

JRPP No:	2009STH009
DA No:	DA-2009/1037
Proposed Development:	Demolition of existing structures, construction of an 18 hole championship golf course and associated facilities including clubhouse, golf lodge accommodation and biomechanics and sports education centre
Property	Lots 1 & 2, DP229358, Lot 14, DP3083, Lots 1 & 2, DP549152, Lot 1, DP382339, Avondale Road, Avondale
Applicant:	HTT Huntley Heritage Pty Ltd
Report by:	Vivian Lee, Development Project Officer, Wollongong City Council

Addendum – JRPP Southern Region – 3 December 2010

This application was reported to the Joint Regional Planning Panel (Southern Region) on 28 October 2010 as Item 1. Council's report recommended DA-2009/1037 to be granted "Deferred Commencement" consent. At this meeting Council also provided a late report (Addendum – 28 October 2010) in response to the submission prepared by TCG requesting the removal of the deferred commencement conditions and condition no.6.

The recommendation by the Panel was to defer the decision for DA-2009/1037 pending the provision of further information.

The minutes of the meeting are as follows:

"4 Business Item

ITEM 1 2009STH009 – Wollongong – DA-2009/1037 – Golf Course and associated facilities – Avondale Road, Huntley

Wollongong Senior Development Project Officer, Vivian Lee, gave an overview of the proposed development on the former Huntley Colliery mine site.

5 Public Submission

Elaine Treglown – TCG Planning (applicant)

David Hickey – TCG Planning (applicant)

In response to a further submission from the applicant a late report was completed by various Council officers on 27 October 2010, in relation to possible Aboriginal archaeological items, concerns with the underpass and design and flood issues. The applicant did not have time to look at this latest report.

The Panel was supportive of the proposal, however further clarification and reporting was necessary.

6 Business Item (DA-2009/1037) Recommendation:

Moved A McCabe seconded A Grimwood that DA 2009/1037 be deferred pending –

1 Further information from the applicant as follows:

i) Clarification of the future ownership or possible lease arrangement of the underpass beneath Avondale Road and associated roadworks and approval process;

ii) Clarification of the proposed sewerage management system, flood impact of filling and Aboriginal archaeological heritage;

iii) Clarification of the relationship between the existing and proposed land use zones and the Illawarra Escarpment Management Plan.

2 *A further report be presented to the December 2010 JRPP meeting.*

3 *The above supplementary report prepared for JRPP be made available to the general public.*

Motion Carried”

Subject to the recommendation by the Panel in Business item 6 to defer the decision subject to further information; Council requested the applicant provide information to address item no. 1(ii) & 1(iii).

Additional information was provided by the applicant TCG Planning on 11 November 2010 in Attachments 8 – 12. Item no. 1(i) has been addressed by Council below.

This report is provided to address recommendation 2 for the December 2010 JRPP meeting.

It is noted that the supplementary Council reports ‘Addendum – 28 October 2010’ and ‘Addendum to the Planning Assessment Report’ were placed on the JRPP website on 3 November 2010 and the applicant was provided a copy of both reports on the meeting date as per recommendation item 3 for DA-2009/1037 on 28 October 2010.

In response to the recommendations 1(i) – (iii) by the Panel on 28 October 2010, the following comments are provided:

i) Clarification of the future ownership or possible lease arrangement of the underpass beneath Avondale Road and associated road works and approval process;

This matter was referred to Council’s Property and Recreation Division in relation to the approval process for the proposed underpass beneath Avondale Road and associated road works.

Council’s Property and Recreation Division has advised that it is the preference of Council that the substratum of the road reserve to be closed and sold to the applicant rather than being leased. As the substratum of the road reserve is proposed to be closed and ownership transferred to the developer, concurrence is not required by the Director-General but approval by Council and the Land & Property Management Authority is required instead.

For the process of the closure and sale of the substratum of the road reserve, the following comments were provided by Property & Recreation Division:

“The following process is used when an application to close and sell a portion of road reserve, including substratum, is received by Council:

Prior to any investigation, payment of a \$1,800.00 application fee is required.

