



016

NSW Department of Planning & Environment  
GPO BOX 39  
SYDNEY NSW 2001

## APPLICATION

MP-2006/94/F

Date

25 July 2019

Dear Sir/Madam

### Development

Subdivision to create a combination of residential detached dwelling allotments and super lots for multi-unit housing; a retirement development including a residential aged care facility, independent living units, communal facilities and services to support the village, access and parking. Modification F - reduce the number of independent living units (from 250 to 140 units) and beds in the residential aged care facility (from 120 to 80 beds). add standard residential dwellings (55 dwellings) and amend the layout of independent living unit buildings

### Location

Lot 2 Sturdee Avenue, BULLI NSW 2516, Lot 3 Sturdee Avenue, BULLI NSW 2516

I refer to your email of 17 June 2019 notifying Council of the **response to submissions** for the proposed modification to the above concept plan (MP 06\_0094 Mod5) in relation to the Anglican Retirement Village land (Anglicare). Council has reviewed the submitted information including the *Response to Submissions and Preferred Project Report* (Ethos Urban, 29 May 2019) and associated documentation and provides the following comments:

#### 1. Transfer of planning provisions

Please refer to Councils submission of 18 December 2018 which remains relevant.

#### 2. North/south Link Road and bridge over Tramway Creek

Please refer to Councils submission of 18 December 2018 which remains relevant with the following exception. The land on which Tramway Creek is located was transferred to Council in February 2019. It is now imperative that the construction and initial maintenance of the bridge be undertaken by Anglicare with the consent of Council and any approval incorporate conditions requiring this as per the statement of commitments. It will be essential that the developer negotiates with Council's Property Division to allow for the construction of the road link.

#### 3. Ongoing management of Turpentine Forest

Please refer to Councils submission of 18 December 2018 which remains relevant. In particular Council will not accept ownership of the forest.

#### 4. Character/scale of the development

The following additional comments are made in relation to each of the proposed precincts:

- Hilltop precinct 55 (number shared with Ocenview) residential dwellings up to 2 stories 2489m<sup>2</sup> (previously for RACF up to 12.6m 3-4 stories 2050m<sup>2</sup> and 120 beds) (Now defined as Precinct 2)

Please refer to Councils submission of 18 December 2018 which remains relevant. The new rear lane access and car parking bays is a positive outcome which will allow access and servicing via the rear. However, no clarification has been provided as to whether the dwellings will be occupied by either standard residential dwellings or senior accommodation.

Given proposed transfer of planning provisions, the housing in this precinct would need to comply with the requirements of Chapter B1 of Wollongong DCP 2009.

- *Ocean view precinct 55 (number shared with Hilltop) detached and semi-detached residential dwellings up to 2 stories plus basement/parking 3175m<sup>2</sup> (previously for ILU 12.6m up to 3 stories 4231m<sup>2</sup> 250 units) (Now defined as Precinct 3)*

Please refer to Councils submission of 18 December 2018 which remains relevant. The new road arrangement is a positive outcome which will allow for more efficient access and servicing. Careful consideration should be given to the proximity of the south eastern section of this precinct abutting the aboriginal archaeological site.

Given proposed transfer of planning provisions, the housing in this precinct would need to comply with the requirements of Chapter B1 of Wollongong DCP 2009.

- *South Precinct RACF up to 11.4m 3 stories and 80 beds and ILU up to 11.4m 3 stories and 140 units combined area 8349m<sup>2</sup> (previously known as central precinct, for ILU up to 11.4m 3 stories 11100m<sup>2</sup> and 240 units) (Now defined as Precinct 1)*

Please refer to Councils submission of 18 December 2018 which remains relevant. Compliance with SEPP 65 and accompanying ADG should be undertaken along with a detailed site analysis as required under the ADG.

## 5. Heritage

Please refer to Councils submission of 18 December 2018 which remains relevant but are updated as follows:

Council supports the proposed preparation of an Aboriginal Heritage Management Plan but it is noted that this plan should inform the development process and be prepared to support the progression of plans, rather than to support a finalised arrangement.

