

27 February 2024

Kiersten Fishburn
Secretary
Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Architecture
Urban Design
Planning
Interior Architecture

91 Byamee Street, Dapto
Request for Industry-Specific Secretary's Environmental Assessment Requirements

Dear Kiersten,

This letter has been prepared by Architectus Australia Pty Ltd (Architectus) on behalf of The Illawarra Community Housing Trust Limited (Housing Trust), to request industry specific Secretary's Environmental Assessment Requirements (SEARs) to enable the submission of a State Significant Development Application (SSDA) for the proposed in-fill affordable housing development at 91A Byamee Street, Dapto (the site).

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The site holds extant concept development consent under DA 2016/1811 for:

"Concept plan for site and road layout, 6 envelopes for residential flat buildings ranging from 3 to 4 storeys (Buildings A, B, C, D, E & F), and 2 envelopes for multi dwelling housing with a two storey street wall and overall building height up to 9 metres (Buildings G & H), and 17,348 square metres of gross floor area within those building envelopes (0.893:1 Site FSR)".

Adelaide
Auckland
Brisbane
Christchurch
Melbourne
Perth
Sydney

This consent was granted by the Land and Environment Court (LEC) In May 2019.

The proposed development seeks detailed approval for the first stage of development at the site, comprising civil works, construction of the northern loop road element, construction of Buildings A, B, G and H, and delivery of the public park.

The proposal will provide a minimum 20% affordable rental housing at the site, as well as social housing, and has a Capital Investment Value (CIV) exceeding \$30m.

1. About Housing Trust

Housing Trust is a nationally registered Tier 1 Community Housing Provider (CHP) and social enterprise. Based in Wollongong, Housing Trust have been providing safe, secure, affordable rental housing to the Illawarra community since 1983.

Housing Trust was established by, and operate within the Wollongong City, Shellharbour City and Kiama Local Government Areas (LGAs), in recognition of the need for affordable housing within the region. Housing Trust enjoy strong relationships with each LGA and are committed to further strengthening these partnerships to improve the economic development, health and wellbeing of the community.

Housing Trust is underpinned by the following four (4) key philosophies:

"Vision: What we seek for the world – A decent home for everyone;

Values: Our values underpin everything we do – Respect, Integrity, Support, Collaboration;

Purpose: What we do, for whom and why – We provide homes, build communities, create opportunities and enrich lives; and

Outcomes: For our customers and our community."

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Nominated Architect
CEO
Ray Brown
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The above philosophies are supported by the proposed development, which will enable the delivery of modern, high quality, affordable and market housing to the community of Dapto and surrounds.

2. The Site

The site comprises the former Dapto Public School, located at 91A Byamee Street, Dapto. The site is legally described as Lots 1 to 12, Section 62, DP 3773 and Lot 101 DP1111861. The former school ceased operation at the site in 2003.

The site has a total area of 19,425m² (1.94 hectares) and is currently vacant, however with some existing areas of hardstand and vegetation across the site.

The site has a primary frontage to, with vehicular access from Byamee Street to the north east, with secondary access obtained from Mombarra Street to the north west. An unnamed service lane also extends along a portion of the property boundary to the eastern corner of the site.

The site is zoned R3 – Medium Density Residential pursuant to the Wollongong Local Environmental Plan 2009 (LEP). The site is not identified as, nor located within proximity to, any local or state heritage item. The site is not located within, nor within proximity to, any Heritage Conservation Area (HCA).

An overview of the site and local context is provided at **Figures 1 and 2** below. As detailed at **Figure 3**, the site is located within 800m walking distance of Dapto railway station, located to the west.



Figure 1 The Site
Source: NSW Sixmaps



Figure 2 Site and immediate context
Source: Nearmap



Figure 3 Walking distance to Dapto station (approximately 710m)
Source: Nearmap

3. Development Consent History

Extant Consent

Development Application (DA) 2016/1811 was submitted to Wollongong City Council (Council) in December 2016, seeking concept approval for road and building layouts at the site, as detailed above.

However, in August 2017 the former applicant (not Housing Trust) commenced Class 1 Appeal proceedings with the NSW LEC ([2019] NSWLEC 1197), against the deemed refusal of the application by Council. This appeal was subsequently upheld in May 2019.

A copy of the consent orders and approved plans are provided at **Attachments A and B**.

Proposed Modification

An application to modify the above, made pursuant to S4.55(8) of the Environmental Planning and Assessment Act (EP&A Act) was submitted to the NSW LEC on 6 December 2023 and is currently under consideration (DA-2016/1811/B). This modification seeks reconfiguration of the consented loop road arrangement, reconfiguration of buildings C, D, E and F, and amendments to conditions.

