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7 August 2018

MidCoast Council
PO Box 482
TAREE NSW 2428

Attention Petula Bowden

Our Ref: 16229

Dear Petula,

**RE: DA 152/2019 – PROPOSED RETIREMENT VILLAGE
26-56 MANOR ROAD, HARRINGTON**

I refer to the deferral of this item from the meeting of the Joint Regional Planning Panel meeting held at Taree on 15 May 2019. Please find the following information in response to the items referred to in the Panel's decision.

1. *Confirmation that all required owner's consent for lodgement of the Development Application have been obtained (including land upon which there may be a Right of Way or easement benefiting the property upon which works are proposed, noting the decision of the Court of Appeal in Al Maha Pty Ltd v Hualun Investments Pty Ltd (2018) NCWCA 245);*

Response: A signed DA Form has been provided from the owner of the land (Lot 1 DP 34303, 22 Manor Road, Harrington) consenting to the lodgement of the application.

2. *A Schedule of Commitments and details of the availability of services for residents at Stage 1 and all stages of the development, consistent with the requirements for Serviced Self Care Housing under the terms of the SEPP (Housing for Seniors and People with a Disability) 2004 ("Seniors SEPP"), including the provision of a bus, its capacity, service times through the day and week and destination(s).*

Response: Please find attached the required Schedule of Commitments and details, including the layout for the temporary Stage 1 facility.

3. *Confirmation that the development complies with Clause 7.1 of Greater Taree Local Environmental Plan 2010 (GTLEP 2010), noting if works involve excavation more than 1m below existing ground level, and Acid Sulfate Soils Management Plan is needed prior to determination. If there is refinement of the proposed detention basins, this shall ensure the technical drainage requirements are met regarding quantity and quality of stormwater disposal;*

Response: Acid Sulfate Soils Screening has revealed that Potential Acid Sulfate Soils exist at depths of 1 metre below the surface and an Acid Sulfate Soils Management Plan has been prepared and is attached.

4. *Confirmation of the terms of the application made for the Site Compatibility Certificate (SCC) including whether the temporary accommodation was proposed, and confirmation that the proposal meets the requirements of clause 24(3) of the Seniors SEPP, including that it cannot be larger than that proposed with the SCC;*

Response: The application for the site compatibility certificate did not include the temporary accommodation, as this was added during further review of needs in the area and was considered an ancillary component that did not increase the scale of the development. Amended plans have been provided removing this component from the proposal.

5. *Confirmation that no works, including ancillary works to support the development, are located in the Environmental Conservation E2 zone and that the bushfire affectation to the site does not preclude application of the Seniors Housing SEPP;*

Response: The location of the southern detention basin has been altered so as to no longer be within the E2 zone. There is no part of the seniors housing or ancillary aspects that are constructed in the E2 zone. There is tree planting to occur in this area; however, this is undertaken as an offset planting as per item 10.

The fact that the land is bushfire prone land does not preclude the consideration of the application under the SEPP. Schedule 1 of the SEPP does not list bushfire prone land as environmentally sensitive land which is precluded from development and the SEPP includes a specific clause 27 which deals with development on land mapped as bushfire prone land. This clause provides:

A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 10.3 of the Act as "Bush fire prone land—vegetation category 1", "Bush fire prone land—vegetation category 2" or "Bush fire prone land—vegetation buffer" unless the consent authority is satisfied that the development complies with the requirements of the document titled Planning for Bush Fire Protection, ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006.

The application was lodged with a bushfire assessment that assessed the application against *Planning for Bush Fire Protection 2006* and was lodged as integrated development. Council forwarded the application and assessment to the NSW Rural Fire Service who issued general terms of approval for the development.

6. *Confirmation that the requirements of SEPP (Building Sustainability Index: BASIX) 2004 are met;*

Response: The required BASIX certificates for each individual dwelling have now been generated and are attached.

7. *Review of the proposal in relation to works to Manor Road, to retain as many trees as possible, while still allowing an upgrade of the road, appropriate and commensurate with the traffic associated with the density and use proposed. This may require review of works and development within the site adjoining the northern boundary.*

Response: To examine this issue, all trees within Manor Road were surveyed and inspected by an arborist to determine structural root zones, tree protection zones and impacts of works on the land and within Manor Road. Various options were then examined in consultation with Council to examine opportunities to retain trees along Manor Road. The options examined looked at changes within the site, as well as within Manor Road.

