

INDEPENDENT ASSESSMENT REPORT
DEVELOPMENT APPLICATION 10.2012.31460.2
APPLICATION FOR MODIFICATION OF CONSENT UNDER SECTION 96(2)
ALBURY REGIONAL ART GALLERY, 546-558 DEAN STREET, ALBURY

DATE: 25 September 2013
AUTHOR: Warwick Horsfall, Habitat Planning

Introduction

Council is in receipt of an application under Section 96(2) of the *Environmental Planning and Assessment Act 1979* to modify Development Consent 10.2012.31460.1. The application was received on 6 September 2013. Because of the value of the original development application, it was reported to Southern Joint Regional Planning Panel (JRPP) for determination and subsequently approved. Consequently this application for modification must also be reported to the JRPP.

The purpose of the modification is to seek endorsement of a new set of plans for the development. According to the applicant, the new plans show the following modifications to the current endorsed plans.

‘Burrows House’

- Construction of a new palisade fence between 'Burrows House' to separate circulation from the 'Court House' site.
- Construction of a new site boundary fence to north side of 'Burrows House'.
- Construction of a new fence to enable secure access to the 'Court House'.
- Partial construction and interpretation of the balcony and main facade of 'Burrows House' to accommodate the proposed Gallery Shop.
- Demolition of the existing western external stair of 'Burrows House' and repair of existing balcony floor.
- Adaptation of the existing western balcony balustrade of 'Burrows House' to meet statutory requirements.
- Demolition of the northern annex of 'Burrows House' and construction of a new external stairway, plant and garbage enclosures.
- Minor changes to internal layout of 'Burrows House'.

‘Albury Regional Art Gallery’

- Re-roofing of the 'Albury Regional Art Gallery' building with corrugated metal sheeting and replacement of existing box gutters and flashings.
- Replace existing 'quad' gutter with 'ogee' profile gutter; replace gutter mould and fascia to match existing.
- Construction of a new plant area and screen over new wing of the 'Albury Regional Art Gallery'.
- Minor changes to internal layout of ground floor.
- Minor changes to internal layout of first floor.
- Strengthening of existing floors to meet statutory and user requirements.

Other changes

- Relocation of the proposed eastern stair.
- Deletion of the lower first floor window to control light within the gallery space.
- Minor changes to the loading dock.
- Minor re-configuration of internal layout.
- Minor changes to the fenestration in the new wing.
- Construction of an outdoor eating area and planting to the north of the ground floor restaurant.

- Change of proposed exterior finishes of the new wing from timber and compressed cement sheet to metal cladding panels. The north and east elevations would incorporate art works. The art work incorporated into the north wall would be a kinetic artwork comprising aluminium panels that would convert wind movement into a visible wave pattern. It would be framed by metal cladding panels.
- Four light boxes would be installed on the east elevation at ground floor level. They would be used for temporary art displays and information relating to exhibitions.

The applicant has submitted with the application a Planning Report outlining the proposed changes and its interpretation of the planning considerations relevant to the application and its assessment. This Planning Report is marked *Attachment 1*.

Background

The subject land is comprised of four parcels described as Part Lot 25 Section 12 DP 758013, Lot 16 Section 12 DP 758013, Lot 29 Section 12 DP 758013 and Lot 25 DP 1169423, and addressed as 538 to 556 Dean Street, Albury. The subject land is located on the northern side of Dean Street between Kiewa and Olive Streets. It adjoins Queen Elizabeth (QEII) Square and has a total area of approximately 2,700m². The site currently contains a former Town Hall of two storeys with a single storey rear extension and Burrows House. The site includes a paved and landscaped public area.

In summary, the current approved development proposes:

- Demolition of the rear (northern) single level section of the existing 'Art Gallery' building to enable the redevelopment and consolidation of the 'Albury Regional Art Gallery' within the QEII Square cultural precinct.
- Demolition and refurbishment of the interiors to the existing 'Art Gallery' former Town Hall building.
- Demolition and refurbishment of the interiors of the 1920's addition to 'Burrow House' currently used as a cafe and community facility.
- New landscaping along the eastern and northern perimeters of the site, which form part of the Masterplan for QEII Square.

The proposal will increase the floor area of the gallery from 942m² to 2,038m² and the front-of-house area will increase to 1,346m². The redevelopment will create eight flexible gallery spaces providing a 52% increase on current space, two education workshops, permanent collection storage, an accessible loading dock, cafe and retail store.

The endorsed date of consent for the current development is 4 May 2012. The consent will lapse on 4 May 2017 if not commenced beforehand.