Council notes that the OEH raised in their submission the need for the Community Consultation process to be recommenced to satisfy the requirements of the OEH Consultation Guidelines. Council notes that the advertisement of the project to potential Aboriginal groups interested in the project was undertaken in 2014 and that Aboriginal community involvement has been very limited. It is also noted that there appear to be significant gaps in the consultation log well beyond the 6-month period allowed for under the OEH guidelines. Council feels that notification of a project 5 years ago to register RAPs for the project is not satisfactory. Many local groups have had significant changes in leadership, membership and interest since this time, and many of the RAPs are no longer the appropriate contact points. Council encourages the department to insist on revised consultation including a new registration of RAPs in accordance with OEH's request. This is to ensure appropriate and full consultation with the local community. It is noted that the current reporting, including the 25 May 2019 letter from Mary Dallas places significant evidence on the "archaeological significance" of the site. It is Council's view that the "Cultural Significance" of the site to the local community is of equal or greater importance to the community and that this cultural significance must be fully and adequately considered in finalising the assessment. The satisfaction of OEH's consultation requirements in accordance with the guidelines is an essential step in ensuring the cultural significance of the site, and the impacts of the development on this cultural significance are adequately considered.

Council notes that the 6m "defendable buffer zone" presented in the concept plan presents a significant reduction on the previous 20m buffer zone to the heritage listed "Turpentine Forest" compared to the previously approved concept plan. Little justification in terms of heritage impacts and impacts on the

Aboriginal Cultural Significance of the Turpentine forest have been discussed or considered. This matter requires further consideration and exploration.

It is noted that in response to WCC 4H, no adequate justification for the variation to lot depths has been provided. Providing for compliant lot depths will lessen the potential construction impacts on the archaeological site. Council has also requested further information regarding grades and levels and constructability of access roads within Precinct 3. It appears that no response to this request in WCC 5D has been provided.

Council remains of the view that the boundary of the Aboriginal Archaeological Deposit proposed to be retained has an insufficient curtilage and development buffer to allow for adequate conservation during the construction and implementation of the proposed development layout. Further consideration should be given to the constructability of the adjacent development zones, the volumes of fill required, and the practical impacts on the archaeological and cultural significance of this area in the construction and post development outcome of the development.

Whilst the preparation of an Aboriginal Heritage Management Plan offers some potential to address and mitigate the Aboriginal heritage impacts of the development, serious consideration must be given to the reduction of impacts to ensure a culturally sensitive and archaeologically appropriate outcome. Council asks that the requirement for an Aboriginal Heritage Management Plan includes requirements that any land proposed to be handed to Council (with exception to the Turpentine forest) under the plans is included in the Aboriginal Heritage Management Plan and that the future maintenance, management and upkeep of these lands is carefully considered and explored in the plan. This should also provide a mechanism for any necessary future approvals which may be required under the NPW Act 1974.

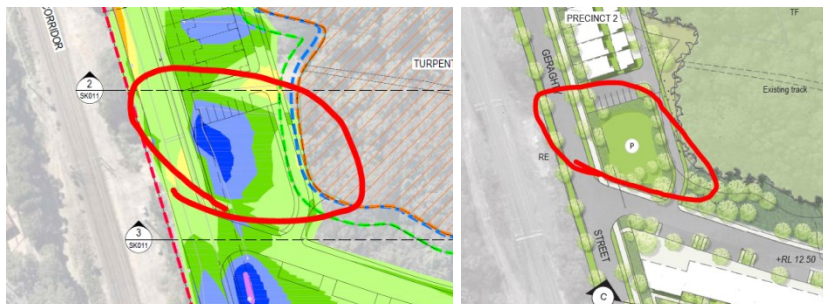
As the land on which Tramway Creek is located was transferred to Council in February 2019 a mechanism for thorough assessment of the environmental and heritage impacts of the proposed road and bridge construction will need to be considered in finalising the approvals. It is anticipated that an Aboriginal heritage impact permit may be required to allow for the construction of the road and bridge. The current reporting and environmental assessments do not appear to include this land area and have not considered the impacts of the road construction. This matter requires further consideration.

