

Memorandum

To The Hon Pam Allan, Panel Chair, Southern Joint Regional Planning Panel
cc. Panel Members: Allen Grimwood, Terri O'Brien, Darryl Betteridge, Henk van de Ven
From Stuart Withington, Manager, Regional Panels Secretariat
Phone 02 9228 2061 Email Stuart.Withington@planning.nsw.gov.au
Date 5 November 2013 **File no** 2013STH001 **File** Albury Wodonga Regional Integrated Cancer Centre

Subject: Application for Regional Development -Albury Wodonga Regional Integrated Cancer Centre 2013STH001

Purpose

To request the Southern Joint Regional Planning Panel (the Panel) to reconvene in order to determine the above matter.

Background

On 23 August 2013 the Panel met to consider the above matter. The Panel determined to defer its determination on the matter and refer the matter to the Minister for endorsement of draft conditions.

The Minister is expected to respond to the Panel's referral request shortly. Advice received from the Department of Planning and Infrastructure is that the council's recommended conditions will not be supported due to, amongst other things, there being no power in the *Environmental Planning and Assessment Act 1979* (EP&A Act) for levies to be applied for water and sewer. These levies can be applied under other legislation (ie. *Water Management Act 2000*)(WM Act).

The department has discussed with Albury City Council and Albury Wodonga Health a way forward and has produced a set of legally enforceable conditions which both parties are satisfied with.

Council notified the department on 30 October 2013 that they were comfortable with amendments to conditions A5, C14, E2 and E6, with conditions B7, C7 and D6 to remain to reflect proposed landscaping. While council had concerns with new condition D8 they have accepted the amendment.

In response to council's concerns regarding the new condition D8 - the following words have been added as a note to the condition to explain the relationship between s64 of the EP&A Act and the WM Act:

"Section 64 of the Local Government Act 1993 states that Division 5, Part 2 of Chapter 6 of the Water Management Act 2000 applies to a council exercising its water supply, sewerage and stormwater drainage works and facilities functions under Division 2, Part 3 of Chapter 6 of the Local Government Act 1993 in the same way as it applies to a water supply authority exercising functions under the Water Management Act 2000".

Albury Wodonga Health notified the secretariat on the 4 November that they are comfortable with the revised conditions.

Recommendation

Under section 89(1)(b) of the Act a condition cannot be imposed on the Crown without either the approval of the Crown or the Minister. The Crown (Albury Wodonga Health) has agreed to the imposition of the attached conditions and as such it is now open to the Panel to finalise its determination on the matter. The secretariat will arrange for a Panel meeting to take place as soon as can be reasonably arranged.

Stuart Withington

Manager, Regional Panels Secretariat

Recommended Conditions attached to Development Consent 10.2013.32101.1

A. General

(A1) Development Application - approved plans

The development must be carried out in accordance with the attached approved plans and the particulars and statements submitted with the Development Application receipted on 21/02/2013, 1/3/2013, 26/3/2013, 28/6/2013 and 25/10/2013 and subject to the following conditions. (A001)

(A2) Prior to Works – general

Prior to commencing any building construction works, these works are to be certified by or on behalf of the Crown to comply with the technical provisions of the State's building laws in accordance with section 109R of the *Environmental Planning and Assessment Act 1979*.

(A3) Compliance – Building Code of Australia

All aspects of the building design are to comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) Complying with the deemed to satisfy provisions, or
- (b) Formulating an alternative solution which:
 - (i) Complies with the performance requirements, or
 - (ii) Is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) A combination of (a) and (b). (A100)

(A4) Compliance - Tree Preservation Order

The development must not require any additional tree to be removed or damaged other than those identified on the approved plans, or the prior approval of the Albury City Council has been obtained. (Tree's less than 4.5 metres in height or having a branch spread under 3 metres are exempt.) Any existing street tree within Council's road reserve shall not be removed or damaged during construction. (C015)

(A5) NSW Roads & Maritime Service

The development is to be carried out in accordance with the following conditions of the NSW Roads & Maritime Service:

1. Any direction signage to the proposed development intended for the general public and patients shall provide direction to the facility via the existing driveway from East Street;
2. Any damage or disturbance to the road reserve is to be restored to match surrounding landform in accordance with Council requirements;
3. Stormwater run-off from the subject site onto any adjoining road reserve as a result of the proposed development is not to exceed the existing level of run-off from the subject site. Any access driveway is to be designed and constructed to prevent water from proceeding onto the carriageway of the adjoining road reserve;
4. A construction management plan, to address demolition and construction activity, access and parking, is to be prepared to ensure that suitable provision is available on site for all vehicles associated with the construction of the development to alleviate

any need to access the site from, or park within the road reserve of Borella Road, which is part of the Riverina Highway (HW20). Appropriate signage and fencing is to be installed and maintained to effect this requirement;

5. Any works associated with the development shall be at no cost to the Roads and Maritime Services (RMS).

(A6) Amenity - plant/ equipment or features on roof

No plant, equipment, services or architectural features other than those shown on the approved plans are permitted above the roof level of the building(s) without the written consent of Council. (A400)

(A7) Signs - further Development Application required

No advertising sign that requires Council's consent is to be erected/displayed until Council has issued development consent for that sign.

