

COUNCIL ADDENDUM ASSESSMENT REPORT

Panel reference	PPSHCC-143
Portal reference	PAN-237445
DA Number	DA2022/0847
LGA	MidCoast
Proposed Development	Demolition, subdivision (strata and torrens title) and construction of a residential flat building (23 apartments) and 55 townhouses.
Address	86-90 Old Bar Road Old Bar Lots 3 and 4 DP22392
Applicant / Owner	Oatrain Pty Ltd
Date of DA Lodgement	4 August 2022
Recommendation	Approval
Reasons for deferral	<p>The Panel has requested the following additional information:</p> <ul style="list-style-type: none"> (i) A plan showing the proposed staging of the development. (ii) Cross-section showing the relationship and height of the two retaining walls on the eastern end of the detention basin and townhouse 18. (iii) Amended architectural plans that show the correct setback of townhouse 18 to the detention basin. (iv) Amended Clause 4.6 written request that addresses the provision of 4.6(3)(b) by identifying environmental planning grounds specific to the height breach and the justification. (v) Amended engineering plans that show the location of the GPT off public land or otherwise as agreed by Council. <p>Council needs to review the proposed conditions to correct any errors and address changes required in response to the proposed staging. Specifically:</p> <ul style="list-style-type: none"> (i) Condition 22 needs to pick up a requirement to manage noxious weeds. (ii) Condition 22 needs to require the preparation of a Water Sensitive Design Management Plan. (iii) A condition detailing plans and requirements for all roads including roads dedicated to Council, standard of construction required, inspection regime, and WAE requirement before any dedication occurs.
Actions	1. The applicant is to provide the required information by 6 December 2023.

	<ol style="list-style-type: none"> 2. A formal request to amend the application is required to be uploaded to the Planning Portal by the applicant outlining: <ol style="list-style-type: none"> a. Particulars sufficient to indicate the nature of change to the development as required under section 37 of the EP&A regulation 2021. b. Any updated technical reports relied on in the amended application. 3. Council is requested to provide an addendum assessment report responding to the matters above which is to be uploaded to the Planning Portal within two weeks of the upload of the applicant's required information. 4. When the updated assessment report is received the Panel will determine the application by way of electronic determination.
	<p>Attachment A – Amended Plans</p> <p>Attachment B – Amended Clause 4.6 application.</p> <p>Attachment C – Amended conditions.</p> <p>Attachment D – Formal request to amend the application</p>
Addendum Report prepared by	Lisa Proctor, Development Planner
Report date	29 November 2023

DISCUSSION

Development application 2022/0847 was lodged on 4 August 2022. On 15 November 2023 the Panel considered the relevant mandatory considerations for the application, and Council's Assessment Report and Attachments.

In their consideration of the application the Panel identified that additional information was required to make a proper assessment of the merits of the proposal. The applicant and the Panel also identified that corrections were required to the conditions of consent.

A formal request to amend the application pursuant to Section 37 of the Regulation has been lodged and is included at Attachment E.

All outstanding matters have been addressed and a summary of the amendments is provided below.

AMENDMENTS

(i) A plan showing the proposed staging of the development

The applicant has lodged plans showing the proposed stages of the development. The staging plans have been included in the table of approved plans in Condition 1 (Attachment D) and the stages are reflected in the amended conditions of consent. The staging plans are included as Plan A113-A in the full set of plans at Attachment A.

(ii) Cross section showing the relationship and height of the two retaining walls on the eastern end of the detention basin and townhouse 18.

The applicant has lodged cross section plans showing the relationship and height of the two retaining walls on the eastern end of the detention basin and townhouse 18. Those plans have been amended in the table of approved plans in Condition 1 (Attachment C). The cross-sections are included as Plan A208-C in the full set of plans at Attachment A.

(iii) Amended architectural plans showing the correct setback of townhouse 18 to the detention basin.

The applicant has amended Plans A105E, A106E and A208C to reflect the correct side setback to the detention basin (900mm) for townhouse 18. The amended plans are included in the table of approved plans in Condition 1 (Attachment C) and are included in the full set of plans at Attachment A.

(iv) Amended Clause 4.6 written request that addresses the provision of 4.6(3)(b) by identifying environmental planning grounds specific to the height breach and the justification.

An amended Clause 4.6 variation request is included at Attachment B. The amended request addresses the provisions of Clause 4.6(3)(b) in identifying the environmental planning grounds specific to the justification for the height limit variation.

(v) Amended engineering plans that show the location of the GPT off public land or otherwise as agreed by Council.

Council will not accept GPTs on public land due to their asset maintenance burden.

As this development is predominantly residential, it will not generate high volumes of gross pollutants (litter); therefore, installing a GPT to remove sediments is an over-engineered solution that will come at a high expense for the applicant.

It is deemed possible to manage sediment removal with a sediment forebay located at the inlet, within the footprint of the bioretention, without reducing the filter area.

Therefore, Council has conditioned the amended Notice of Determination (conditions 3, 28, 39) to require a sediment forebay in place of the gross pollutant trap (GPT) proposed in the public road reserve and shown on the plans.

Vehicular access to the forebay is necessary for the removal of sediment. To facilitate this, conditions have been amended to require the inlet to be relocated to the north-east corner of the bioretention adjacent to the maintenance ramp.

By including a sediment forebay within the footprint of the bioretention, all of the water quality treatment is on private land. While stormwater from the public roads is also treated in this facility, given that the private development makes up the greatest proportion of the catchment area draining to the bioretention (only 14% of the land is public road) and it is not practical to direct stormwater from the roads into small treatment areas in the road reserve, this approach is considered the most appropriate solution.

Conditions of Consent: The Panel requested that Council review the proposed conditions of consent to correct any errors and address changes required in response to the proposed staging. The Consent has now been re-structured to reflect the development stages in accordance with the newly lodged staging plans. The amended Conditions are included as Attachment C.

As well as a request to correct any errors in the Conditions, and order them in accordance with the staging plans, the Panel specifically requested:

(i) Condition 22 needs to pick up a requirement to manage noxious weeds.

The conditions were re-numbered to allow them to be arranged into stages. The original Condition 22 is now Condition 39. The condition has been amended to include a requirement that the engineering plans must detail weed management controls and that the maintenance plans for the bioretention must include weed management techniques and controls. Note that these have not been limited to noxious weeds only (which limits the weed species to be controlled to only those formally listed as noxious; of which there are few), but broadly covers all weeds.

(ii) Condition 22 needs to require the preparation of a Water Sensitive Design Management Plan.

As discussed above, the original Condition 22 is now Condition 39. Reference to a water sensitive design management plan is now included in the condition.

(iii) A condition detailing plans and requirements for all roads including roads dedicated to Council, standard of construction required, inspection regime, and WAE requirement before any dedication occurs.

A condition has been included in each relevant stage detailing the plans and requirements for all roads prior to dedication to Council.

RECOMMENDATION

The recommendation in the original Council Assessment report dated 7 November remains. That is, it is recommended that the Panel determine Development Application DA2022/0847 pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, by granting consent subject to the amended Conditions contained within Attachment D.