

Our ref: STH09/01095/19  
Contact: Andrew Lissenden 4221 2769  
Your ref: MP09\_0131 MOD 1

3 February 2020

Michelle Niles  
Senior Planner – Regional Assessments  
NSW Department of Planning, Industry and Environment  
BY EMAIL: [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

## TALLAWARRA LANDS MIXED USE DEVELOPMENT (MP09\_0131 MOD 1) – RESPONSE TO SUBMISSIONS

---

Dear Michelle

Reference is made to the proponents Addendum Response to Submissions (ARtS) for the above application that has been forwarded to the former Roads and Maritime Services (RMS) now Transport for NSW (TfNSW) for comment. On 1 December 2019 legislation came into effect to bring RMS and TfNSW together as one organisation. This response reflects the advice from the new organisation.

TfNSW has reviewed the additional information provided (letter from Cardno dated 12 November 2019 with reference 82017142-01 004:SP) focusing on the impact to the state road network. TfNSW notes for this application:

- The key classified/state road is the Princes Highway;
- RMS is currently undertaking works relating to the extension of the M1 Princes Motorway between Yallah and Oak Flats to bypass Albion Park Rail. These works are known as the Albion Park Rail Bypass Project (APRBP). Part of the extension works that are being undertaken adjoin the western boundary of the development site and will impact upon the development; and
- The modification will generate additional traffic. The impact of this traffic needs to be considered and adequately mitigated.

Having regard for the above, TfNSW will not object to the modified application, as amended during the current applications assessment, subject to the inclusion of conditions in any approval issued that addresses the matters as outlined in **Attachment 1**.

If you have any questions please contact myself on 4221 2769.

Yours faithfully



Andrew Lissenden  
A/Manager, Land Use Southern  
Regional and Outer Metro

Cc: [Michelle.Niles@planning.nsw.gov.au](mailto:Michelle.Niles@planning.nsw.gov.au)

- Documentation referenced in any approval issued

TfNSW notes that the applicant is proposing an amendment to Condition A2 in Schedule 2 of the concept approval. This condition details the documentation (i.e. reports, plans, etc) that the development is to be undertaken in accordance with.

TfNSW notes that the applicants proposed amendments to Condition A2 do not reference their submissions dated 13 May 2019 (letters from Cardno with Ref: 82017142-02 Version 5) and 12 November 2019 (letter from Cardno with Ref: 82017142-01 004:SP). The above two submissions providing additional details on the current application so as to address, in part, concerns TfNSW has raised during the applications assessment process. TfNSW believes that the above two documents should be referenced in any modified concept approval issued and as such should ensure Condition A2 is amended to include reference to the above two documents.

- Superlot subdivision application

TfNSW notes that the concept approval requires the first future development application (DA) that is to be lodged be for the superlot subdivision of the entire site so as to create a lot layout that accurately reflects the three main precincts that the concept approval has created (refer to Condition A6 in Schedule 2 and Figure 1.2 in the Cardno letter dated 12 November 2019).

TfNSW is concerned that the plan that is referenced in the applicants proposed amendment to Condition A6 (i.e. the plan titled "Proposed First Superlot Subdivision Plan" prepared by Bridgehill Group Drawing Reference BH-001 Rev.01 dated 06/09/2019" as shown in Figure 1.2 of Cardno letter dated 12 November 2019) shows the proposed central superlot inclusive of the portion of the development site that will be required for the APRBP (i.e. Stage 3 – northern interchange). TfNSW requests that the land required for the APRBP be excluded from the central superlot and as such be shown as a separate lot in any future superlot subdivision application.

Noting the above, any modified concept approval issued should ensure that the super lot subdivision application as detailed in Condition A6 of the currently issued concept approval includes a requirement that the proponent create as part of the central super lot a separate lot for the land required by the APRBP (i.e. Stage 3 – northern interchange of the APRBP). In this regard the super lot subdivision plan prior to lodgement with the NSW Land Registry Services should be submitted to TfNSW and written confirmation obtained that the lot boundary for the APRBP as shown on the plan to be registered is in the correct location.

