

Monday 15 June 2020

To: Northern Region Planning Panel
From: Lydia Charman
Subject: ADDENDUM MEMO: Development Application DA19/0865 - residential flat building comprising 40 units for social housing (NRPP) at Lot 3 Sec 4 DP 2379; No. 33 Boyd Street TWEED HEADS; Lot 4 Sec 4 DP 2379; No. 35 Boyd Street TWEED HEADS
Reference: DA19/0865 / PPSNTH-26

6198

[DAMemo]

Dear Chair,

Thank you for your feedback on Council's assessment report for the above application. Please see below Council's response in relation to a number of questions in relation to the assessment report and draft conditions for DA19/0865 / PPSNTH-26.

Council apologises for omitting to reflect these updates within the report. The notations have generally been the response to amending draft conditions following consultation with the applicant (Crown) and in house experts, which have in haste not been updated within the report itself.

Notwithstanding, the below is considered to address the concerns raised. The application is considered to have been assessed in accordance all applicable legislation. The addition of this memo as an addendum to the assessment report ensures clarity on all matters and conditions of consent.

Q1 This is a Crown project and as such (s.4.33 (1) (b) of the Act) conditions cannot be imposed without the approval of the applicant or the Minister. The assessment report indicates at p.3 that the conditions have been referred to the applicant for comment, but I can find no evidence that the applicant has agreed to the proposed conditions. Normally this is done in writing. Without that, the Panel will not be in a position to determine the matter on Thursday.

The applicant has provided written acceptance of the draft conditions for the subject application. Please find appended as **attachment 1** to this addendum memo. The only amendment to conditions is a typing error where the condition references *Boys Street* instead of *Boyd Street*.

Q2 Condition 1 – the plan revision numbers listed and dates do not match those in the plan set circulated to the panel as a PDF?

The plans, revision numbers and dates listed in condition 1 of the development consent do not require amendment. A cross check of these against the final plans submitted within the assessment report has revealed that they are consistent (and approved by the applicant). In case there has been some error the plans for stamping as referred to with the assessment report and the submitted conditions have been

attached to this file as **attachment 2**. To clarify no amendment with this regard is been required.

Q3 Page 46 – indicates in relation to flooding “conditions have been applied in relation to storage and power points above PMF”. I cannot find these?

This was objected to by the applicant. The deletion of this condition was supported by Council. The following supports the removal of the condition. This advice was left in the report in error.

The site is not mapped with a 1:100 year flood level. The site is subject to the Probable Maximum Flood (PMF) event. Generally Council applies two standard conditions one being for flood free storage areas and the other relating to electrical works above the DFL/PMF.

Under DCP Section A3 – Development of Flood Liable Land the site is mapped as “hatched” which is land between the Q1 flood level and the PMF. In this instance the adjacent design flood level is applied being the level of next highest flood and the minimum habitable floor level is required to be 0.5m above this. In this instance the highest adjacent flood level is 2.6m, making the minimum floor level 3.1m. The development includes a single unit at ground level with a RL of 3.1m. Condition 1 of this consent nominates a floor level of 3.1m RL, as such all areas are compliant with Council requirements. As condition 1 includes the nominated level the conditions would have been superfluous.

Q4 Page 60 – indicates “The application included a BASIX certificate and plans stamped with [???sentence not completed]. A condition of consent will require a revised and updated Basix certificate prior to issue of a CC to address the amended plans”.

Conditions 39 and 62 don’t refer to any amended plans?

This is an administrative assessment error. This comment/notation was made during the assessment when Council requested further information from the applicant and unfortunately was/not updated in the final review. The amended plans provide additional detail to Council included red clouding areas for storage etc. for its assessment and no amendments which would require an amended BASIX Certificate. This has also been confirmed by Council’s Senior Building.

The proponent has provided an acceptable BASIX certificate.

No changes to conditions were/are required.

Q5 Page 79 (or possibly 78) states “In response to this the applicant submitted a revised plan (ground floor) was submitted to include five bulk (front lift) bins for general waste rather than the wheelie bins to reduce the number of wheelie bins being placed out for servicing. This plan forms part of the plans stamped with consent. In addition, standard conditions of consent have been recommended”. I’m not sure what conditions are applicable here, but Plan DA 101-J which is in

our set (not L as indicated in condition 1) appears to have 5 x 360L bins and the remainder as standard 240L bins.

Is this what is agreed between the parties, and are any further conditions required? Condition 48 refers to a trade waste service, but this is for the building contractor.

As detailed above under point 1 the plans within the assessment report and now appended to this addendum memo as **attachment 2** include an updated waste storage area. The revised ground floor plan was amended to show five bulk (front lift) bins for general waste rather than wheelie bins to reduce the number of wheelie bins being placed out for servicing.

The standard condition was removed from the draft suite of conditions as the Waste Management Plan is approved by virtue of condition 1 (via the plans and the Statement of Environmental Effects). The report should have been updated to remove reference to the standard condition.

This was agreed to by both parties and no further conditions are required.

Q6 Finally, in response to the objection about noise, the report states that “Should the application be approved the following conditions have been applied:

- # The development shall be carried out in accordance with the recommendations from the Noise Level Impact Assessment - developed by Craig Hill Acoustics for 33-35 Boys Street Tweed Heads.**
- # The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.**
- # The LAeq, 15 min noise level emitted from the premises shall not exceed the background noise level (LA90) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.”**

I cannot find the final such condition – the others are #s 61 (in which Boyd is still mis-spelled Boys) and 71.

Condition 61 has been amended correcting the typing error (the Street has been changed to Boyd Street). A complete suite of draft conditions has been attached with track changes.

Condition 71 is as follows:

USE

- 71. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.**

The Crown/applicant requested that draft condition *The LAeq, 15 min noise level emitted from the premises shall not exceed the background noise.....* be deleted from the draft conditions. The applicant advised that the draft condition was covered under another condition being current condition 71 (as above).

Council's Health Officer supported the removal of the conditions advising that overall, noise from the proposal is unlikely to exceed the background noise levels from traffic movements and residential and commercial activity and the NIS concluded that *based on the above assessment and recommendations noise would be within the required criteria for noise impacting on surroundings.*

Accordingly, the proposed development is unlikely to result in any adverse noise impacts to the surrounding area and Council was satisfied that condition 71 allows for the protection of the amenity of adjoining residential uses.

Again the conditions were amended just prior to submission of the report and the last minute amendment to conditions were not reflected in the report itself.

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