B. Prior to any work commencing on the site

(B1) Easements - footings and easements

Prior to work commencing on the site, any existing sewer main, stormwater main or water main located on the land is to be accurately drawn in relation to the proposed building and, if necessary, building footings in the vicinity of the asset are to be designed so that no load is imparted to the asset. (B456)

(B2) Development – stormwater drainage design

Prior to work commencing on the site, a stormwater drainage design is to be prepared showing stormwater from the site area and development being collected and disposed of to a lawful point of adequate capacity so as to prevent contamination of receiving waters. The design shall:

- (a) Be in accordance with *Australian Standard 3500.3*;
- (b) Provide for drainage discharge to an existing Council drainage system;
- (c) Maintain where relevant existing stormwater overland flowpaths; and
- (d) Ensure that the development either during construction or upon completion, does not impede or direct natural surface water runoff so as to cause a nuisance to adjoining properties.

Details including easements to be created are to be included on the plans and specifications are to be submitted to Council. (B538)

(B3) Disabled access and facilities

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS1428 "Design for Access and Mobility". Plans demonstrating compliance with this are to be submitted to Council prior to the commencement of construction works. (B110)

(B4) Waste Management Plan

A Waste Management Plan is to be submitted to Council no later than 21 days after works commence on the site. The Waste Management Plan must detail storage, control and management of waste on the site and the disposal of all waste to licensed or approved disposal facilities.

(B5) Soil and Water Management

Prior to work commencing on the site, an Erosion and Sediment Control Plan (ESCP) is to be prepared in consultation with Council and in accordance with Albury City Council's Soil and Water Management Policy. The plan shall include measures to:

- (a) Prevent site vehicles tracking sediment and other pollutants from the site area;

- (b) Protect retained vegetation by a suitable barrier;
- (c) Divert in an approved manner upslope water around cleared and/or disturbed areas;
- (d) Prevent debris escaping off-site by use of on-site sediment barriers;
- (e) Provide for stockpiles and building material that don't create nuisance or pollution;
- (f) Prevent dust nuisance; and
- (g) Ensure maintenance of all erosion control measures at operational capacity until the site is effectively rehabilitated.

A copy of the ESCP must be kept on-site at all times and made available to Council's Officer on request. (B053)

(B6) Construction Management Plan

Prior to work commencing on the site, the applicant shall submit, for approval by Albury City Council, a detailed Construction Management Plan (CMP) prior to commencement of Construction. The CMP shall include:

- (a) A Traffic Management Plan for construction works is to be prepared in accordance with AS1742.3 by an appropriately qualified person;
- (b) Construction vehicles access to and egress from the site in and out route plan in accordance with the TMP during construction;
- (c) Parking for construction vehicles;
- (d) Locations of site office, accommodation and the storage of major materials related to the project;
- (e) Protection of adjoining properties, pedestrians, vehicles and public assets;
- (f) Location and extent of proposed builder's hoarding and Work Zones;
- (g) Tree protection management measures for all protected and retained trees;
- (h) Noise management requirements for plant and equipment; and
- (i) Any request for adjustment to the construction working hours set by the conditions of this consent and its justification, duration and purpose.

(B7) Landscaping Plan

Prior to commencement of work, a landscaping plan is to be submitted to Council for approval. Two copies of the plan are to be provided. Once Council has approved the plan it will form a part of this Development Consent. The plan is to indicate the following information:

- (a) Site boundaries and locations of all buildings and existing features;
- (b) The location and name of shrub and tree species to be planted and method of planting;
- (c) Species chosen must relate in scale to the building, with taller and more diverse planting for buildings of greater dimension;
- (d) Mature height and spread of trees and shrubs;
- (e) The location of grassed and paved areas;
- (f) Landscaping areas protected from vehicle activity by a minimum height 100mm kerb or similar barrier; and
- (g) Measures to assist in the establishment and maintenance of the landscaping.

