

WONTAMA, ORANGE - DEVELOPMENT APPLICATION NO DA 27/2012(1)
REQUESTED AMENDED CONDITIONS

CONDITION	REQUESTED AMENDMENT	REASON
<p>(4) A Conservation Management Plan (CMP) shall be prepared for the subject land prior to the issue of a construction certificate. The CMP shall provide a particular emphasis towards the State Heritage Register listed items and provide guidance towards reinstating the landscape setting to the curtilage of the Berrilea Mansion, particularly the rear area of the Berrilea Mansion as well as the curtilage around the stables and tank stand.</p>	<p>Amend to <i>"prior to the issue of a final occupation certificate"</i></p>	<p>Other than works required by proposed conditions of this consent, there is no work proposed to the State Heritage item or its curtilage (other than a minor car setdown area outside the loop road). Therefore a CMP is not strictly necessary to enable the determination of this application.</p> <p>UCA acknowledges and accepts that a CMP should be prepared for the site to guide future development within the curtilage of the item and more broadly on the site, and previously agreed with a condition requiring a CMP to be prepared within 12 months. No work within the curtilage is proposed within that period (and would require separate consent in any event).</p> <p>The Heritage Council was consulted for the current DA and did not require a CMP before being prepared to issue its GTAs. The need for a CMP is therefore not generated by the proposals the subject of this DA and there is no nexus between these proposals and the requirement for a CMP prior to CC being granted.</p> <p>Therefore, whilst there is agreement about the desirability of a CMP for the site and a willingness by the applicant to see that imposed by way of condition despite the lack of the direct nexus with this development, the required timing is unreasonable, unnecessary and onerous, as it may delay the ability of the applicant to proceed with this development to the detriment of its residents.</p> <p>The change of timing to OC does not in any way effect the purpose of the condition which is to ensure that future development affecting the State Heritage items is guided by a CMP.</p>
<p>(5) A redesign of House A shall be undertaken to provide for a setback of the western half of house A to</p>	<p>Delete</p>	<p>The proposed condition will have significant adverse implications for the operations of the Village without having any countervailing</p>

<p>be consistent with the setback of number 28 Byng Street. Revised plans shall be submitted showing the increased setback of the western half of house A being consistent with number 28 Byng Street for the approval of Council's Manager Development Assessments prior to the issue of a Construction Certificate.</p>		<p>streetscape benefits.</p> <p>Operational impacts: A redesign of house A will greatly impact on the internal operations of the facility as well as the external amenities for residents. House A will no longer have the required circulation and living space for 15 residents. Service zones such as dirty utility and storage will be reduced making the household unable to operate. The northern garden for residents in House B will be greatly reduced. Overshadowing from house A will reduce natural light into House B.</p> <p>Attached (Attachment A) is a submission prepared by UnitingCare Ageing's Care Service Manager for Wontama Village and Area Manager, detailing these operational implications.</p> <p>Streetscape analysis: As can be seen in the attached setback analysis prepared by Jackson Teece (Attachment B), the average setback along Byng Street is 4.4 metres and the median is 4.3 metres. On the southern side of the street (Wontama side) the average setback is 5.8 metres which is heavily skewed by the anomalously large 10 metre setback of No. 28. It is unsound to use No. 28 as a primary reference point in a streetscape where it is 'the odd one out'. The proposed House A setback of 6.94 metres is a reasonable approach to referencing the adjoining anomalous setback whilst giving primary recognition to the prevailing street setback of all other dwellings in the block. The proposed setback in this condition would create a less satisfactory streetscape outcome than that proposed in the DA.</p>
<p>(6) The verandah along the north elevation of house A shall be at least 1000mm in width measured from the north elevation wall of house A to the centre line of the verandah posts.</p>	<p>Delete</p>	<p>Unnecessary if (5) deleted. The current proposed verandah already satisfies this requirement.</p>
<p>(7) Additional landscaping shall be provided in the area of the increased setback in front of House A. A plan shall be provided showing additional landscaping in the frontage of House A in the area of the increased setback for the approval of Councils Manager</p>	<p>Delete</p>	<p>Unnecessary if (5) deleted</p>

