether proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats)</i>	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	<p>Section 5AA and Part 7 of the Biodiversity Conservation Act 2016 (Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats)</p> <p>There are a number of tests to determine whether the proposal triggers the NSW Biodiversity Offset Scheme under the NSW Biodiversity Conservation Act 2016 and results in the need for further assessments or offsets.</p> <p>1. <i>Is the subject site identified as an area of outstanding biodiversity value on the biodiversity values map?</i></p> <p>No</p>

						<p>2. Does the amount of native vegetation being removed exceed the biodiversity offsets scheme threshold.</p> <p>No native vegetation is proposed to be removed.</p> <p>3. Test of Significance - the test to determine whether the proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats.</p> <p>Given that no native vegetation is being removed and in the absence of any recorded endangered flora or fauna on the site of the proposed development, it is not anticipated that the development will significantly affect threatened species or ecological communities or their habitats.</p> <p>Based on the above assessment it is satisfied that the development will not trigger the Biodiversity Offset Scheme.</p>
	(b) (c) (e)	Social and economic impacts		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(b) (c) (e)	Facilitation of Ecologically Sustainable Development		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(a)(i) (b) (c)	Other LEP Clauses	LEP 2.7 Demolition requires development	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	

	(e)		consent			
			LEP 4.3 Height of buildings	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
			LEP 7.9 Primacy of Zone B3 Commercial Core	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
			LEP 4.2A Erection of dwelling houses and dual occupancies on land in certain residential, rural and environmental protection zones	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
			LEP 5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
			Other Clauses	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
	(a)(i) (b) (c) (e)	Other EPIs	SEPP (Transport and Infrastructure) 2021	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
			SEPP (Precincts - Regional) 2021	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	

			Other SEPPs	● NR	○ Sat	
	(a)(ii) (b) (c) (e)	Draft EPIs		○ NR	● Sat	There are a number of state environmental planning policies currently subject to review, including some which have involved consultation and notification. None of these are applicable to this application.
	(a)(iiia) (e)	Planning agreements		● NR	○ Sat	No related planning agreement has been entered into under section 7.4.
	(d) (e)	Submissions		○ NR	● Sat	Nil
	(e)	Section 68 Application made as part of DA	<i>Local Government Act 1993</i>	● NR	○ Sat	
	(e)	Section 7.11 Contributions (Local Infrastructure Contributions Plan 2019 - 2034)	<i>EP&A Act 1979</i>	● NR	○ Sat	
	(e)	Section 7.12 Contributions (Local Infrastructure Contributions Plan 2019 - 2034)	<i>EP&A Act 1979</i>	● NR	○ Sat	
	(e)	Section 64 sewer (Development Servicing Plan – Sewerage Services – July 2013)	<i>s64 LG Act 1993 & s306 Water Management Act 2000</i>	● NR	○ Sat	
	(e)	Section 64 stormwater (Development Servicing Plan – Stormwater – November 2007)	<i>s64 LG Act 1993 & s306 Water Management Act 2000</i>	● NR	○ Sat	
cl.	(a)(iv) (e)	The Regulation – Prescribed Matters		○ NR	● Sat	

		EP&A Regulation 2021	cl.61(1) - Demolition of a building, the provisions of AS 2601 <i>(ensure condition included requiring compliance with standard)</i>	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
			cl.61(7) - Consideration of Special Activation Precinct Master Plan	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
			cl.64 - Require existing building to be brought into total or partial conformity with BCA <i>(check with Building Surveyor for development proposing the rebuilding, alteration, enlargement or extension of an existing building)</i>	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
	(a)(iv) (e)	The Regulation – Prescribed Conditions <i>(ensure conditions of consent included)</i>	EP&A Regulation 2021	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(e)	Other regulation matters	EP&A Regulation 2021	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(e)	Council Policies		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	Policy 046 - Processing Development Applications lodged by Councillors, staff and individuals of which a conflict of interest may arise, or on Council owned land. No declaration has been made that would require action under this policy.

	(e)	Other public interest matters		<input type="radio"/>	<input checked="" type="radio"/>	It is considered that this application will not have a detrimental effect on the public interest.
				NR	Sat	

Development Control Plan 2010

Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979

DCP Section (Objectives and Controls)	Not Relevant	Satisfactory	Comment
(☒ section not relevant)			No changes to the original assessment. All comments remain the same as DA22/0132.

☒ 1.10 Notification of a Development Application

☒ 1.11 Complying with the Wagga Wagga Development Control Plan 2010

☒ 2.1 Vehicle access and movements

☒ 2.2 Off-street parking

☒ 2.3 Landscaping

- ☒ 2.5 Safety and security
- ☒ 2.6 Erosion and sediment control
- ☒ 2.7 Development adjoining open space
- ☒ 3 Heritage Conservation
- ☒ 4.1 Bushfire
- ☒ 4.2 Flooding
- ☒ 5.1 Development on ridges and prominent hills
- ☒ 5.2 Preservation of trees
- ☒ 5.3 Native Vegetation Cover
- ☒ 5.4 Environmentally sensitive land
- ☒ 6 Villages
- ☒ 8 Rural Development
- ☒ 9.1.5 R3 Zone – Staunton Estate

- ☒ 9.2.1 Site layout
- ☒ 9.2.2 Streetscape
- ☒ 9.2.3 Corner lots and secondary facades
- ☒ 9.2.4 Sloping sites
- ☒ 9.3.1 Site area per dwelling
- ☒ 9.3.2 Site cover
- ☒ 9.3.4 Solar access
- ☒ 9.3.5 Private open space
- ☒ 9.3.6 Front setbacks
- ☒ 9.3.7 Side and rear setbacks
- ☒ 9.4.1 Building elements
- ☒ 9.4.2 Materials and finishes
- ☐ 9.4.3 Privacy

<p><i>O1 Ensure privacy within new developments, and avoid potential impacts to existing properties.</i></p> <p><i>O2 Ensure adequate acoustic privacy within dwellings.</i></p>	C1 Offset windows, balconies and private open space areas between adjoining dwellings.	<input type="radio"/>	<input checked="" type="radio"/>	
	C3 Screening is required where there is direct line of sight between neighbouring balconies or private open space areas, or between windows and door openings of habitable rooms.	<input type="radio"/>	<input checked="" type="radio"/>	<p>A deck of this size, with a floor height less than 1m, and setback greater than 900mm, can be erected as exempt development under State Environmental Planning Policy (Exempt and Complying Development) 2008. Therefore, it is considered unreasonable to impose a more onerous standard in this instance.</p> <p>In future, if the hedge is removed, there will be an opportunity for the neighbouring properties to negotiate the erection of a taller fence up to 1800mm in height. This would increase the screening between the properties. In any event, even without the hedge, it is assessed that impacts on privacy are not significant, with any overlooking not significant and of the back of the rear yard of the adjoining property away from primary areas of private open space.</p>

9.4.4 Garages, carports, sheds and driveways

9.4.5 Site facilities

9.4.6 Changing the landform – cut and fill

14 Boorooma Urban Release Area

 **15 Lloyd Urban Release Area**

 **16 Gobbagombalin Urban Release Area**