Supplementary Report to HCC Planning Panel

Development Application 152/2019/DA

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| Planning Panel Ref: | 2014HCC016 |
| Proposed Development | Integrated Development for Large Lot Residential Subdivision including the creation of 46 lots, one public reserve and 3 residue lots. |
| Street Address | 24 Manor Road Harrington  Part Lots 1 and 2 DP 621005, and Lot 31 DP 847223 |
| Applicant/Owner | Riverside Manors (Harrington) Pty Limited |
| Report by | Petula Bowden- Team Leader Development Services |
| Report date | 19 August 2019 |
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| Plans Ref: |  |
| Date Lodged | 12 August 2019 |
| Additional Information Received | Covering Letter |
| Updated DA with all Owners consent |
| Schedule of Commitments & Stage 1 Facility |
| Douglas Partners ASSM Plan |
| Architecturals 11843-DA-Combined Drawing Set |
| Engineering DA Plans - Rev F |
| Arborist Advice - 22\_06\_2019 |
| Arborist Advice (V2) - 06\_08\_2019 |
| Engineering DA Plans-3m shift Layout Comparison |
| Manor Road Tree Plans - Rev C - 2019\_08\_08 |
| Construction Staging Plan (Stages 1 -11) - Rev B |
| Draft Community Plan - Stage 1 |
| Landscape Plan DA-Rev G |
| Manor Rd BDAR Koala offset Rev1 |
| Douglas Partners Contamination Report Rev1 |
| Updated House Plans and Design Controls with Basix and Draft Certificates for Light Roof for:  Amity (14.5m) Mk1 South  Amy (17.4m) Mk1 North  Atlanta (16.5m) Mk4 West  Eclipse (14.5m) Mk1 South  Eliza Davis (14.5m) Mk1 West  Laura (17.4m Corner) Mk2 North  Lydia (17.4m) Mk3 North  Lydia (17.4m) Mk4 North  Mary Ann Mk3 (14.5m) South  Oceana (16.5m) Mk3 South  Oceana (16.5m) Mk4 South  Providence (14.5m) Mk5 South  Providence (16.5m) Mk4 South  Susannah Mk1 (12.5m) South  Susannah Mk2 (12.5m) South |

**PURPOSE**

The purpose of this report is to consider additional information submitted by the applicant in response to the deferral of matter 2014HCC016.

**BACKGROUND**

At its meeting of 15 May 2019 the Panel considered all matters and materials relating to 152/2019/DA and resolved to defer determination of the development application pending further information, assessment and review.

The terms of deferral are outlined and addressed in the report below.

**REPORT**

In response to the panel’s decision to defer the application the applicant submitted additional information to Council. This information was provided to clarify certain issues of concern to the Panel and to enable further review of certain environmental impacts.

The terms of deferral were addressed by the applicant in the following manner:

