

321196_LE013

3 June 2022

The Planning Panel SecretariatLocked Bag 5022
Parramatta NSW 2124

Dear Sir / Madam,

**SOUTHERN REGIONAL PLANNING PANEL ('SRPP') – PPSSTH-WINGECARRIBEE-20/0227 - 141
YARRAWA ROAD & 32 LOVELLE STREET, MOSS VALE – SUBMISSION TO DETERMINATION MEETING
OF 6 JUNE 2022**

Premise is assisting Prime Moss Vale Pty Ltd ('Applicant') in this matter. We are writing to make the following written submissions on the Applicant's behalf for the consideration of the SRPP at its determination meeting for the subject application.

The Applicant supports the recommendation to approve the development application. However, there are recommended conditions and associated discussion outlined by the Independent Planning Report which are disagreed with. These matters, the Applicant's reasons for disagreement and its requested changes are outlined below.

Draft Conditions - Schedule 1 – *Development* – maximum residential lot yield

Draft conditions Schedule 1 describes the development as:

Concept proposal for a subdivision of a maximum of 1,073 residential lots and Stage 1 subdivision works comprising 177 lots as outlined below:

The Concept development application that was lodged seeks approval for a maximum of 1,200 residential lots.

The recommended maximum of 1,073 residential lots is, in part, based on the following comments at pages 44 and 82 of the Independent Planning Report:

Page 44:

Comment: The Water and Sewer Strategy 2022 has been provided, however, the UWS modelling was not updated for the proposed maximum 1,200 residential lots for the site. Accordingly, a condition has been recommended in Attachment A to restrict the lots to a maximum of 1073 residential lots as outlined in the sewer modelling by UWS.

Page 82:

While the proposal is for a concept plan only and the infrastructure servicing has reportedly been predicated on 1,200 lots, this has not been confirmed, given the Sewer Servicing Strategy prepared by Urban Water

Solutions dated 8 November 2019 appears to have been prepared on the basis of 1,073 residential lots (page 9 and 16).

This commentary is incorrect for the following reasons:

- The Executive Summary of the UWS report refers to 1200 lots.
- It is acknowledged that at Page 6 the title to section 2.4.5 refers to 1073 lots and at page 9, Table 1 also refers to 1073 Lots. However, section 2.7 of the UWS report where the results of a sensitivity analysis undertaken are discussed found that increasing the lot yield by 20% ie to 1288 lots had no detrimental impact. This was subsequently discussed and confirmed with UWS.
- Given the above, it can be concluded that the UWS report has considered a yield in excess of 1200 lots, i.e. 1288 lots.

We also note that at page 82 the Independent Planning Report also bases the recommended maximum of 1,073 residential lots on a concern that *the concept plan and the indicative lot yield plan have not adequately demonstrated where these additional 134 residential lots would be located on the site given the minimum lot size controls of the LEP and restrictions arising from the topography of the site in the north-eastern portion.*

In response, the Applicant has not assumed that an additional 134 residential lots would be located on the site. Development consent is being sought up to a maximum of 1,200 residential lots, the maximum yield on which all infrastructure planning has been based, with final lot yields to be determined with detailed subdivision design to be undertaken as part of future subdivision applications for Council's further and more detailed consideration. The Applicant also wishes to further advise that the rezoning of the subject site was initially undertaken on the basis of the delivery of up to 1,500 residential lots but does not wish to pursue this in the interests of providing a higher amenity for the development.

We therefore request that the recommended restriction to a maximum of 1073 Lots be amended to a maximum of 1,200 residential lots.

Easements on Private Land

Page 38, paragraph 2 of the independent Planning Report states:

Comment: The provision of sewer services within easements located on private land is contrary to Council's adopted policies for servicing, which generally requires sewer infrastructure to be located on public land, however, Council has agreed with this method. This aspect of the proposal will be further considered at the Section 68 and WICA stages of the relevant licences and approvals regime for the site.

This statement is incorrect. Section 3.4 of Wingecarribee Shire Council's Engineering Design Specification *D13 Sewerage Systems – Reticulation and Pumping Station (Design)*, which deals with sewer alignment, states:

- *Sewers shall normally be located 1.5m inside the property boundary.*

Further the location of sewer lines within private lands was done at the specific request of the Council, consistent with this Policy. We request that the SRPP note the above error in determining this application.

Draft Condition B9 – Water Industry Competition Act 2006 ('WIC Act') Approvals

Background to IWTS

As part of our reply, we think it important that a background be provided to the SRPP to assist in understanding the circumstances leading to the Applicant pursuing the IWTS as an interim servicing option.

Back in March 2019, the Applicant sought advice from Wingecarribee Shire Council in respect to availability and capacity of sewerage services to the development. It was advised in June 2019:

- Moss Vale STP capacity is anticipated to be exceeded by 2020 (or quicker depending on the growth in the Moss Vale Enterprise Corridor).
- Current timing for completion of the Moss Vale STP upgrade was mid-2022.

Following a review of this advice, the Applicant commenced an update of water and sewer modelling in accordance with information supplied by the Council and subsequently lodged this subdivision application DA 20/0227 in August 2019. That modelling, based on information supplied by the Council, indicated that there was capacity at the Moss Vale STP to service Stage 1. It was not until April 2020 that the Applicant was advised by the Council that (i) there is no longer capacity at the existing Moss Vale STP to service Stage 1 and (ii) the upgrade of the Moss Vale STP was now scheduled for completion in 2024.

