

From: Ross Edwards
Sent: Tuesday, 24 April 2018 2:27 PM
To: Lisa Foley
Cc: Emily Goodworth
Subject: RE: Issue with Clause 4.6 variation requests - DA1283/2016 - 2016HCC061

Dear Lisa,

Thank you for the email.

In regards to the questions raised by the panel, the following is provided:

1. Updated Clause 4.6 variation requests dated July 2017 were submitted by the applicant to accompany the amended plans. I have attached a copy of the amended Statement of Environmental Effects which contains the updated Clause 4.6 variation requests in regards to the amended design of the proposal.
2. The Clause 4.6 variation requests have been assessed and Clause 4.6 has been addressed within the assessment report.
3. Council confirms that the updated Clause 4.6 variation requests have been assessed.
4. Amended Clause 4.6 variation requests dated July 2017 were submitted by the applicant.

Based on internal legal advice, Council did not agree with the legal advice prepared by Mills Oakley dated 27 October 2016 and requested that the applicant provide Clause 4.6 variation requests to vary Clause 4.3 and 4.4 of Wyong Local Environmental Plan 2013. Council is of the view that a Clause 4.6 request is required where a development proposed under the Seniors Housing SEPP involves exceedance of a standard in the LEP, where the development standard in the LEP sets a maximum which is above any minimum below which the SEPP does not allow refusal on the basis of that aspect of the proposal.

Regards

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