Upon receipt of the fee, the following process is used:

- 1. The proposal will be referred to various Divisions of Council to determine if the land is surplus to Council requirements and if available for sale, what conditions will apply to the sale.*

2. *The proposal may be advertised in the local newspaper for public scrutiny and comment and also forwarded to service authorities and local residents for comment.*
3. *In line with Council's policy, a valuation is obtained by Council which will form the basis of determining the purchase price.*
4. *Following agreement on all outstanding matters, including a purchase price, a report will be prepared and forwarded to Council for consideration.*
5. *Upon approval by Council, an application will be lodged by Council with the Land & Property Management Authority (LPMA) in Nowra to have the road formally closed. A fee of \$767.30 is required to lodge the application and the applicant will be responsible for the payment of this amount.*
6. *LPMA will then process the application and arrange for the closure of the road under the Roads Act 1993. If approval is granted, a survey will need to be undertaken, the cost of which will be the responsibility of the applicant.*
7. *A Section 73 certificate will need to be obtained from Sydney Water, the cost of which will be the responsibility of the applicant and a Subdivision Certificate obtained from Council's Subdivisions Section.*
8. *Upon the receipt of these certificates, the survey plan will be lodged at the LPMA in Sydney. The cost of plan lodgement will be the responsibility of the applicant. The LPMA may also require further costs towards processing the application, which must also be paid by the applicant.*
9. *Upon registration of the survey plan and gazettal of the road closure by the LPMA, the land is then transferred from Council to the applicant at the purchase price previously agreed. GST is payable on the purchase price and any additional costs incurred by Council.*

It should be noted that all costs associated with the closure and purchase are to be paid by the applicant. It is anticipated that the above process will take approximately 18 months.

If the application is refused before a valuation of the subject land is obtained, a proportion of the application fee, being an amount of \$1,100.00, will be refunded to the applicant.

Property & Recreation Division has no objection to the development subject to conditions."

Draft conditions 17 and 169 of the revised draft conditions in Attachment 7 account for the process and sale of the substratum of the road reserve.

Pedestrian Crossing

It is noted that at the JRPP – Southern Region meeting on 28 October, the panel members advised that if the applicant sought a pedestrian crossing across Avondale Road, this should be accompanied by additional supporting documentation.

The applicant has confirmed that all the pedestrian access between the northern and southern sections of the golf course will be via the proposed underpass only, therefore draft condition no. 6 in Attachment 7 remains.

ii) Clarification of the proposed sewerage management system, flood impact of filling and Aboriginal archaeological heritage;

The applicant provided additional information in relation to item (ii):

“The JRPP has requested the submission of documentation relating to the proposed irrigation system associated with the sewerage management system and the manner in which the golf holes to the north of Avondale Road will be managed, to prevent flooding or archaeological heritage impacts.

The attached correspondence from GHD confirms that the design of the irrigation system has been altered to ensure that filling of the land to the north of Avondale Road is not required for the irrigation system and to provide for travelling irrigators on this section of the course. Details regarding the travelling irrigators can be seen on website: <http://www.irrigationwarehouse.com.au/prod1787.htm>, an extract of which is contained in Figure 1 below.

The GHD correspondence confirms that all pipework to the north of Avondale Road will be laid above ground and hence there will no flood impacts, nor impacts on the area of archaeological sensitivity. The attached revised Plan RefNo. DA.005 prepared by PRD Architects in consultation with GHD has been amended to now show the location of the above ground irrigation lines to the north of Avondale Road.”

The GHD correspondence referenced above is in Attachment 8b and the plan of the Golf Course Irrigation & Sewerage Layout in Attachment 8c.

The additional information was referred to Council’s Heritage and Design section for consideration.

The following comments were provided by Council’s Heritage Officer:

“Following the additional information provided in response to the concerns raised by the JRPP in relation to potential Aboriginal heritage impacts, the additional information provided by the applicant on the 11 November 2010 has been reviewed.

The proposed development is now considered to be satisfactory subject to the conditions detailed below. This conclusion is drawn on the basis that the proposed development has been amended to require no surface disturbance in the part of the site determined to have ‘moderate’ archaeological potential in the BIOSIS report. It is understood this will be achieved using above ground pipes and mobile irrigators.”

The referral was returned satisfactory subject to recommended conditions, No. 119 and 120 in the revised draft conditions in Attachment 7.

The following comments were provided by Council’s Stormwater Engineer:

- 1. “This Division has no objection to the proposed use of the mobile irrigation system for the northern precinct of this development.*
- 2. The use of this system will negate the need to place any fill on the site and TCG has confirmed that fill will not be placed within the floodplain. Therefore further flood analysis will no longer be required.*
- 3. In light of the above the use of the mobile irrigation system does not generate a need to impose any additional stormwater management and or floodplain management development consent conditions. No does it require any existing conditions to be removed.”*

No additional or revised conditions were required by Council’s Design section and therefore the proposed deferred commencement condition requiring a flood study, outlined in Council’s conclusion contained in ‘Addendum report – 28 October 2010’ can be removed.

iii) Clarification of the relationship between the existing and proposed land use zones and the Illawarra Escarpment Management Plan.

