

Memorandum

Project:	Panel Reference 2017HCC012 – DA 521/2017 Forster Civic Precinct Development
To:	Hunter & Central Coast Joint Regional Planning Panel (the Panel)
Attention:	Bruce Moore & Steve Andrews, MidCoast Council (Council)
From:	Assessing Officer, Chris Speak, City Plan Strategy & Development (CPSD)
Date:	15 September 2017

RESPONSE TO QUERY FROM THE PANEL: PANEL REFERENCE 2017HCC012 – DA 521/2017 FORSTER CIVIC PRECINCT DEVELOPMENT

I make reference to the Panel's emails dated 14 September 2017 in which a number of matters were raised to be addressed in the consideration of DA 521/2017 prior to the Panel's meeting on Wednesday, 20 September 2017. For ease of reference, this memo addresses the Panel's points raised in the same order.

The Panel additionally requested that the concerns raised in the supplementary submission by Matthew Fraser, made on behalf of Merrick Spicer & Associates Taree, dated 12 September 2017, be addressed. CPSD is currently reviewing this submission and the associated documentation prepared by Location IQ, and will provide additional commentary prior to the Panel's meeting.

Clarify whether Council sought any urban design advice, and what urban design assessment was undertaken?

Council has confirmed that it does not have a Design Review Panel and therefore the application has not been considered by such a panel. Council also noted that it does not rely on a specialist architect or designer to provide in-house comments and that an assessment against the design principles is to be undertaken by the assessing officer.

CPSD has undertaken a detailed review of the development against the 9 Design Principles of SEPP65 and the Apartment Design Guide. During the assessment process, requests for additional information were made in respect of design aspects relating to amenity impacts for future residents between the individual residential units.

Separation distances and unit design and layout were addressed by the architect, and the various letters of correspondence to this effect are attached (refer to Attachment 1).

The car parking breakdown table was not included in the report (p.45), could we have a copy please.

The application proposed 506 on-site car parking spaces. These are distributed throughout the development relevant to the use. Council's engineers required some reduction and amendment in the use of both on and off street spaces, including the removal of up to 10 spaces to improve the vehicle turning circles to enter/exit the internal vehicle ramps and car park.

CPSD will provide an updated car parking breakdown table to reflect the amended reduction in parking spaces, as per Condition 15 of the draft Conditions of Consent, prior to Wednesday's meeting.

A zoning plan showing the site and surrounding properties would be helpful.

CPSD understands that Council has provided the Panel with a zoning plan for the site and surrounding properties.

The new education and childcare SEPP appears to be relevant to the application, and needs to be addressed. Does the vegetation in non-rural areas SEPP apply as its zoned B4, and if so does it also need to be addressed?

CPSD is currently undertaking a review of the relevant requirements of SEPP (Educational Establishments and Child Care Facilities) 2017 and SEPP (Vegetation in Non-Rural Areas) 2017 and will provide a discussion of all relevant matters to the Panel prior to Wednesday's meeting.

Are there details for the internal layout and spaces for the child care centre? I can't find a plan showing it.

The development plans do not provide an internal layout of the child care centre. However, the SEE accompanying the DA notes that:

The proposed child care centre is located at the ground floor of Building D and provides a 294m² area for a childcare operator to set up a childcare centre catering for up to 50 children, and includes an outdoor play area for the use of the children. The facility would be accessed from an entry from West Street which is combined with an entry for the gymnasium.

The plans indicate that the outdoor play area is approximately 100m² in area.

In the context of this mixed use development, CPSD is satisfied that the application provides a sufficient level of detail regarding the proposed child care centre and that full details for the design and layout can be resolved prior to the release of a Construction Certificate Stage 4, as per Condition 12 in the draft Conditions of Consent.

Is the 3pm winter shadow correct? (plan 5490.13) - it appears to be somewhat shorter than the 9am shadow. Could the accuracy of all shadow diagrams be confirmed, and if the 3pm one is wrong it needs to have some assessment.