The proposed modification will improve key metrics including the provision of landscape area, deep soil, communal open space, solar access, cross ventilation and reduce the provision of hard surfaces across the site.

The amendments sought improve the design quality and overall amenity outcomes, as well as viability to support delivery of the scheme and to provide additional affordable housing to the local community.

A copy of the proposed modified concept plans and Statement of Environmental Effects (SEE) submitted with this modification application are provided at **Attachments C and D**. Reference drawings supporting this modification are also provided at **Attachment E**. Determination of the proposed modification is anticipated approximately mid-2024.

The current modification generally relates to areas of the site or elements unrelated to or separate from the proposed development that is the subject of this SEARs request. As such, in the event this modification is not supported, this would not affect ability to undertake the proposed development.

4. The Proposed Development

Stage 1 Overview

To enable delivery of the approved concept masterplan, the proposal seeks detailed approval for the construction of 'Stage 1' works at the site, comprising:

- Construction of the northern loop road element.
- Construction of Buildings A, and B (Residential Flat Buildings (RFBs)).
- Construction of Buildings G and H (attached dwellings/townhouses).
- Construction of the public park.
- Subdivision of the site.
- Delivery of a pedestrian through site link, between Moombara Street and the public park, in accordance with Condition 14 of DA-2016/1811.
- Associated civil works, public domain works and landscaping, including compensatory planting to meet the requirements of Conditions 10 through 13 of DA-2016/1811.

The proposal will provide a minimum 20% affordable rental housing at the site, as well as social housing, and has a CIV exceeding \$30m.

Stage 1 Yield

The proposed Stage 1 development will provide for a total of 71 dwellings, as follows:

- Building A (RFB): 33 dwellings.
- Building B (RFB): 24 dwellings.
- Building G/H (Townhouses): 14 townhouses.

For reference, the future Stage 2 development (the balance of the site, not part of this scope) includes a further 115 dwellings, towards an overall total yield across the site of approximately 186 dwellings, consistent with the approved concept.

Refer to an overview of proposed height, Gross Floor Area (GFA) and Floor Space Ratio (FSR) at Section 5 below.

Stage 1 Tenure Mix

The proposed Stage 1 development includes the following tenure mix:

- A minimum of 20% (14 dwellings) will be provided as affordable rental housing, retained in perpetuity by Housing Trust and rented in accordance with the NSW Affordable Housing Ministerial Guidelines.
- It is forecast that a further 30% (21 dwellings) will be retained in perpetuity by Housing Trust, to be rented at a 25% discount to market consistent with Housing Australia guidelines.
- At the time of writing, it is anticipated that the remaining 50% will be provided as market dwellings. However, should Housing Trust be successful in attracting government grants, social housing will also be provided.

It is intended that the future Stage 2 development will be consistent with this approach, including providing a minimum 20% affordable rental housing across the site.

Consistent with Concept Approval

The proposed development is wholly consistent with the approved concept plan under DA-2016/1811.

It is intended that detailed approval for other elements of the approved concept not listed above (including Buildings C through F) will be sought under a separate, subsequent 'Stage 2' DA.

Figure 4 below provides an overview of the proposed Stage 1 works in the context of the approved masterplan at the site under DA-2016/1811.

Figure 5 provides an overview of the proposed Stage 1 works as they relate to the proposed amended masterplan, as sought under the current modification DA-2016/1811/B. This shows that the proposed Stage 1 works are able to be undertaken independently and are not reliant on approval of this modification.