Within the site, minor changes to the layout can be effected (through small adjustments to lot boundaries) to create additional setback for the development and constructed wetland, etc. The works in the road reserve have looked at various options to change alignments, drainage works, and removing items such as footpaths and street lighting. There have been five options examined in detail and plans of each option have been provided. The options are summarised in the table below:

Option	Features	Outcome for Trees
1	Works as per draft conditions of consent presented to JRPP meeting 15 May 2019.	No trees in corridor able to be conserved with losses from drainage treatments, footpath and street lighting and electricity trench.
2	Removal of footpath and bus shelter from corridor and alter profile of verge. Bus route and shelter provided within site and pedestrian connection to Harrington Road provided internally.	No trees in corridor able to be conserved with losses from drainage treatments and street lighting and electricity trench.
3	Option 2 with kerb and gutter removed and further alterations to verge profile.	No trees in corridor able to be conserved with losses from drainage treatments and street lighting and electricity trench.
4	Option 3 with street lighting removed and provided to entrances only from internal electrical service and road realigned to north with non-standard drainage batters and filling of existing drainage trenches. Also includes additional setback within site of wetland to provide further tree protection zone.	Approximately 38 trees identified as potentially retained. Note that proposed filling of drain adjacent to trees does not meet arboricultural standards and long term retention of the trees cannot be ensured.
5	Option 4 with reduced filling of drain to create improved profile.	Approximately 48 trees identified as potentially retained. Note that proposed filling of drain adjacent to trees does not meet arboricultural standards and long term retention of the trees cannot be ensured. It should also be noted that the retention of the open drain (partly filled) would not meet the Council's engineering standards.

The proponent notes options 4 and 5 do not meet arboricultural standards and may require removal of trees if they do not survive and die over time. The applicant cannot accept any responsibility for the removal of these trees and it will need to be undertaken by Council.

If options 4 and 5 were to be adopted, the following alterations to conditions would need to occur:

- Condition 59
 - Alter requirement for bike path along full frontage of the site to Manor Road to simply require a connection of a bike path from the end of Road 2 to Harrington Road.
 - Alter requirements for street lighting to only require lighting of the intersection of Roads 2 and 3 with Manor Road
 - Alter requirement for kerb and gutter to concrete edge strips for Manor Road.
- Condition 65
 - As for condition 59, alter requirements for bike path, street lighting, and kerb and gutter.
 - Remove provision for bus bay with the bus bay to be provided within the development site.

8. *Details of how Services will be provided, with appropriate access and legal Rights of Way, both for services within the site requiring access and services to adjoining land which have the benefit of existing easements or rights of access. This needs to include details for each stage and how access is to be maintained to adjoining land to the south.*

Response: The plans have been updated, including detailed construction staging plans – rev B that show:

- A right of access and physical road will be constructed in stage 1 along the main western/southern perimeter road which will provide access to these properties. As per the requirements of the proposed conditions of consent and the easements themselves, these alternate arrangements will be in place before existing accesses are closed.
- Services are maintained though the site and new connections made to affected properties before the existing services are cut off.

The draft community plan for stage 1 includes a new easement (A) Right of Access 16m wide and variable which will be registered prior to the release of the construction certificate for stage 1 as per DA Condition 7.

It should be noted that these arrangements are consistent with the conditions proposed by Council and are necessary under the proposed terms of consent and are also required under the provisions of the easements, service authorities and common law requirements. Access and services to the three affected properties will be maintained during and following development of the land.

9. *Consideration of providing public access to the River from the site in the south-eastern corner, if possible, including any required consultation with Council regarding the impacts and works on adjoining land.*

Response: There is an existing access path within Lot 7 DP 1217806 (Council reserve) which connects with the riverfront land of Harrington Waters which is passable. Upgrade of the access track would be desirable to facilitate equitable access; however, this is subject to Council approval (or possibly as a condition of this consent).