(B8) Car parking - parking signs

Signage to the satisfaction of the responsible authority must be provided designating the parking areas as either staff or public, directing drivers to the area(s) set aside for car parking and must be located and maintained to the satisfaction of Council. Details of the signage, including location and size, is to be submitted to, and approved by, Council prior to the commencement of construction.

(B9) Prior to commencement of Construction Works

Two days before any site works, building or demolition begins, the applicant must:

- (a) Advise Council that it intends to commence such works and details of a 24 hour contact telephone;

- (b) Notify the adjoining owners that work will commence;
- (c) Notify the Council of the name, address, phone number and licence number of the builder;
- (d) Erect a sign at the front of the property stating that unauthorised entry is prohibited and showing the builder's name, licence number and site address;
- (e) Provide a temporary on-site toilet;
- (f) Protect and support any neighbouring buildings;
- (g) Protect any public place from damage, obstruction or inconvenience from the carrying out of the consent;
- (h) Implement measures to protect existing trees;
- (i) Implement controls to prevent soil erosion and pollution;
- (j) Prevent any substance from falling onto a public place; and
- (k) Follow any other conditions prescribed in the *Environmental Planning and Assessment Regulation 2000*. (C426)

(B10) Sewer - trade waste

Prior to work commencing on the site:

- (a) Any premises proposing to discharge into Council's sewerage system, waste water other than domestic sewerage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by Council's Trade Waste Officer prior to commencing work onsite;
- (b) Detailed hydraulic plans shall be submitted with all trade waste applications which indicate size, type and location of pre-treatment devices. All plumbing and drainage installations to these devices shall comply with AS/NZS3500; and
- (c) To ensure there is no unacceptable discharge to Council's sewerage system an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed to details approved prior to work commencing onsite. The development will be required to meet discharge standards in accordance with Council's Trade Waste Policy.

Note: A Trade Waste Application Form has been enclosed for your convenience. (C436)

(B11) On-site waste storage

An adequate waste receptacle area shall be provided on-site to store all waste pending disposal. Such area shall be screened, regularly cleaned and accessible to collection vehicles in the interest of amenity, safety and public convenience. (C655)

(B12) Water/Sewer & Drainage Approval

- (a) All plumbing and drainage work is to be carried out by a person that holds an endorsed contractor licence or a supervisor certificate under the *Home Building Act 1989* for such works or is under the requisite supervision of such a person; and to the requirements of the Plumbing Code of Australia; and
- (b) The Licensed Plumber's details are to be forwarded to Council prior to commencement of any plumbing work. (C045)

(B13) Hydraulic Design

The applicant is to submit to Council a detailed hydraulic design of the proposed house drainage, stormwater, sanitary plumbing water and fire service installation for approval prior to commencement of work. The hydraulic design shall comply with the requirements of the Plumbing Code of Australia & Appendix New South Wales Code. (C999)

(B14) Existing damage to Council property

The applicant is required to notify Council in writing prior to commencing construction works on the site, of any existing damage to kerbing and guttering and/or footpath paving, the absence of such notification shall signify that no damage exists and the applicant will

be liable for the cost of the reinstatement of any damage to kerbing and guttering or footpath paving which may be necessary after completion of the building operation. (D452)

C. During Construction or Works

(C1) Construction - mode of work

During construction work must be conducted in a manner so as not to be injurious to health and amenity by reason of noise, vibrations, smells, dust, stormwater runoff, sediment loss, placement of building materials and wastes, rubbish, footway interference, traffic generated, hours of operation and the like. (D033)

(C2) Construction - hours of work

Demolition, subdivision or construction works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- (a) Mondays to Fridays, 7.00am to 6.00pm
- (b) Saturdays, 8.00am to 1.00pm
- (c) No work is permitted on Sundays and Public Holidays.

Construction works that are carried out in the open that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties is to be restricted to the above hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines.

In the event that the demolition/construction relates to works inside the building and does not involve external walls or the roof, and do not involve the use of equipment that emits noise then the works are not restricted to the hours stated above. The provisions of the *Protection of the Environment Operations Act 1997* in regulating offensive noise also apply to all construction works.

A variation to these approved hours may be approved by Council in the Construction Management Plan applying to the stage of works where extension of working hours is necessary, for example with a large concrete pour or erection or dismantling of a crane. The Construction Management Plan must include a statement regarding the reasons and justification for the variation sought. (D422)

(C3) Construction - stamped plans and erection of site notice

Stamped plans, specifications, a copy of the development consent and any other Certificates to be relied upon are to be available on site at all times during construction.