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| **Term of Deferral** | **Summary of Applicant’s response.** |
| *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);* | 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. |
| Comment: The additional DA form supplied provides consent from the owners of Lot 1 DP 34303 for the registration of a restriction on title to allow works for the purpose of stormwater drainage of the development site. | |
| *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).* | The required Schedule of Commitments and details, including the layout for the temporary Stage 1 facility is provided. |
| Comment: Council is satisfied that the provisions made in the Schedule of Commitments are consistent with the requirements of the Senior SEPP and are suitable given the nature and scale of the development. Condition no. 9 has been amended to require the provision of these services and facilities. | |
| 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 storm water disposal.* | 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. |
| Comment: Council is satisfied that excavations required to facilitate the development will be contained to within 1m below existing surface levels, with limited works below this depth.  The submitted report responsibly recommends that further investigations occur during each stage to further characterise the presence and extent of acid sulphate soils. Proposed Condition No. 19 requires such assessment at each stage. | |
| 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.* | 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. |
| Comment: The amended plans indicating the deletion of the temporary accommodation are noted and considered acceptable. The village green has been expanded into the area previously set aside for the temporary accommodation building. Conditions No. 1 and 8 have been amended to reflect the revised plans. | |
| 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.* | 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 bush fire 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. |
| Comment: The revised design of the southern detention basin ensures that no component of the development is located within the E2 zoned land.  The Bush Fire Safety Authority issued by the NSW Rural Fire Service sets out general terms of approval ensuring that the development is carried out in accordance with the document Planning for Bush Fire Protection. | |
| 6. *Confirmation that the requirements of SEPP (Building Sustainability Index: BA SIX) 2004 are*  *Met.* | The required BASIX certificates for each individual dwelling have been generated and provided. |
| Comment: The required Basix certificates have been supplied for each of the proposed dwellings. | |
| 7. *Review of the proposal in 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.* | 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. | | |
| Comment:  The applicant has carried out comprehensive consideration of options to retain the vegetation in the road reservation of Manor Road. Whilst it is desirable to retain as much of the vegetation as practicable, in this circumstance the opportunities for retention and construction of a suitable road access are limited.  The location of the trees within the road reserve is such that they need to be removed to enable construction of the carriageway to meet Council’s minimum standards and the requirements of the NSW Rural Fire Service. The options to retain the trees, cannot ensure their long term survival, and require a compromise to Council’s standards which is not acceptable.  The applicant proposes that the development does not have any serious and irreversible impacts and that the impacts of the development can be offset through establishment of a biodiversity stewardship site within the LGA or identical plant community types and Species Credits, or purchasing credits from BSA”s on the OEH Credit Register.  This approach is considered appropriate, however the selection of a stewardship site within the locality is preferred.  It is also considered that, where possible vegetation within the road reserve is to be retained during construction of both the road pavement, and associated facilities, along with the water quality treatment devices within the site.  Conditions No. 23 and 24 have been amended to ensure these outcomes. | |
| 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.* | 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. |
| Comment: The proposed changes to the staging of the construction are considered suitable for the purpose of ensuring that existing access and servicing arrangements are maintained throughout the construction phase. | |
| 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.* | 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). |
| Comment: Connectivity of this development to the adjoining public reserve is not restricted. Any formal access arrangements or upgrades to provide connectivity to the existing pathway are considered to be matters for the landowner to separately negotiate with Council. Vegetation removal and other impacts likely to facilitate a constructed walkway have not been assessed as a part of this assessment. | |
| 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;* | Advice has been provided from Jason Berrigan (Ecologist) and is provided. 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. |
| Comment: The Biodiversity Development Assessment Report submitted in support of the application notes that 4 Swamp Mahogany trees are to be removed to facilitate the development. Some 160 trees are proposed to be planted to compensate for this impact, far in excess of the offset ratio requested.  The additional plantings are to be located along the southern perimeter road and surrounding the water treatment devices to provide linkages to existing vegetated areas. | |
| 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.* | 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/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. |
| Comment: The selection of roof colours is considered acceptable to achieve minimal heat gain.  The nominated methodology for future owners selecting a preferred dwelling type is considered acceptable in terms of achieving acceptable setbacks, separations and solar access. | |
| *12. Details and quantification of the fill to the site, including associated truck movements and likely traffic and amenity impacts (including any amelioration measures);* | 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. |
| Comment: With some 80 truck movements per day likely when the various stages are being filled the use of perimeter fencing for screening is considered appropriate. An additional condition has been proposed to require the submission of a construction management plans prior to the commencement of work addressing issues such as times, dust, noise, screening and other ameliorative measures is proposed to be imposed to ensure suitable amenity for neighbouring premises. | |
| *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.* | 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. |
| Comment: The recommendations provided in the Contamination Report are considered appropriate. Additional conditions of consent have been included to ensure that appropriate actions are carried out to address contamination on the site. | |

**Public Consultation**

##### The amended information was not further publicly notified.

##### Notwithstanding, 3 submissions (including a petition) were received by Council after the Panel Meeting of 15 May and prior to the drafting of this supplementary report.

##### A summary of the issues raised in these submissions, and comments in response, is provided below.

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| **Issue** | **Comment** |
| Council should determine the trees to be retained along Manor Road as:There are no other trees of this type in the area; andTree provide habitat for Koalas and wildlife | Council has fully investigated all options for the retention of trees within the road reserve and proposes that Manor Road be constructed to Council’s minimum standard. In achieving this standard as many trees as practicable are to be retained.The trees along Manor Road comprise Scribbly Gum and Swamp Mahogany. These tree species are located west of the site and in the nearby Crowdy Bay National ParkAn additional 160 Swamp Mahogany are to be planted on the site to provide compensatory habitat on the fringe of the siteThere was no evidence revealed in the ecological investigations of the site to indicate that Koalas reside in the manor Rod trees. |

**CONCLUSION**

The application has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

Issues raised by the Panel at its meeting of 15 May 2019 have been addressed by the applicant and have been considered in this assessment report. Where relevant, conditions have been amended or additional conditions imposed to manage the impacts attributed to these issues.

The site is suitable for the proposed development, is not contrary to the public interest and will not have a significant adverse social, environmental or economic impact.

**RECOMMENDATION**

That the Panel determine Development Application 152/2019/DA for a Staged Retirement Village (293 dwellings), associated facilities and Community Title Subdivision pursuant to Section 4.16 of the Act by granting consent, subject to the conditions contained in this report.