10. *Details including potential revision of the Landscape Plan, to ensure at least 4 times the koala feeding trees (relative to the koala feeding trees being removed) are provided on site, including in a position that may best suit their use by koalas after consultation with an ecologist;*

Response: Advice has been provided from Jason Berrigan (Ecologist) and is attached. The landscape plans have been modified to include the provision of 160 Swamp Mahogany (preferred koala feed species) which is a 40:1 offset for preferred koala feed trees.

11. *Details of roof colours (to avoid unnecessary heat gain or a heat island effect), and the methodology for future owners choosing their own dwelling types.*

Response: Roof colours have been nominated as medium (solar absorptance 0.475 – 0.70) in the BASIX assessments. Classification of Colorbond colours in accordance with the BCA & BASIX (<http://www.steel.com.au/products/coated-steel/colorbond-steel/basix-and-bca-classification>) permits: Cove, Mangrove, Gully, Wallaby, Terrain, Basalt, Windspray, Pale Eucalypt and Jasper from the Colorbond range to be used. Future owners have the ability to select a dwelling type and colour scheme, however this is within certain controls, including complementary colour schemes.

A table has been added to each house drawing set which identifies and/or limits which blocks (in terms of width and orientation) can be used by the dwelling type chosen. Design controls have also been included to ensure a minimum 1.8 metre separation zone is maintained between all dwellings. The exemption is the 12.5m blocks where designs are permitted to have a zero lot side setback to

the garage. The design control requires the adjoining dwelling type to maintain a front side setback greater than 2.4m.

12. Details and quantification of the fill to the site, including associated truck movements and likely traffic and amenity impacts (including any amelioration measures);

Response: Drawing No.18 – Cut Fill Plan from Engineering DA Plans - Rev F by Tattersall Lander has calculated the development has a net shortfall of 167,350m³ of fill. This equates to 334,700 tonne based on dry compaction rates received from the selected quarries supplying the venum material. Drawing No. 12.0 of the Construction Staging Plans – Rev B provides a summary of the quantity of fill required for each stage and their respective time frames based on the assumptions and calculations table which shows truck movements per day and load capacities. The Construction Staging Plans demonstrate how traffic and amenity impacts have been considered with the sequencing and layout of fill stages (over the entire estate) to minimise truck movements and filling periods, and to minimise noise and vibration next to occupied stages by providing buffer zones. Further control measures include perimeter fencing and screenings between the civil works activities and neighbouring residents, and the placement of a temporary bitumen primer seal over Manor Road.

13. Advice regarding the Proposal having regard to SEPP 55 (Remediation of Land) requirements, the draft amendment to that SEPP and the draft Environment SEPP, as relevant to the proposal.

Response: A Preliminary Site Investigation including targeted soil sampling and testing has been prepared by Douglas and Partners for the proposal which has addressed the requirements of SEPP 55 and finds that the site is suitable for the proposed development subject to some recommendations which can be incorporated into the proposal.

The changes to SEPP 55 have not been made and an Explanation of Intended Effect for the changes has been used for public consultation. This document reveals that the process for considering development applications under the SEPP will be similar to the existing provisions, with requirement for preliminary site investigation, etc.

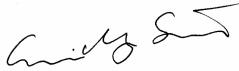
No draft SEPP (Environment) has been adopted and an Explanation of Intended Effect for the proposed instrument has been used for public consultation. The future SEPP will:

- Replace and repeal three SEPPs and four REPs, of which none are relevant to the subject land/proposal.
- Make new policy requirements for catchments, waterways, bushland and protected areas. The mapping provided with the consultation does not identify the subject site as affected by these matters.
- Continue protections for Sydney Drinking Water Catchment.
- Provide additional matters for Sydney Harbour Catchment, Hawkesbury/Nepean Catchment and Georges River Catchment.
- Improve protections for Sydney Harbour.
- Improve public urban bushland.
- Improve protection for Willandra Lakes World Heritage Area.

The future SEPP would not impose any additional considerations for this land/proposal.

Should you wish to discuss any matter further, please contact the undersigned.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Gavin Maberly-Smith', with a stylized flourish at the end.

GAVIN MABERLY-SMITH
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