The following details are to be placed on signs to be erected on the site:

- The name of the person in charge of the work site and telephone number, at which that person may be contacted during work hours;
- That unauthorised entry to the work site is prohibited;
- The designated waste storage area must be covered when the site is unattended; and
- All sediment and erosion control measures is to be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- At the commencement of, and for the full length of the, construction works onsite; and
- In a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

(C4) Environmental - legionnaires disease

When air handling, hot water, warm water or water-cooling systems are installed:

(a) A certificate is to be obtained certifying that the system has been installed in accordance with the *Public Health (Microbial Control) Regulation 2000* and AS3666.1:1995; and

(b) All relevant information required under clause 15(3) of the *Public Health (Microbial Control) Regulation 2000* is to be submitted to AlburyCity Council on completion of the building.

The occupier of the premises is to ensure that the system is maintained at all times in accordance with requirements of the *Public Health (Microbial Control) Regulation 2000* and AS 3666.1:1995, unless Council has been notified otherwise. (D440)

(C5) Environmental - hot water system

Hot water installations are to deliver hot water at the outlet of all sanitary fixtures used primarily for personal hygiene purposes, at a temperature not exceeding 50°C. (D438)

(C6) NSW Workcover Authority

All construction work is to be undertaken in a manner that is consistent with any directions or practices endorsed by the NSW Workcover Authority. (D998)

(C7) Construction - landscape general

All landscape works are to be constructed in accordance with the stamped approved plan. Landscaping is to be maintained:

- In accordance with the approved plan;
- In a healthy state; and
- In perpetuity by the existing or future owners and occupiers of the site.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity, as the vegetation that died or was removed, or as otherwise agreed with council.

(C8) Maintenance of erosion and sediment control measures

All measures specified in the approved Erosion and Sediment Control Plan to control damage, erosion and sedimentation are to be installed and maintained until disturbed areas are restored by turfing, paving or re-vegetation. Council may issue infringement notices incurring a monetary penalty where measures are not provided or maintained. (D061)

(C9) Environmental - noise control

Work complying with the latest version of Australian Standard 2436 "*Guide to Noise Control on Construction, Maintenance and Demolition Sites*". (D048)

(C10) Stormwater - drainage

All stormwater runoff from the development is to be collected on-site and conveyed to a lawful point of adequate capacity in a manner that is consistent with the latest version of *Australian Standard 3500.3.2*, and does not impede or direct natural surface water runoff so as to cause nuisance to adjoining properties. (B528)

(C11) Environmental - dust suppression

Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties. (D051)

(C12) Demolition - mud/soil

The tracking of mud and soil deposits from the site is to not occur during demolition or construction works. (D045)

(C13) Construction - no plant/material stored within road reserve

Plant and building materials shall not be placed or stored within the public road reserve and shall be stored within the boundaries of the site area during the building works. (B454)

(C14) Construction Activity

Any construction work is to be undertaken in a manner with suitable precautions, so as to ensure that no damage occurs to nearby/adjoining properties as a result of excavation or other activities. (D999)

D. After completion of works / or prior to occupation or commencement of use

(D1) Amenity - street number

A street number shall be displayed in a prominent location at the front of the property in the interest of public safety and the delivery of goods, parcels and emergency services. (E424)

(D2) Fire Safety - certificate

On completion of the erection of the building, the applicant is required to provide Council with a Fire Safety Certificate certifying that all essential services installed in the building have been inspected and tested by a competent person and were found to have been designed and installed to be capable of operating to the minimum standard required by the *Building Code of Australia*. (E600)

(D3) Certificate of Compliance - plumbing/drainage

Prior to occupation the responsible plumbing contractor is to submit to Council a Certificate of Compliance. All plumbing work is to comply with the relevant legislation. (E433)

(D4) Soil and Water Management - parking area construction

The vehicle parking and manoeuvring areas being fully constructed, drained and maintained thereafter so as to prevent nuisance from dust, mud, drainage, sediment loss and the like. Such areas shall at a minimum be provided with a bitumen seal or equivalent surface on a suitable hard standing pavement. (E484)

(D5) Safer by Design

To minimise the opportunity for crime and in accordance with Crime Prevention Through Environmental Design (CPTED) principles, the development shall incorporate the following:

(a) In order to maintain a safe level of visibility for pedestrians within the development, adequate lighting to AS1158 is to be provided to all common areas including car parking areas, pedestrian routes and waste storage areas.

This lighting shall ensure consistency to avoid contrasts between areas of shadow/illumination and with an automatic/timed switching mechanism, motion sensor or equivalent for energy efficiency. Such lighting shall be installed and directed in such a manner so as to ensure that no nuisance is created for surrounding properties or to drivers on surrounding streets;

(b) The design, installation and maintenance of landscaping (and associated works) shall not impede visibility and clear sight lines along pedestrian routes and parking areas; and

(c) Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.