On receiving this advice, the Applicant commenced discussions with the Council on possible temporary servicing options pending the availability of the upgraded Moss Vale STP.

After working with Council on all available options, the IWTS was Council's recommended option.

The Draft Condition

Draft condition B9 outlines:

Prior to the issue of a Subdivision Works Certificate, an application under the Water Industry Competition Act 2006 shall be made to, and issued by, the Independent Pricing and Regulatory Tribunal, for the following licences for the construction and operation of the Interim Wastewater Treatment System and provision of sewerage services to Stage 1 of the development:

- (a) Network Operator*
- (b) Retail Supplier*

The stated reason for the condition is:

A requirement under the provisions of the Water Industry Competition Act 2006.

As an initial comment regarding this draft condition, we advise that the Applicant does not require a *retail suppliers* license. Because the system is a temporary system, it will not be operating the IWTS on a 'fees for service' basis with future landowners. The Applicant will operate and maintain the IWTS at its own cost.

The Applicant does not question the need for a WIC Act license for the construction, operation and maintenance of the DA approved Interim Wastewater Treatment System ('IWTS'). Further, the Applicant has no issue with draft condition B76 which provides an appropriate safeguard to ensure all residential lots are serviced by a 'licensed to operate' IWTS prior to Subdivision Certificate. However, it does not agree with a condition requiring the WIC Act license prior to the issue of a Subdivision Works Certificate ('SWC') for Stage 1.

Understood basis of the condition

The basis of the condition is summarised at page 43, last paragraph of the Independent Planning Report:

The imposition of the WICA conditions is considered reasonable in this instance as it ensures that the further assessment of the interim plant and irrigation area is undertaken prior to the subdivision progressing on the site. This is of particular importance given the concerns raised by DWA in relation to the irrigation area. Without the WICA approvals, the proposed subdivision cannot be serviced and therefore this is a critical issue which requires resolution as soon as possible following determination of the subdivision application.

Reasons for disagreeing:

With respect to the issues raised by the Independent Planning Report and DWA, we respond as follows:

- In regards to the stated reason for the condition, it is not a requirement under the WIC Act to sequence the obtaining of a WIC Act license prior to obtaining a SWC. Where an applicant seeks a licence for infrastructure, IPART is able to process that application whether the applicant decides to seek a SWC consent before or after they apply for a licence.
- The fundamental concerns of DWA relate to the approved effluent land application strategy. Despite these concerns, page 42 of the Independent Planning Report states that DWA cannot confidently rule out the management of effluent generated by Stage 1 by this irrigation strategy.
- The assessment and modelling undertaken by SEEC was subject to a rigorous assessment process by two Government Agencies, being Water NSW and Wingecarribee Shire Council. Both Water NSW and Council found the assessment and modelling to be suitable, resulting in the issuing concurrence and development consent.

In granting concurrence and approval the principal objective of the Government Agencies was to be satisfied that neutral or beneficial effect on water quality would occur. It is apparent, by granting concurrence and development consent, that both these independent Agencies disagree with the concerns of DWA, confirming the suitability of the land application strategy.

- The position of SEEC was reaffirmed by its responses dated 3rd May 2022 and 18th May 2022 which were provided to the SRPP. Peer reviews were sought from Harris Environmental and True Water Australia (which have been provided to the SRPP) and Aerofloat (the system designer), each undertook their own independent assessments. The peer reviewers confirmed that the SEEC assessment and modelling was conservative in nature and suitable.

Each peer reviewer has extensive experience in assessing and designing wastewater systems such as that proposed and are highly respected in the wastewater industry.

- From a development timeline, if Stage 1 subdivision construction could commence mid-2022, completion of dwellings and dwelling occupation would not occur until early 2025. House construction and occupation will be incremental over several years – this is an important point as modelling has been completed using the total load of 173 homes rather than the actual and realistic delivery of 30-50 homes per annum. This ensures a very conservative and low risk approach.
- The assessment and modelling has been based on a dwelling occupancy rate of 3.5 persons per dwelling. Councils adopted Local Housing Strategy (adopted June 2020) outlines that the current average household size is 2.39 persons per household and is anticipated to reduce to 2.24 persons per household by 2036. These occupancy rates serve to reinforce that the assessment and modelling undertaken ensures a conservative low risk approach.

- When considering all of the above from a risk management perspective:
 - 2 Government Agencies, Water NSW and Wingecarribee Shire Council, do not agree with the DWA position;
 - 4 peer reviewers with specific wastewater systems design & assessment expertise do not agree with the DWA position;
 - the number of Stage 1 dwellings constructed and occupied by the time the Moss Vale STP will be available for connection will be far less than the total load designed for. System capacity will not be reached due to construction and delivery time-frames.
 - the Applicant has commenced the process of obtaining a WIC Act license through its appointed consultants and is very confident that a WIC Act license will be obtained for the approved IWTS. The risk lies only with the developer; and
 - Draft condition B76 suitably prevents a Subdivision Certificate and subsequent registration and sale of lots from occurring until an operational license under the WIC Act is obtained.

We therefore do not believe it reasonable or necessary to impose a condition requiring the obtaining of a WIC Act license prior to SWC.

Deletion of draft condition B9 will prevent further delays to the project (initiated by the Applicant in 2018) and all of the benefits the project will bring to the community (housing targets, housing affordability, job creation and broader economic benefits).

We therefore request that draft condition B9 be deleted.

Thank you for considering our submissions. The Applicant and its consultant team would be happy to discuss the above if required.

Yours sincerely



PAUL HUME

Senior Town Planner