## 6. Stormwater

Please refer to Council's submission of 18 December 2018 which remains relevant. In particular, the following matters have not been addressed:

*The proposed concept layout requires filling and re-aligning of an existing watercourse channel and culvert (i.e. upper portion of Cookson's Creek) to facilitate the southern-most four units of the Hilltop Precinct. This proposal is contrary to Section 10.3.7 of Chapter E14 of the Wollongong DCP2009. Also, the proposal to re-align a watercourse/culvert/overflow path with a near 90 degree bend is considered contrary to good floodplain management practice. These four units need to be removed from the proposal in order to maintain the existing watercourse and negate the need for any watercourse filling/re-alignment.*

**Comment:** The 4 dwellings previously proposed over the alignment of this watercourse have been removed from the proposal. However, the cut/fill plan by Cardno still indicates filling over the alignment of this existing watercourse, and the landscape concept plan indicates an 'ornamental lawn' over the location of the existing watercourse channel. The design needs to be amended to maintain the watercourse channel through this location. A culvert will need to be provided beneath the proposed road to maintain flows in the watercourse.



*The proposal includes filling and a sound/flood barrier along the western boundary of the property, which will obstruct overland flows and floodwater flows entering the site. This outcome is also evidenced by the submitted flood modelling, which shows significant flood level increases on the adjoining land as a result of the design. This proposal is contrary to Performance Criteria 6.4.2(d) of Chapter E13 and Section 11.3.17 of Chapter E14 of the Wollongong DCP2009. The concept plan and flood modelling needs to be amended to demonstrate acceptance of overland flows and floodwater flows onto the site in a way that replicates existing conditions, and management of these flows in a way that ensures no diversion of floodwater and no increase in flooding elsewhere. It appears that engineered measures will be required within the site to accept and convey the contributing flows, and adequate space will need to be set aside in the concept plan to facilitate these measures.*

**Comment:** This matter has not been addressed. The response by Cardno in relation to this matter has been reviewed and is noted. However, the response does not resolve the matter. The above requirements need to be addressed.

*The concept stormwater plan includes works outside the site within the adjoining land (Lot 500 DP 1161858). Owners consent and an easement to drain water over the adjoining land (in accordance with Section 11.3.6 of Chapter E14 of the Wollongong DCP2009) would be required to facilitate this work.*

**Comment:** Not addressed. The plans still show works and a stormwater outlet onto the adjoining land. This matter remains outstanding.

*The proposed road off Wilkies St (between Wakefield St and Craven St) is in conflict with an existing stormwater pit. The existing system will need to be modified and a new pit will need to be constructed by the developer as part of the works, to ensure design function of the system is maintained.*

**Comment:** Not addressed. The proposed road is still in conflict with an existing pit.

*It is unclear why On-site Stormwater Detention (OSD) is proposed. As the site is located within an OSD concession zone and runoff from the site discharges directly to receiving waters without passing through intervening property, OSD is not required for this development.*

**Comment:** This matter has been addressed. OSD has been removed from the proposal.

*Some of the text on the stormwater concept plan is corrupted/missing. See the note relating to installation of a drainage new culvert (purple line). An amended version with complete text labels is required to enable a full assessment.*

**Comment:** Matter addressed.

## 7. Traffic

Please refer to Councils submission of 18 December 2018 which remains relevant. In particular, the proposed redesign has removed the multiple driveway access points across the existing Wilkies Street shared path and future Geraghty Street shared path which will improve pedestrian, cyclist and vehicular safety.

The swept paths of a 12.5 metre large rigid vehicle demonstrate that the proposed road layout can accommodate large delivery and emergency vehicles. It should be noted that waste vehicles are less than

12.5 metres in length, so the proposed layout has been sufficiently designed to accommodate all large vehicles likely to enter the development.

The development must ensure that off-street car parking is provided for residents as per the car parking rates in Schedule 1 of Chapter E3 of the DCP based on the GFA of the dwellings. Car parking for visitors must also be provided at a rate of 0.2 spaces per dwelling.

The use of the carriageway for parallel parking to meet the above DCP visitor parking requirements is not supported. Casual/overflow parking may occur within the carriageway; but shall be in addition to any visitor car parking required under the DCP

## 8. Landscape

Please refer to Councils submission of 18 December 2018 which remains relevant. In particular, the following documentation has been assessed in accordance with the SEPP Seniors Living, WDCP 2009 Chapters B1 and E6:

- Concept Master Plan by Turf Design Studio, Revision B, dated 29 May 2019,
- Concept Bulk Earthworks Layout Plan by Cardno, Revision 4, dated 30.05.19,
- Arborist's Report by Moore Trees, dated July 2018.