Development Assessments prior to the issue of a construction certificate.		
(25) Prior to the issue of the Construction Certificate , evidence shall be submitted to Council of the lodgement of plans with the Department of Lands and Property Information to consolidate Lot 1 in DP 955656, Lot 1 DP 308157 and Lot 10 in DP 1015171 into one parcel.	Amend <i>..... the Occupation Certificate, all lots comprising the site of the Wontama retirement village into one parcel</i>	UCA confirms its intention to lodge a subdivision DA shortly after the approval of this application (subject to the Panel's decision) to excise the front portion of 28 Byng. The suggested amended condition will enable time for that application to be assessed and the subdivision registered, which will have the effect of consolidating the remaining "Wontama site". As the site cannot be occupied before consolidation takes place, there is no risk that site consolidation will be avoided.
(51) All driveway and parking areas are to be sealed with bitumen, hot mix or concrete and are to be designed for all expected loading conditions (provided however that the minimum pavement depth for gravel and flush seal roadways is 200mm) and be in accordance with the Orange City Council Development and Subdivision Code.	Amend <i>"All new driveway"</i>	Clarifies that it only applies to driveways and car parks the subject of this application.
(56) The landscape setting shall be reinstated to the rear of the Berrilea Mansion and surrounding curtilage as well as the adjacent stables and tank stand in accordance with the adopted Conservation Management Plan prior to the issue of a final occupation certificate.	Amend <i>"...reinstated outside the fenced area to the rear of ..."</i>	The applicant accepts a condition which improves the landscaped area within the curtilage of the State Heritage Item despite this application not proposing any work to the building or its cartilage. However, there is no reasonable nexus between the proposed condition and a requirement to undertake significant works within that curtilage. Such works, the extent of which (if any) are unclear in the condition, would have deleterious effects on the operations of the use of the Cottage. Given the uncertainty of the condition and the onerous and unreasonable implications if it were to be interpreted to include works within the fenced area of the Cottage, it is appropriate to clarify the meaning of the condition as requested.
(58) Footpaths within the subject land shall be installed in accordance with section 26(3) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.	Delete	It is impossible to comply since the condition is internally inconsistent. The specified Clause 26(3) applies to "a pathway from the site of the proposed development to the public transport services" (i.e. external to the site), whereas the condition seeks to apply it to footpaths within the site. All new footpaths the subject of the site will be installed to comply with relevant access requirements and therefore the condition is unnecessary in any event and should be deleted.

<p>(68) All collections, deliveries and the like as part of the operation of the Wontama retirement village shall occur between 7am – 6pm Monday through Saturday only.</p>	<p>Amend “..Monday through to Sunday.”</p>	<p>Whilst most bulk deliveries will occur during the specified hours, the all-encompassing nature of this condition may cause operational difficulties for the village. For instance, mortuary collections may be necessary on Sundays and it would be unfortunate if such activities were considered to be in breach. Any “collections and deliveries” occurring on Sundays for a use such as this would generally be limited and unlikely to have any adverse impacts on neighbours.</p>
<p>ADVISORY NOTES</p>		
<p>(1) The hairdresser within the community building shall be ancillary to the Wontama retirement village and is to be used by the residents of Wontama retirement village only.</p>	<p>Delete “<i>and is to be used by the residents of Wontama retirement village only.</i>”</p>	<p>A use is not rendered a separate use simply by reason that it may involve some external usage. The fact that, for example, a visiting daughter may wish to have her hair cut with her resident mother is not only fair and reasonable but does not render the hairdresser a separate prohibited use. The applicant accepts, as it must in law, that the hairdresser must remain ancillary and therefore must be principally used by residents, but it is unnecessary and in our view incorrect for an ‘advisory note’ to be expressed in such terms.</p>