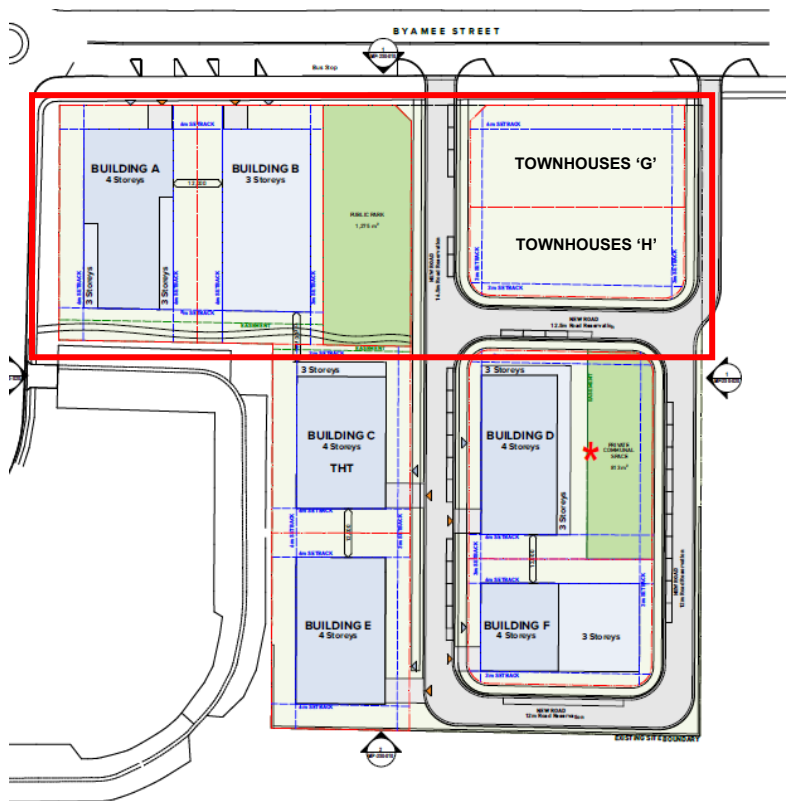


Figure 4 Overview of proposed Stage 1 works (outlined in red) against the approved masterplan.
Source: Turner

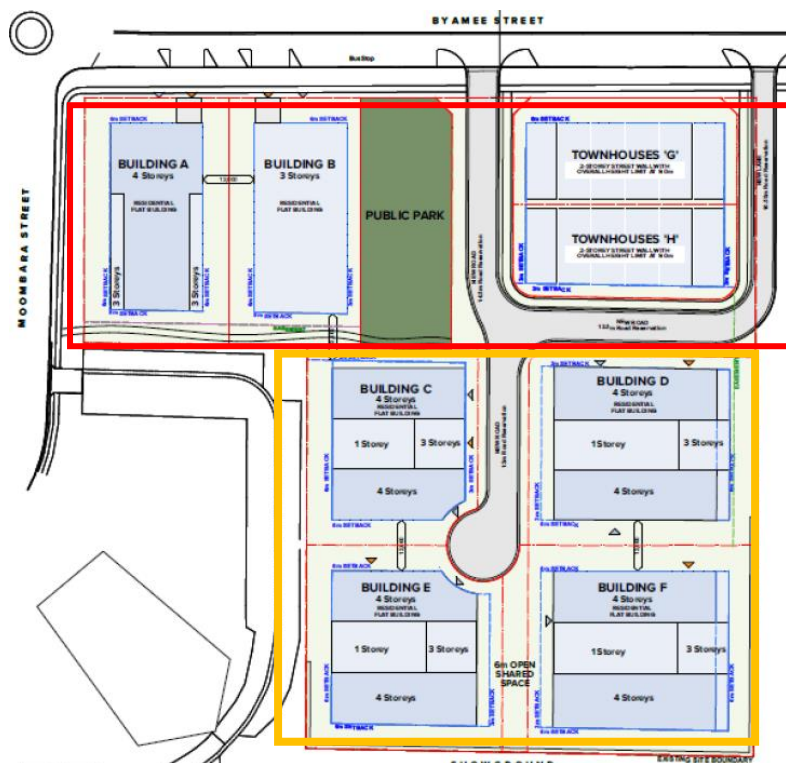


Figure 5 Overview of proposed Stage 1 works (outlined in red) against the proposed masterplan amendments under DA-2016/1811/B, currently under assessment (outlined in orange).
Source: Turner

5. Planning Framework

State Environmental Planning Policy (Housing) 2021

Chapter 2, Part 2 of State Environmental Planning Policy (Housing) 2021 (Housing SEPP) applies to residential development that includes an affordable housing component.

Table 1 below provides an assessment of the proposal against Section 15C of the Housing SEPP.

Table 1. Review against Section 15C of the Housing SEPP

Clause	Requirement	Comment	Complies
1	<i>This division applies to development that includes residential development if—</i>	The proposal includes residential development.	Yes
1(a)	<i>the development is permitted with consent under Chapter 3, Part 4 or another environmental planning instrument, and</i>	RFBs and attached dwellings are permitted within the R3 Zone under the LEP 2009, however requires development consent.	Yes
1(b)	<i>the affordable housing component is at least 10%, and</i>	The proposal seeks to provide a minimum 20% affordable housing at the site.	Yes
1(c)	<i>all or part of the development is carried out—</i>	The site is located in the Wollongong LGA, within the Six Cities Region. The site is within 800m walking distance of Dapto railway station, as well as regular bus services located along Byamee Street and the Princes Highway. Refer Figure 3.	Yes
1(c)(i)	<i>for development on land in the Six Cities Region, other than in the City of Shoalhaven local government area—in an accessible area, or</i>		
1(c)(ii)	<i>for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.</i>		
2	<i>Affordable housing provided as part of development because of a requirement under another environmental planning instrument or a planning agreement within the meaning of the Act, Division 7.1 is not counted towards the affordable housing component under this division.</i>	There is no requirement to provide affordable housing at the site.	Yes
3	<i>In this section—relevant zone means the following— (a) Zone E1 Local Centre, (b) Zone MU1 Mixed Use, (c) Zone B1 Neighbourhood Centre, (d) Zone B2 Local Centre, (e) Zone B4 Mixed Use.</i>	This item is acknowledged.	-