CPSD is currently undertaking an independent review of the shadow diagrams submitted in support of the development to confirm the accuracy of these diagrams. The results of this review will be provided to the Panel prior to Wednesday's meeting.

Could council confirm no approvals are required under the National Parks & Wildlife Act for works near the middens or elsewhere on the site.

Information submitted with the application identified evidence of a disturbed Aboriginal midden located in the south-western corner of the site. The application was amended to not affect this area.

The potential impact on the midden relevant to the *National Parks & Wildlife Act 1974* (NPWA) was raised with the applicant. The applicant's Aboriginal Heritage consultant confirmed that the proposed development will have no impact on the midden.

As the applicant does not propose to disturb the midden, an integrated approval is not required from the Office of Environment & Heritage under s.91 of the EP&A Act, having regard to s.90 of the NPWA. Nevertheless, Condition 68 has been included in the draft Conditions of Consent requiring the protection of Aboriginal objects and places in accordance with the NPWA.

It's not clear whether the development is in fact integrated. They have asked for an approval under s.91 of the Water Management Act, but does the WaterNSW response address this?

The applicant identified on the Application Form that the proposal is 'nominated integrated' development under s.91 of the *Water Management Act*. Accordingly, the application was referred to the Office of Water as nominated integrated development.

DPI Water confirmed that the subject site is not waterfront land and therefore a controlled activity approval is not required for the development under s.91 of the *Water Management Act* (refer to Attachment 3).

Notwithstanding, Water NSW confirmed that the application is 'integrated development' pursuant to s.91 of the EP&A Act as a 'water supply work approval' (a type of 'water management work approval' under s.90 of the *Water Management Act*) is required for dewatering during the construction phase. Water NSW's General Terms of Approval have been included as Condition 45 in the draft Conditions of Consent (refer to Attachment 4).

The ecological assessment is not included in the documents. Could council confirm the assessment addresses the requirements of the Threatened Species and EPBC Acts ie was a 7 part test or the like required or carried out?

In considering s.5A of the EP&A Act (now repealed), Council's Senior Ecologist confirmed that the development is not considered likely to significantly impact threatened biodiversity and therefore a Species Impact Statement is not required.

Council's Senior Ecologist also confirmed that the proposal does not significantly affect matters of national environmental significance and referral to the Commonwealth Government is not required pursuant to the EPBC Act.

Is there a condition for site testing as recommended on page 18?

Condition 22 of the draft Conditions of Consent pertains to groundwater quality testing for contaminants prior to the issuing of a Construction Certificate for Stage 1 of the development. A condition pertaining to general site testing in accordance with SEPP 55 requirements has not been included as a draft Condition of Consent as it was considered that adequate site history and knowledge was available for the site.

Is Council satisfied the units meet, or can meet BCA fire egress requirements?

Noting that the referral response from Council's Building Team only provided recommended conditions of consent, CPSD has sought comment from Council regarding BCA fire egress requirements.

Council responded by email on 15 September 2017, as follows:

Council's Building Surveyors would not normally carry out a BCA assessment on this scale of development given the limited construction details provided and the potential time implications and cost that are not covered by the DA fees. It is my understanding that compliance with the BCA is not a matter for assessment under

Section 79C and is carried out and forming the backbone of a CC. Nevertheless a condition 5 of consent is imposed requiring compliance with the BCA.

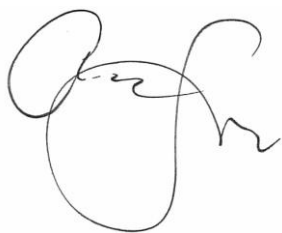
There are also some matters that would be helpful to have at the briefing next Wednesday:

- details of changes that were made to address SEPP 65 building separation requirements***
- a plan showing the complying units for solar and natural ventilation under SEPP 65, and details of the alternative solution for ventilation***

Refer to Attachments 1 and 2.

If there is anything in this document that requires further clarification, please do not hesitate to call the undersigned on 02 4925 3286 to discuss.

Yours faithfully,



Chris Speek
Associate Director | Newcastle