- State Infrastructure Contributions

TfNSW acknowledges the importance of ensuring that any amended concept approval issued provides satisfactory arrangements so as to ensure it contributes to the provision of designated State public infrastructure. While the ownership and potential future sale of the new lots that the superlot subdivision will create has the potential to complicate future negotiations (e.g. potential to create fragmented ownership) the NSW Department of Planning, Industry and Environment (DPI&E) should ensure that it is satisfied, prior to any approval being issued, that no further subdivision or development of the subject land, over the creation of superlots, can occur until the satisfactory arrangement requirements as detailed in Clause 6.1 of the *Wollongong Local Environmental Plan 2009* have been satisfied and that this current application will not further complicate any future discussions.

- Cormack Avenue Closure

TfNSW notes that the current application seeks to amend Condition 16 in Schedule 3 of the concept approval. This condition requires the submission of a concept design for the closure of Cormack Avenue with the Princes Highway prior to first development application for the super lot subdivision.

TfNSW notes that the applicants proposed amendments to Condition 16 seek to defer the requirements for a concept design until development in the Central Precinct (not with the Super lot Subdivision application) with the road closure implemented with the development of the Central Precinct.

TfNSW raises no objection with the proponent's proposal to amend the timing of the design so it is required in connection with the future subdivision of the Central Precinct and not as part of the DA for superlot subdivision. Any modified approval issued should ensure that any required works will be completed prior to the issue of the first subdivision certificate for the smaller residential lots in the central precinct where dwelling entitlements will be created.

- Noise Mitigation

TfNSW maintains its position that the responsibility for noise mitigation lies with the developer when approval for the road project is determined prior to the approval for the construction of the dwelling (as is the current situation). As has been previously advised the approval for a sub-division is not enough to relinquish responsibility of noise mitigation for the developer. Only if the developer has approval for the construction of the dwelling prior to the determination of the road project then TfNSW would be responsible for mitigation and this would depend on the stage of construction for the dwelling. Noise mitigation by way of the hierarchy outlined in EPA's "Road Noise Policy" would be provided when the dwelling has already been constructed however in the situation where construction has not commenced then TfNSW's obligation is to provide at-source mitigation assuming a single storey residence (Practice Note 2 of TfNSW's "Environmental Noise Management Manual").

Having regard for the above, the APRBP would not be responsible for noise mitigation for the Tallawarra Lands Concept Plan Approval (inclusive of this current modification). TfNSW therefore requests that the relevant requirements (e.g. Development Near Rail Corridors and Busy Roads – Interim Guideline) are detailed in any approval issued and are adhered to and that any acoustic attenuation methods (e.g. noise walls) would not encroach upon the land required for the APRBP (i.e. Stage 3 – northern interchange).

- Link Road

TfNSW is of the view that the link road between Haywards Bay and Yallah Bay Road remains an essential element of the future development of the land south of Yallah Bay Road. As such, while TfNSW acknowledges that the land south of Haywards Bay Road will be in different ownership and has contamination issues, any modified concept approval issued should ensure that connectivity/a link for vehicles (cars, buses, etc), pedestrians and cyclists is maintained. DPI&E in their assessment must be confident that the current application will not preclude the future delivery of the Haywards Bay Road link in accordance with the existing conditions of the concept approval and associated Statement of Commitments.

- Intersection of Yallah Bay Road and the Princes Highway

TfNSW is of the understanding that the currently issued approval requires the proponent to upgrade the intersection of Yallah Bay Road and the Princes Highway as part of the development. Any amended approval issued should ensure that works associated with the intersection of Yallah Bay Road and the Princes Highway align with what the approved design for the APRB requires.

- Reference to Roads and Maritime

TfNSW notes that the conditions in the current concept approval refer to RMS. As detailed in the covering letter RMS is now TfNSW. As such, reference in any modified approval issued to RMS should be changed to TfNSW.

- General Comments

No proposed lots and/or works associated with the modified development (apart from roadworks required to be completed by the developer and approved by TfNSW to provide a single point of access to the Princes Highway) are to be in the area required by TfNSW for APRBP. As such, any modified approval issued should ensure that no works associated with the development are to occur within the APRB project boundaries (inclusive of the future Stage 3 northern interchange) and are wholly located outside the currently identified and required road reserve area as advised by TfNSW. This including, but not limited to, proposed local roads, bicycle paths, noise mitigation measures, landscaping works and infrastructure required to service the proposed development.

- Statement of Commitments

The Statement of Commitments should be updated to align with the above requested changes.