Modifying a Consent

After a development consent has been issued, the original applicant, or anyone entitled to act upon the consent, can apply to Council for approval to modify that development consent. An application to modify a development consent is made under Section 96 of the *Environmental Planning and Assessment Act, 1979*. Section 96 allows a development consent to be modified, as long as the development is considered by the Consent Authority to be substantially the same as that originally approved. An applicant is required to precisely identify what is being modified and the Consent

Authority's consideration is limited to the extent of the modification. This is the first consideration for the Consent Authority in assessing the application.

Whilst the list of proposed changes is extensive, they are all of a minor superficial nature and do not alter the scale, configuration or function of the development to the extent that it will result in something not substantially the same as what has been approved. A comparison between the current endorsed plans and those proposed to replace them confirms this is the case.

Should Council deem that the application requires renotifying, then Council is required to re-notify the application in accordance with its notification policy and include any submitters to the original application. This notification has been undertaken and no submissions have been received.

Planning Considerations

The modification application, like the original application, requires consideration against the relevant planning provisions contained in the *Albury Local Environmental Plan 2010* (ALEP) and the *Albury Development Control Plan 2010* (ADCP).

The modifications don't change the compatibility of the proposal with the objectives and land use table of the B3 Commercial Core Zone of the ALEP. Likewise compliance with clause 4.3 for height of buildings and clause 4.4 for floor space ratio is unaffected by the proposed changes.

Clause 5.10 of the ALEP is for heritage conservation and is relevant to the modification as some of the changes relate to the heritage fabric of Burrows House and the Art Gallery, both of which are listed as local heritage items and part of the Dean Street Conservation Area. The modification application was accompanied by an addendum to the Statement of Heritage Impact submitted with the original application by heritage architects NBRS & Partners. The addendum draws the following conclusions in regards to the heritage impacts of the changes.

Heritage element	Assessment	Conclusion
Art Gallery	The proposed modifications are generally limited to the re-configuration of internal spaces and would not substantially alter the approved development. They have been designed to assist in the retention of original masonry walls and finishes where possible.	Negligible heritage impact
Burrows House	The modifications involve the removal of intrusive accretions and non-significant fabric to enable the building to be adapted as offices and galleries, and to control access from the building. The architects have investigated a number of options in trying to satisfy Condition H3 attached to Development Consent No. 010.2012.00031460.001, and propose the construction of a balcony to the first floor level of the main facade in part fulfilment of the condition. The modified balcony would include historically appropriate details where possible, but would be adapted to increase its floor area and to enable the construction of a column-free ground floor shop/gallery. Windows at the first floor level would be retained and conserved.	Acceptable heritage impact

Dean Street Conservation Area	<p>The proposed modifications would improve views within the Dean Street Conservation Area by relocating the eastern stair closer the eastern elevation of the existing building. The proposed works would not increase the bulk or scale of the approved development. The minor roof addition to accommodate plant and equipment would be set back from the eaves line to minimise its visual impact in views to the Art Gallery from Queen Elizabeth 2 Square.</p> <p>The proposed modification of the balcony to the former Lands and Survey Office is intended, in part, to meet the objectives of the ADCP. The balcony would be complement the scale and features of the building, and where possible incorporate historically appropriate details to enhance the Dean Street streetscape.</p>	Negligible heritage impact
-------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------

This assessment and its conclusions adequately demonstrate that the proposed changes do not alter the favourable consideration of heritage impacts reached in the assessment of the original application.

The heritage assessment in the table above also satisfies the requirements of Part 7 of the ADCP for Heritage Conservation. Part 11 of the ADCP relates to Development in the B3 Commercial Core zone. None of the requirements of Part 11 are compromised by the changes proposed to the approved plans.

Conclusions

In conclusion, the numerous minor changes proposed to the approved Regional Art Gallery project are suitable for consideration as a modification of consent because even in total they will still result in a development substantially the same as that currently approved. The changes do not compromise any element of compliance the approved development achieved with the ALEP and ADCP.

Consequently the application for modification of Development Consent 10.2012.31460.1 is recommended for approval.

Recommendation

That the Consent Authority:

- a. approve Development Application 10.2012.31460.2; and
- b. amend condition A1 to read:

The development must be carried out in accordance with the approved plans, particulars and statements submitted with the Development Application receipted on 06/02/2012, except where modified by the Application for Modification receipted 06/09/2013, and subject to the following conditions.

- **Attachments**

1. Planning Report accompanying the modification application