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3 August 2021

General Manager  
Penrith City Council  
PO Box 60, Penrith, NSW 2751

[council@penrith.city](mailto:council@penrith.city)

Attention: Ms Kathryn Saunders, Principal Planner  
Via email [kathryn.saunders@penrith.city](mailto:kathryn.saunders@penrith.city)

Dear Ms Saunders

## **PPSSWC - 45 13, 17 AND 37 PARK ROAD, WALLACIA, 512 MULGOA ROAD, WALLACIA 2745 (DA019\_0875)**

### **1. INTRODUCTION**

We are writing to you on behalf of our client and Applicant, the Catholic Cemeteries Board Ltd, in respect of the above matter which was considered by the Sydney Western City Planning Panel (**the Panel**) on 17 February 2021 and deferred, and subsequently considered at an additional meeting on 7 June 2021. At this meeting the following key issues were identified as requiring resolution:

- the relationship between DA019\_0875 and the consent granted by the Land & Environment Court Catholic Metropolitan Cemeteries Trust v Penrith City Council (2021) NSWLEC 1225
- consistency between the:
  - BDAR,
  - Aboricultural report, and
  - civil landscaping plans.
- details of how the carpark design, and how this will relate to the street front and adjoining properties.
- proposed draft conditions, and the Applicant's response to them.

This letter is supported by the following information:

- Attachment A – Arboricultural Impact Assessment (AIA) prepared by ArborSafe
- Attachment B - Existing trees and disturbance plans
- Attachment C – BDAR prepared by Ecological

This letter should also be read in conjunction with the material submitted to Penrith Council (Council) via email of 20 July 2021 consisting of:

- comments on draft conditions
- updated architectural and civil plans
- table of outstanding matters and applicant response.

## 2. CONSISTENCY AND CLARITY ON TREE RETENTION

An updated Arboricultural impact assessment (AIA) has been prepared by ArborSafe- refer **Attachment A**. The AIA was prepared with reference to an updated disturbance footprint (**Attachment B**, prepared by Botanica) which includes impacts arising from:

- the footprint of the buildings and any service areas, trenching plus a 1.5m buffer
- the driveway from the workshop to Park Road
- the new clubhouse carpark areas east of the existing carpark and north of the existing carpark including a 1m buffer, and the community facility (pool and gym complex) including a 1.5m buffer
- the location of the sewer pipeline and sewer pump station works
- the entrance to the Clubhouse carpark is in accordance with the design to which TfNSW has provided concurrence.
- the location of the gabion walls

The above scope of impact was agreed with Council as part of an ongoing process of consultation that has taken place between the Applicant and Council since the 7 June 2021 briefing.

ArborSafe tagged 1,375 trees in their assessment, representing 1,442 trees (the larger number of trees than tags is due to some of the tags representing groups of trees). This is more than the number of trees identified in the Travers 2017 report due to a larger area being surveyed.

ArborSafe classified all trees surveyed into the following categories:

Category A - High quality, remaining life expectancy of at least 25 years

Category B - moderate quality, estimated remaining life expectancy of 15-25 years

Category C - low quality, estimated lift expectancy of 5-15 years

Category U - not viable for retention in the context of current land use for longer than 5 years.

The AIA includes a database which will be used as an interactive tool for the ongoing management and protection of all trees surveyed on site and that will inform the future preparation of a Tree Protection and Management Plan (TPMP). The TPMP approach provides for the retention of as many trees on site for as long as possible.

In summary the AIA found:

- 196 trees are required to be removed due to direct impacts of the development at completion of the cemetery phase of the project
- 35 trees are required to be removed due to the reconfiguration of the fairways
- 181 trees have been recommended for removal due to limited useful life expectancy (ULE) or due to being weed species

The disturbance footprint plans (**Attachment B**) have been updated with the tree survey data prepared by ArborSafe. The disturbance plans identify that 101 trees will be required to be removed for the works to Wallacia Country Club and reconfiguration of the Golf course. The ninety-five (95) additional trees required to be removed for the Nepean Gardens cemetery will be retained on site for as long as possible, and are therefore not shown on the Botanica disturbance plans as being removed.

