

4 STATUTORY CONTEXT

4.1 The Environmental Planning and Assessment Act 1979

- 4.1.1 Part 3A of the Environmental Planning and Assessment Act 1979 (the "EP&A Act") commenced operation on 1 August 2005. Part 3A consolidates the assessment and approval regime of all Major Projects previously considered under Part 4 (Development Assessment) or Part 5 (Environmental Assessment) of the EP&A Act.
- 4.1.2 Under the provisions of Section 75B of the EP&A Act development may be declared to be a Major Project by virtue of a State Environmental Planning Policy or by order of the Minister published in the Government Gazette.

4.2 State Environmental Planning Policy (Major Projects) 2005

- 4.2.1 State Environmental Planning Policy (Major Projects) 2005 (Major Projects SEPP) outlines the types of development declared a project for the purposes of Part 3A of the EP&A Act.
- 4.2.2 For the purposes of the Major Projects SEPP certain forms of development may be considered a Major Project if the Minister (or his delegate) forms the opinion that the development meets criteria it.
- 4.2.3 On 15 March 2006, the Director General, as the delegate for the Minister, formed the opinion that the stage one redevelopment of Lismore Base Hospital is a development described in Schedule 1, Group 7, Clause 18 of the SEPP:

Hospitals that have a capital investment value of more than \$15 million for the purposes of providing professional health care services to people admitted as in patients (whether or not out patients are also cared for or treated there), including ancillary facilities for:

- a) day surgery, day procedures or health consulting rooms, or
- b) accommodation for nurses or health care workers, or
- c) accommodation for persons receiving health care or for their visitors, or
- d) shops or refreshment rooms, or
- e) transport of patients, including helipads and ambulance facilities, or
- f) educational purposes, or
- g) research purposes, whether or not they are used only by hospital staff or health care workers and whether or not any such use is a commercial use, or
- h) any other health related use

- 4.2.4 This opinion was formed on the basis that the hospital redevelopment, with a Capital Investment Value (CIV) of \$38.5 million, exceeds the \$15 million threshold identified within the SEPP. Accordingly, the Minister is the approval authority.

4.3 Permissibility

- 4.3.1 The site is zoned 5 Special Uses under Lismore Local Environmental Plan 2000 and is lettered "hospital".
- 4.3.2 The objectives of the zone are to designate land which is now used or is intended to be used for particular public or community purposes, and to ensure the land is used for a purpose appropriate to its location, community needs and economic utilisation.
- 4.3.3 Lismore LEP contains the following definitions:

hospital means a building or place (other than an institution) used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or

surgical treatment, care for people with developmental disabilities, psychiatric care or counselling and services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes:

- (a) *ancillary facilities for the accommodation of nurses or other health care workers, ancillary shops or refreshment rooms and ancillary accommodation for persons receiving health care or for their visitors, and*
- (b) *facilities situated in the building or at the place and used for educational or research purposes, whether or not they are used only by hospital staff or health care workers, and whether or not any such use is a commercial use.*

public building means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes.

- 4.3.4 Development for any public purpose and development for the purposes of roads and the particular use indicated by lettering on the map are permissible with development consent. The proposal is permissible with development consent.

4.4 Minister's power to approve

- 4.4.1 Section 75J of the EP&A Act provides the Minister with the power to approve the project application as the proposal is permissible (i.e. not wholly prohibited).

4.5 Other relevant legislation and environmental planning instruments

- 4.5.1 Appendix G sets out the relevant consideration of legislation (including other Acts) and environmental planning instruments as required under Part 3A of the EP&A Act.
- 4.5.2 It should be noted that there are no local development controls governing FSR, height, density, or similar relevant to this proposal.