(D6) Landscaping - irrigation installation

The site being landscaped in accordance with the particulars submitted, prior to occupying the development and being maintained at all times to enhance environmental quality. The applicant shall install a watering system (e.g. micro irrigation, sprays, under-ground pop-up sprinklers) to ensure the health and minimise maintenance of landscaped areas. Installation must be undertaken by an appropriately licensed person in accordance with an

approved plan complying with the provisions of the *Local Government (Water, Sewerage and Drainage) Regulation 1993*. (E035)

(D7) Public Utilities – cost to applicant

Adjustments to public utilities necessitated by the development shall be completed at the applicant's cost prior to occupation of the premises, and in accordance with the requirements of the relevant authority. (E999)

(D8) Certificate of Compliance

The applicant must apply for a certificate of compliance under section 305 of the *Water Management Act 2000*. The certificate of compliance must be obtained prior to the occupation and use of the development.

Note: Section 64 of the *Local Government Act 1993* states that Division 5, Part 2 of Chapter 6 of the *Water Management Act 2000* applies to a council exercising its water supply, sewerage and stormwater drainage works and facilities functions under Division 2, Part 3 of Chapter 6 of the *Local Government Act 1993* in the same way as it applies to a water supply authority exercising functions under the *Water Management Act 2000*.

E. Use of Site Area

(E1) Access - loading/ unloading

The loading and unloading of goods from vehicles must only be carried out on the land within the designated loading bay/s, and must not disrupt the circulation and parking of vehicles on the land. (F409)

(E2) Amenity - security alarms

All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia and be connected to a security service. (F012)

(E3) Amenity - garbage storage

Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of Council. (F015)

(E4) Amenity - external lighting

Any external lights must be directed away from the adjoining/nearby residences to prevent light spill and glare. (F018)

(E5) Amenity - graffiti

The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired. (F027)

(E6) Sewer - inspection pit

A sewerage manhole and/or house drainage inspection pit exists on the property and shall remain visible and accessible at all times. (F493)

(E7) Environmental Noise

The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise. (F033)

(E8) Signs – approval

No sign that requires Council's approval being displayed unless separate development consent has first been obtained. All signs shall be designed to complement development on-site and be maintained at all times in good order and condition. (F800)

(E9) Car Parking – provision

A total of 148 off-street parking spaces are to be provided, line marked and maintained for the development, generally in accordance with the approved schedule of external finishes. The parking space dimensions and manoeuvring areas are to comply with AS2890.1–2004, the *Building Code of Australia* and the Commonwealth *Disability Discrimination Act 1992*. Of the 148 spaces, 9 parking spaces for persons with disabilities are to be provided in accordance with AS1428.1 and are to be located close to all pedestrian accessways/entrances to the building. (F415)

F. Reasons for Conditions

(F1) The above conditions have been imposed:

- (a) To ensure compliance with the terms of the *Environmental Planning and Assessment Act 1979*;
- (b) Having regard to Council's duties of consideration under Section 79C and 80A of the Act;
- (c) To ensure an appropriate level of provision of amenities and services occurs within the City and to occupants of sites;
- (d) To improve the amenity, safety and environmental quality of the locality;
- (e) Having regard to environmental quality, the circumstances of the case and the public interest;
- (f) Having regard to the *Albury Development Control Plan 2010*;
- (g) To help retain and enhance streetscape quality;
- (h) Ensure compatibility with adjoining and neighbouring land uses and built form;
- (i) To protect public interest, the environment and existing amenity of the locality; and
- (j) To minimise health risk to neighbouring residents and workers. (H001)

G. Advisory and Ancillary Matters

(G1) Compliance

It is the responsibility of the applicant to check, understand and seek assistance where needed so as to ensure full compliance with the conditions of this Development Consent. Please contact the AlburyCity Planning & Environment Group on 02 6023 8285 if there is any difficulty in understanding or complying with any of the above conditions. (I010)

(G2) Alterations after Consent

Any alterations to the proposed development shall be submitted to AlburyCity Council for further assessment and approval prior to the issue of Development Consent. If such alterations are contemplated after the consent is issued, then details shall be subject to a development application for the modification of the Development Consent. (I005)

(G3) Disability Discrimination Act, 1992

It is the Applicants responsibility to ensure compliance with the requirements of the *Disability Discrimination Act, 1992* (DDA). Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA. You are advised to seek advice from the Human Rights and Equal Opportunity Commission (phone 02-9284 9600) in respect of your application. (I025)

(G4) Underground Assets – Dial Before you Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). (I130)

(G5) Telstra Assets

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. *(1131)*

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