The AIA presents the impact for the development at completion of the cemetery based on current surveyed tree conditions. The total number of trees to be removed as a result of the development at completion may be higher or lower depending on detailed design of the cemetery phase and the health of the surveyed trees in the intervening years. The results in the AIA therefore represent the best estimation of the Arboricultural impacts of the proposal based on current information.

### 3. BIODIVERSITY IMPACT ASSESSMENT

A revised Biodiversity Development Assessment Report (BDAR) has been prepared by EcoLogical Australia (ELA)- refer **Attachment C**. This BDAR has been based on the AIA (**Attachment A**) and updated disturbance footprint (**Attachment B**). The BDAR assesses the development impacts of the project at completion and includes direct and indirect impacts.

In summary the July 2021 Ecological BDAR finds that the proposed development will result in the removal of:

- 0.37 ha of Cumberland Shale Hills Woodland (PCT 850)
- 0.08 ha to Cumberland River Flat Eucalypt Forest (PCT 835)
- 0.80 ha of native planted vegetation (assessed using a streamlined assessment for Planted Native Vegetation)
- the removal of 0.22 ha of exotic and ornamental vegetation that does not require assessment.

The BDAR includes an assessment as to whether the proposal will or will not have a Serious and Irreversible (SAIL) impact on Cumberland Plain Woodland (CPW) The CPW on the site is generally in moderate-poor condition on site, as evidenced by the Vegetation Integrity scores which are less than benchmark in all measures (tree, shrub grass, forbs and fern richness; length of fallen logs) except the number of large trees. The proposal will remove 0.37ha of CPW. Approximately 1.93 ha of CPW will remain on site and will be enhanced under a Vegetation Management Plan (VMP). The current extent of the community within NSW is approximately 11200 ha. Therefore, the clearing for the proposed development represents only 0.0033% of the current extent.

The refinement to the development footprint and the adoption of the Tree Protection and Management Plan approach have resulted in a reduction of:

- 0.83 ha of impact to CPW (a 69% reduction); and
- 0.42 ha of impact to Cumberland River Flat Eucalypt Forest (a 84% reduction)

compared to the 2019 Travers BDAR.

### 4. CARPARK DETAILS

Council questioned the relationship of the finished carpark levels to the adjacent properties and requested site sections to show how the carpark will relate to adjacent properties and the streetscape.

Axil architecture has prepared an updated site plan and sections including existing and proposed levels and these were provided to Council on 20 July 2021.

The submitted plans demonstrate that the difference in existing and proposed levels ranges from 200mm to 600mm along the Park Road frontage. The level change from the rear of the carpark to the top of wall height at the interface with Park Road is approximately 450mm.

The 5.5m landscaped setback between the carpark and the street provides a buffer between the carpark and the street and these minor level changes do not have a significant impact on the streetscape.

## **5. DRAFT CONDITIONS**

Draft conditions were provided to Urbis on 21 June 2021 and an updated version of the draft conditions provided on 7 July 2021. A response to the draft conditions was provided to Council 20 July 2021.

The draft conditions include a requirement that the court granted consent NSW LEC 1225 (for DA017\_1092) be surrendered. It is the Applicant's view that rather than a condition to surrender DA017\_1092, conditions to deal with any inconsistency between the consents where there is potential for conflict is the appropriate way to deal with the issue. The two developments contain distinct elements, notably DA019\_0875 includes works to the Wallacia Country Club, while DA017\_1092 does not. They also cover different areas, with DA017\_1092 including a larger cemetery component. As such the Applicant has proposed an additional condition to address how the court consent for DA017\_1092 and this DA019\_0875 could co-exist.

## **6. CONCLUSION**

We trust that information provided in the final information required by the Panel to inform its decision making, and that the application can be determined expeditiously upon receipt of this material.

Yours sincerely,

A handwritten signature in black ink, appearing to read "David Hoy", with a stylized flourish at the end.

David Hoy  
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