There are 227 trees proposed for removal on the site in order to accommodate the various built forms and the associated infrastructure. The tree removal is the result of the cut and fill, but allows for the retention of the remnant Turpentine Forest. The other trees proposed for removal are predominantly composed of Eucalyptus species.

The site is constrained by topography, existing vegetation and indigenous heritage. Notwithstanding these constraints, the revised design is supported in principle as the layout addresses access and movement, amenity, heritage and retention of the remnant Turpentine forest.

## 9. Environment

Please refer to Councils submission of 18 December 2018 which remains relevant. In particular, the following comments are provided:

### Biodiversity and Riparian Matters

Of particular note is the preliminary status of the BDAR and VMP and the assurance that they will be finalised at future detailed planning and design stages.

#### *WCC 9A*

The response from Cumberland Ecology is noted, specifically that fine scale impacts and the BDAR will be finalised at future detailed design and DA stages.

#### *WCC 9B*

The response from RFS demonstrates that they are supportive of the 6m defendable space.

As the Natural Resources Access Register (NRAR) have not raised any concerns with the preliminary VMP, it is considered satisfactory as a high level document, with a detailed VMP to be prepared and submitted at future detailed design and DA stages.

#### *WCC 10A*

Response noted.

#### *WCC 11A*

Response noted.

WCC 12A

Response noted.

WCC 12B

Unresolved. Council maintains the position that PCT Coastal Freshwater Lagoons of the Sydney Basin Bioregion and South East Coast Corner Bioregion (PCT781) corresponding to the Biodiversity Conservation Act 2019 (BC Act) threatened ecological community (TEC) Freshwater Wetlands on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions is present on the subject site and adjoining areas. Figure 4.3 of the updated BDAR (Cumberland Ecology, May 2019) shows a lack of on ground survey and assessment in locations currently mapped as Coastal Freshwater Lagoon in the Illawarra Plant Community Type Vegetation Map, 2016. VIS\_ID 4678 by OEH (2016), and in and around the boundaries of the plant communities, particularly in the south and south-east areas of the site. Accordingly, further detail and justification is required in this regard.

WCC 12C

The updated BDAR states *“As the concept of non-aligned/planted PCTs and adjustment to determine credit liability is currently still being addressed by OEH, options for adjustment of values are not available. However OEH have acknowledged that an adjustment to discount for Acacia longifolia ssp sophorae values is “ecologically sensible” (Appendix E). Accordingly, it is considered that some adjustment to on-ground plot data to determine credit liability in future BDARs for the development application stages is warranted”*. This is noted and considered satisfactory at this concept stage, with clarification and finalisation at the detailed design and DA stage, following input from OEH.

WCC 12D

Response noted.

WCC 13A

The response from RFS demonstrates that they are supportive of the 6m defensible space. – As the NRAR have not raised any concerns with the preliminary VMP, it is considered satisfactory as a high level document, with a detailed VMP to be prepared and submitted at future detailed design and DA stages.

WCC 14A

Unsatisfactory. The SEARs (February, 2018) specifically called for “Item 11 – Contamination – Provide a revised Remediation Action Plan in accordance with SEPP 55 - Remediation of Land.” It is noted that an amended RAP has not been completed as per the SEARs, only an Environmental Site Assessment has been provided.

Further, as outlined in Councils previous submission, the Department of Planning and Environment should consider SEPP 55 (SEPP Contaminated Land) and WDCP 2009 Chapter E-20 Contaminated Land Management. In doing so, the applicant is required to submit a NSW EPA accredited site auditor’s Interim Advice Letter stating that site auditor will be overseeing the site assessment, remediation and validation so that the land is suitable for the proposed future development. Further, upon completion of remediation and validation, the auditor will issue a Site Auditor’s Statement (SAS) and Site Auditor’s Report (SAR) to the Department prepared under the CLM Act 1997 confirming that site is suitable for the proposed development. The assurance by the applicant that *“This detail will be provided with the detailed development application for Precinct 1. As no physical works are proposed under the Concept Plan this information is not required at this time”* is inconsistent with the requirements of the SEARs.

## 10. Other matters

Please refer to Councils submission of 18 December 2018 which remains relevant.

Please contact Vanessa Davis, Senior Development Project Officer on 4227 7111 should you wish to discuss any of the above matters in further detail.

This letter is authorised by

**Pier Panozzo**

City Centre & Major Development Manager

Wollongong City Council

Telephone (02) 4227 7111