As detailed at **Table 1**, Chapter 2, Part 2 of the Housing SEPP therefore applies to the proposed development. For clarity, the proposal does not seek additional height or floor space available under Division 1(17) of the Housing SEPP. Maximum building heights (of 14.6m, excluding plant or articulation) have already been established under the concept approval, noting these exceed the LEP height control (of 11m) and maximum potential bonuses available under the Housing SEPP (up to 30%, equivalent to 14.3m).

Similarly, the approved concept has a FSR of 0.893:1. This is significantly below the maximum permitted for the site under the LEP (of 1.2:1). An overview of height and FSR is provided at **Table 2** below.

Table 2. Height and FSR Overview

	Height	GFA/FSR
Wollongong LEP 2009 Control	11m	1.2:1
Cl.16/17 Housing SEPP Bonus (+30%)	14.3m	1.56:1
Existing Concept Approval (DA 2016/1811, as amended)	Max 14.6m (Roof, Building A) Max 17.6m (Articulation Zone, Building A)	0.893:1
Building A	14.6m (Roof) 17.6m (Articulation Zone)	2,704m ² GFA
Building B	11.68 (Roof) 16.28m (Articulation Zone)	2,223m ² GFA
Building G	9.0m	1,300m ² GFA
Building H	9.0m	1,300m ² GFA
Proposed Concept Modification (DA-2016/1811/B, under assessment)	Max 14.6m (Roof, Building A) Max 17.6m (Articulation Zone, Building A)	0.939:1
Building A	14.6m (Roof) 17.6m (Articulation Zone)	2,704m ² GFA
Building B	11.68 (Roof) 16.28m (Articulation Zone)	2,223m ² GFA
Building G	9.0m	1,300m ² GFA
Building H	9.0m	1,300m ² GFA
Proposed Stage 1 Development	Max 14.6m (Roof, Building A) Max 17.6m (Articulation Zone, Building A)	0.79:1 (Approx site area 9,500m ²)
Building A	14.6m (Roof) 17.6m (Articulation Zone)	2,704m ² GFA
Building B	11.68m (Roof) 16.28m (Articulation Zone)	2,223m ² GFA
Building G	9.0m	1,300m ² GFA
Building H	9.0m	1,300m ² GFA

State Environmental Planning Policy (Planning Systems) 2021

Schedule 1 of State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP) identifies development that State Significant Development (SSD).

Schedule 1(26A)(1) of the Planning Systems SEPP relates to In-fill affordable housing and provides:

“(1) Development to which [State Environmental Planning Policy \(Housing\) 2021](#), Chapter 2, Part 2, Division 1 applies if—

(a) the part of the development that is residential development has a capital investment value of—

(i) for development on land in the Eastern Harbour City, Central River City, Western Parkland City or Central Coast City in the Six Cities Region—more than \$75 million, or

Note—

The Act, Schedule 9 sets out the local government areas in each city in the Six Cities Region.

(ii) for development on other land—more than \$30 million, and

(b) the development does not involve development prohibited under an environmental planning instrument applying to the land.”

On the basis Chapter 2, Part 2, Division 1 of the Housing SEPP applies to the proposed development, which is not within areas nominated at 1(a)(i) above, and is anticipated to have a CIV exceeding \$30m, the proposal is considered to trigger SSD.

6. Eligibility for Industry Specific SEARs

Development that is declared SSD under Schedule 1, Section 2 of the Planning Systems SEPP is eligible for industry-specific SEARs, with the exception of 'nominated' SSD, as defined under Clause 175(6) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) which includes:

- Designated development;
- Development that is wholly or partially prohibited;
- Development seeking concept approval.

The proposal is not designated development, is wholly permissible at the site and does not seek concept approval and is therefore not nominated SSD.

Accordingly, the proposal is considered eligible for industry-specific SEARs for infill affordable housing.

7. Conclusion

As detailed within this letter, the proposal is declared SSD pursuant to Schedule 1(26A) of the Planning Systems SEPP, and on the basis it is not nominated under Clause 175 of the EP&A Regulation, is eligible for industry-specific SEARs for infill affordable housing.

I trust information within this letter is sufficient to issue the requested SEARs. Should you require anything further, please do not hesitate to contact me at jonathan.archibald@architectus.com.au.

Regards,



Jonathan Archibald
Associate, Planning
Architectus Australia Pty Ltd