

DA- 2018/557 Memo

Deferral matter A(ii) relating to Clause 26 of SEPP (HSPD) 2004

The compliance statement submitted by the applicant volunteers additional conditions which Council has only partly adopted.

Below is an excerpt of pages 5 and 6 of the Clause 26 Compliance Statement prepared by Minto Planning Services Pty Ltd whereby the applicant has suggested additional conditions.

Council did not include all the conditions as suggested as it is considered that the proposal is required to provide this specified access to comply with Clause 26 of SEPP (HSPD). In this instance the SEPP does not specially require a positive covenant to be created on title and condition 142 Operation of the Mini Bus in Attachment 7 also addresses the matter.

Concern is raised with how specific suggested the wording of condition YY (outlined in red and highlighted yellow) is to read in regards to subclause b) where the drop off/pick up locations are limited to these three (3) locations only.

Whilst it is noted that the application provides for and has demonstrated these locations satisfy Clause 26 of SEPP (HSPD) the condition wording would be restrictive and the ability for residents have access to other nearby services/facilities that may be available in the future and require a different pick up/drop off location that could also comply with the requirements of Clause 26.

The applicant has also reviewed the conditions at Attachment 7 and did not raise any objections with the exclusion of their suggested condition.

Nevertheless, it can be seen to have potential merit for the condition to be inserted as Prior to Occupation Certificate, and if the Panel are of a mind to include the suggested condition by the applicant, Council would recommended that first sentence of condition YY b) to be amended to include “*at a minimum*”, therefore to read as follows:

- b) *The bus is to drop off and pick up passengers at the following locations from which access to the required services and facilities (as nominated below) at a minimum are available:*

In order to ensure that the required access is provided to the required facilities, the applicant volunteers the following condition which it is recommended be included in any consent granted for the development.

- XX. *Public positive covenant and/or restriction on use - transport, access to services, occupants and other matters*

A public positive covenant and/or restriction on use (as appropriate) shall be created on the title of the land incorporating all of the requirements and obligations set out in condition YY below.

The terms of the public positive covenant and/or restriction on use are to be prepared to Council's standard requirements, at the applicant's expense, and are to be endorsed by Council prior to lodgement with NSW Land Registry Services.

Wollongong City Council shall be nominated as the party to release, vary or modify the covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure that the statutory requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 are met.

YY. *Transport, access to services, occupants and other matters*

For the life of the development and at all times, the development is to be operated as follows:

- a) *A bus to be available for use by both the residents of the Residential Aged Care Facility and the Serviced Self Care Housing units, with a capacity of at least 12 seats and having wheelchair access.*
 - b) *The bus is to drop off and pick up passengers at the following locations from which access to the required services and facilities (as nominated below) are available:*
 - i. *Dapto Square, Princes Highway, Dapto - From Dapto Square access is provided to the adjoining Dapto Mall and Dapto Town Centre which will provide residents with a wide range of shops, bank service providers and other*
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- Minto Planning Services Pty Ltd*
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- retail and commercial services that residents may reasonably require,*
 - ii. *Ribbonwood Centre, Princes Highway, Dapto which is a council operated facility providing residents with access to a range of community services and recreation facilities,*
 - iii. *Dapto Square, Princes Highway, Dapto which is located directly opposite the Dapto Medical Centre and which contains the practice of a number of general medical practitioners.*
- c) *The bus is to be available both to and from the development to the above services and facilities at least once each day from Monday to Friday (both days inclusive).*
 - d) *The bus must have a driver and an appropriately qualified assistant/helper if assistance is required by any resident.*
 - e) *The bus is to be separate and in addition to any bus required or utilised for day trips or the like.*
 - f) *The costs of providing and operating the bus shall be borne by the owner of the land.*