

Supplementary Development Assessment Report

APPLICATION DETAILS:

Application No.	DA 0217/2012
Application is for:	Temporary workers Accommodation Facility comprising 400 beds, Recreation Facilities, Laundry and Dining Facilities, Conference facility, and associated car parking, landscaping and signage.
Owner	Mac Services Group Pty Ltd
Applicant	Whelans InSites on behalf of Mac Services Group Pty Ltd
Lodgement Date	03/01/2012
Land/Address:	Lots 346, 348, 350, 476 DP 755434 2 Black Lead Lane - Gulgong
Land Zoning:	RU1 Primary Production Mid-Western Regional Local Environmental Plan 2012
Capital Investment Value:	\$26,000,000.00
Current Use and development:	Vacant Agricultural land
Report Author/s	Gary Bruce, Manager - Statutory Planning

EXECUTIVE SUMMARY:

Reason for Consideration by Joint Regional Planning Panel:

The application has been referred to the Joint Regional Planning Panel pursuant to Clause 20 of the SEPP (State and Regional Development) 2011 and schedule 4A of the Environmental Planning and Assessment Act 1979 as the proposal relates to development with a Capital Investment Value of more than \$20,000,000.00.

Background:

A report was presented to the Western Region Joint Regional Planning Panel (JRPP) on the 14 June 2012. The report recommended that the development be refused for a number of reasons but principally because the development was characterised as Tourist and Visitor Accommodation which is prohibited in the Agriculture zone under the Mid-Western Regional Interim LEP 2008.

The JRPP deferred the application pending the receipt of legal advice from Council regarding the permissibility of the proposal.

It should also be noted that since the JRPP Meeting on the 14 June 2012, Council has had the draft LEP 2012 and the Planning Proposal for Temporary Worker's Accommodation gazetted on the 10 August 2012.

The legal advice has been provided by Ms Sandra Duggan SC and is attached to this supplementary report.

Proposal:

The Western Region Joint Regional Planning Panel has before it for determination an application for a temporary workers accommodation facility that would comprise four hundred beds (400) on a 66 hectare property that is 1.5 kilometres from the Township of Gulgong. The development provides for;

- 396 bedrooms and ensuites comprising 132 x 3 unit buildings known as a '316' building;
- 4 accessible bedrooms and ensuites comprising 2 x 2 unit buildings known as '224' buildings;
- Central Dining and Kitchen facility;
- Gymnasium;
- Conference/ Recreation Room;
- Multipurpose court and lap pool;
- 400 space car park and 8 bay bus parking area;
- Gazebos;
- Laundry facilities;
- Ancillary Shed and Administration buildings;
- Ancillary earthworks and civil construction for access paths, car parking, storm water treatment, electricity and telecommunications, and water and sewer reticulation;
- Landscaping and identification sign.

It is proposed that the development will cater for mine workers for a period of twenty (20) years or as required and that the development at the end of its useful life will be decommissioned and the site rehabilitated. There are a number of options available in terms of the decommissioning and legacy infrastructure and these will be explored by the community at that time.

Access to the site is from Cope Road and the facility is setback approximately 300 metres from the Main Road. The facility is designed so that there are two accommodation areas to the north and south of the central facilities with car parking provided in large clusters surrounding the accommodation and central facilities.

Planning Controls:

The Mid-Western Regional Local Environmental Plan 2012 (LEP 2012) and Amendment No.1 relating to Temporary Worker's Accommodation were gazetted on the 10 August 2012.

The land is now zoned RU1 Primary Production under the LEP 2012 and Tourist and Visitor Accommodation is a permitted use within the zone, but the development would not be permitted as it is unlikely to comply with Clause 6.11 in terms of its proximity to a relevant mining lease and the creation of a specific land use term dealing with Temporary Worker's Accommodation.

Despite the gazettal of the new LEP, the application is to be assessed under the Interim LEP as Clause 1.8A of the LEP 2012 is a Savings Provision relating to development applications lodged before the gazettal of the new plan (LEP 2012).

“1.8A Savings provision relating to development applications

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”

Legal Advice:

The report presented to the JRPP on the 14 June 2012 highlighted the reasons for why Council has characterised the development as “Tourist and Visitor Accommodation”.

It is not intended to repeat this discussion and it is considered much better to simply allow the legal advice to speak for itself. The legal advice is generally consistent with the reasoning provided in the June 14 report to the JRPP and therefore Council is still of the opinion that the application should be refused.

Recommendation:

It is proposed that DA 0217/2012 for the construction of a 400 bed workers accommodation facility or temporary workers accommodation at 2 Black Lead Lane Gulgong be refused in accordance with the Recommendation contained at the end of the report.

1. Recommendation

The application has been assessed in accordance with the requirements of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000. The evaluation demonstrates that the proposal is unsatisfactory in terms of the matters for consideration identified in the legislation.

It is recommended that the proposal be refused for the following reasons;

- 1. The proposed development is characterised as 'tourist and visitor accommodation' and is a prohibited land use in the Agriculture zone pursuant to Mid-Western Regional Interim LEP 2008;**
- 2. The development is contrary to the Aims of the Mid-Western Regional Interim LEP 2008 as it does not promote the orderly and efficient use of land as the development is contrary to the Mid-Western Regional Comprehensive Land Use Strategy;**
- 3. The demand for water supply and sewer treatment is significant in comparison to the existing urban requirements of Gulgong and would utilise a resource that is better reserved for existing and proposed urban zoned land under the Mid-Western Regional Interim LEP 2008 and the draft Mid-Western Regional LEP 2012. This is consistent with the Objects of the Environmental Planning and Assessment Act 1979 and the Aims of the Mid-Western Regional Interim LEP 2008;**
- 4. The proposed development does not comply with the Location requirements of the Temporary Workers Accommodation DCP as the development site is consider to be remote from the mine sites and inconsistent with the Mid-Western Regional Comprehensive Land Use Strategy;**
- 5. The proposed development does not comply with the requirement of the Temporary Workers Accommodation DCP in terms of justifying the capacity of the water and sewer reticulation systems in Gulgong.**
- 6. The proposed development is a residential style development and is inconsistent with Council's Comprehensive Land Use Strategy as the Gulgong Town Structure Plan does not envisage expansion of Gulgong in this location;**
- 7. The proposed development is a residential style development and is inconsistent with the Zone Objectives of the Agriculture Zone pursuant to the Mid-Western Regional Interim LEP 2008 as it seeks to carry out an urban style development in a rural area and may lead to land use conflicts;**
- 8. The proposed development is considered to have a significant impact on the amenity of an adjoining owner as the development will encompass the adjoining rural property with an urban development.**

- 9. The proposed development is considered likely to have an impact on the social cohesion and nature of the Gulgong Community which has not been adequately addressed in the DA submission;**
- 10. The proposed development is not considered to be in the public interest due to the significant amount of submissions received that object to the development proposal;**
- 11. The proposed development is not considered to be in the public interest as it promotes and relies upon a “fly in / fly out” work force that is less economically beneficial to the community of the Mid-Western Regional Local Government Area than the housing of these workers and their families as permanent residents;**
- 12. The proposed development is inconsistent with an exhibited planning proposal for temporary workers accommodation as it is located in excess of 5 kilometres from a major project site;**
- 13. The proposed development is inconsistent with an exhibited planning proposal for temporary workers accommodation as it is not located on a major project site or in close proximity to such a site and therefore would not reduce the impact on local roads and infrastructure;**

Gary Bruce

Manager Statutory Planning - Mid-Western Regional Council

28 August 2012

Annexure 1 – Legal Advice from Sandra Duggan SC