The applicant has provided further information regarding the relationship between the existing and proposed land use zones and the Illawarra Escarpment Management Plan with the Planning Proposal, WLEP 1990 and WLEP 2009 in Attachment 8a. Zoning overlays of the applicable planning instruments and the proposed development have been provided by the applicant and are shown in Attachments 9-12.

Attachment 11 shows the overlay of how the proposed development sits in relation to the zoning under Wollongong Local Environmental 2009 considered as a proposed instrument in the assessment of this application. Two (2) of the southern lots Lot 2 DP 229358 and Lot 14 DP 3038 are contained within WLEP 2009. The proposed development is predominantly located in RU2 Rural Landscape zone with a portion of fairway 6 located within south eastern corner of Lot 14 DP 3083 in E2 Environmental Conservation zone.

As discussed previously in section 11 of Council's Planning Assessment Report tabled for JRPP Southern Region meeting 28 October 2010. The categorisation of the proposed use of the associated facilities are ancillary to the primary/dominant use of the golf course which is a "recreation facility (outdoor)".

"Recreation facility (outdoor)" means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purpose of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of like character used for outdoor recreation (including any ancillary buildings) but does not include an entertainment facility or a recreation facility (major).

"Recreation facility (outdoor)" is permissible with consent in RU2 zone but not permissible in E2 zone.

"Recreation areas" means a place used for outdoor recreation that is normally open to the public, and includes:

- (a) a children's playground, or*
- (b) an area used for community sporting activities, or*
- (c) a public park, reserve or garden or the like,*

and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

Whilst "recreation facility (outdoor)" and "recreation areas" are categorised as different land uses within WLEP 2009, it is considered the element of the proposed development located within the E2 zone as part of the fairway of hole no. 6 is not dissimilar to use of a "recreation area" retaining the open landscape character of the area and the visual and scenic qualities of the Illawarra Escarpment. Overall, the encroachment of the proposed development is considered minimal and would not adversely impact the objectives of the proposed E2 zone.

The Planning Proposal for the former Huntley Colliery which the subject land forms part of is considered as a proposed instrument, as discussed in section 14A of the 'Addendum to Planning Assessment Report'. Attachment 9 shows how the subject land the proposed development is situated on is proposed to be rezoned RE2 – Private Recreation and R2 - Low Density Residential. The majority of the proposal is situated within RE2 zone with the part of fairway hole no. 2 together with part of the biomechanics facility and tennis courts are located within the R2 Low Density Residential zone. "Recreation facility (outdoor)" is permissible with consent in both RE2 and R2 zone.

Section 79C(1)(b)(ii) requires the consideration of proposed planning instruments in the assessment of a development application, WLEP 2009 and Planning Proposal. However, the current weight of assessment for this application is based on the environmental planning instrument in force when the application is lodged which is Wollongong Local Environmental Plan 1990. The proposed development is permissible in the 1 Non Urban zone and has satisfied clause 11 to be permissible in 7(b) Environmental Protection zone, as discussed in section 11 of the Planning Assessment Report.

Overall, it is considered the additional information submitted by the applicant has provided clarification on the relationship between the proposed development, existing and proposed land use zones and the Illawarra Escarpment Management Plan to be satisfied the proposal is permissible under the current planning instrument WLEP 1990 and consistent with the overall objectives of IESMP 2006 and will not result in adverse impacts on the Illawarra Escarpment.

CONCLUSION

Subject to the additional information provided by the applicant dated 11 November 2010 and review of the matters by Council's relevant internal divisions it is considered that items 1(i) to (iii) in recommendation made by the Panel at the meeting on 28 October 2010 have been adequately addressed and the application can be supported subject to recommended draft conditions.

It is also noted the previous deferred commencement matter raised in Council's 'Addendum - 28 October 2010' has been satisfied as a result of the additional information, as a flood study is no longer required because the provision of above ground irrigation system on the subject site north of Avondale Road will not require any proposed fill in this area, discussed above in addressing item (ii).

RECOMMENDATION

It is recommended that Development Application 2009/1037 be granted integrated consent pursuant to Section 80 of the Environmental Planning & Assessment Act, 1979, subject to the proposed draft conditions as contained in revised Attachment 7.

ATTACHMENTS

7. Attachment 7 (revised)
8.
 - a. Additional information – TCG Planning
 - b. GHD correspondence dated 8 November 2010
 - c. Golf Course Irrigation Plan & Sewerage Layout
9. Planning Proposal Zoning Overlay
10. Illawarra Escarpment Management Plan Overlay
11. WLEP 2009 Zoning Overlay
12. WLEP 1990 Zoning Overlay