5 CONSULTATION AND ISSUES RAISED

5.1 Public Exhibition

- 5.1.1 Section 75H(3) of the EP&A Act requires that once the Environmental Assessment (EA) has been accepted by the Director General, the Director General must, in accordance with any guidelines published in the Gazette, make the Environmental Assessment publicly available for at least 30 days.
- 5.1.2 The Director General has not published any specific guidelines in relation to the public exhibition of the project application.
- 5.1.3 A "test of adequacy" was undertaken by the Department which determined that the matters contained in the Director Generals Environmental Assessment Requirements were adequately addressed in the EA prior to its public exhibition.
- 5.1.4 Broadly the process followed in terms of the public exhibition was as follows:
- The application was placed on exhibition between 24 July 2006 and 22 August 2006.
 - Copies of the Environmental Assessment documents were forwarded to Council and the RTA.
 - Details of the application were forwarded to all landowners in the vicinity of the site (i.e. landowners in Hunter Street, Uralba Street, Little Uralba Street and Weaver Street).
 - Copies of the Environmental Assessment and associated documents were available for inspection at Council's offices in Lismore and at the Department of Planning in Sydney.
 - Details of the application were placed on the Department of Planning's website and advertised in the Lismore Northern Star on 22 July 2006.
- 5.1.5 In response, the Department received written submissions from Council, the RTA and two local residents. Copies of the submissions are provided at Appendix E whilst the proponent's response to submissions is at Appendix D.
- 5.1.6 A summary of issues raised in their submissions are outlined below.

Lismore City Council

- The relocation of the oxygen tank from Hunter Street to Weaver Street will impact upon the amenity of local residents and the condition of local roads.
- The Environmental Assessment does not address the suitability of the existing road infrastructure to cater for the development.
- The future stage proposal to part close Hunter Street will not be supported as it will result in increased traffic volumes on surrounding streets.
- Section 94 contributions are applicable to the proposal in respect of traffic generation and should be levied as part of this approval at this stage.
- There should be effective pedestrian permeability through the hospital campus or provision should be made to move the Hunter Street bus stop closer to the pedestrian entry point.
- Disabled car parking spaces proposed at the principal public entrance should be provided as part of stage one of the proposed redevelopment of LBH.
- Water quality targets should be addressed through contemporary Water Sensitive Urban Design (WSUD) measures.
- An assessment of the system integrity of the Underground Storage Tanks (UST) should be carried out should they continue to be utilised.
- On completion of the project an acoustic consultant is engaged to provide a final report that the noise emissions from the site satisfy the projects noise performance targets.
- The Department of Planning should seek comment from the NSW Food Authority prior to the determination of the application.

- External and security lighting associated with the development should satisfy the requirements of AS 4282 – Control of Obtrusive Outdoor Lighting.
- It should be made clear which authority will be responsible for the day to day regulatory management of the site during and post construction.
- Landscaping plans indicate replacement trees in Hunter Street beyond the hospital boundary and no such replacement should occur with prior consultation with Council.
- A replacement mature hoop pine should be planted in a local public park as required by a previous consent issued by Council for preparatory works.
- A number of conditions of approval should be imposed to address outstanding issues and planning levies.

The Roads and Traffic Authority

- The traffic impact study is insufficient to address the effects of the development proposal on the surrounding road network and infrastructure.
- Any access to a public road should be designed to maintain safety and efficiency in accordance with AUSTROADS guidelines and Australian Standards 2890.
- LBH has a history of traffic management and car parking problems exacerbated by other adjacent ancillary services that do not provide adequate off street car parking.
- Council's DCP car parking rates are inadequate for the development in particular visitor and staff car parking.
- A parking strategy should reflect the operational needs where visitors should occupy closer facilities and longer term car parking should be located further away.
- The proposed on-street car parking facility on Weaver Street is not supported due to safety reasons and should be located off-street in a proper service area.

Department of Planning (North Coast Regional Office)

- Provision of interim car parking provision whilst the stage one mental health unit is being developed.
- The effect of the development upon heritage items and significant landscape features and potential archaeological remains.

Public Submissions

- Noise
- Security
- Traffic
- Loss of amenity

5.2 Summary of Issues Raised

5.2.1 The relevant planning issues raised during the exhibition period can be summarised as follows and are addressed in detail in Section 6 below:

- Development Staging
- Car Parking Provision
- Urban Design, Visual Impact and Built Form
- Section 94 Contributions
- Section 64 Contributions
- Acoustics and Noise
- Traffic Generation and Road Works
- Accessibility and Servicing
- Remediation, Demolition and Construction Management
- Environmental Management and Utility Provision

- 5.2.2 The proponent lodged a response to the issues raised in submissions during the exhibition period, a preferred project report outlining proposed changes to minimise the projects environmental impact and a revised statement of commitments on 7 December 2006 pursuant to Section 75H(6) of the EP&A Act. This is provided at Appendices B, C and D.

5.3 Independent Hearing and Assessment Panel

- 5.3.1 Section 75G of the EP&A Act provides that the Minister may constitute an independent panel to assess any aspect of a project. No panel was constituted for the purposes of Section 75G.