

Planning and Regulatory. G.Mansfield  
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Dear Ms Harras

**PROPOSED MODIFICATIONS TO CONCEPT APPROVAL FOR DAN LAND - 290 & 302 MINMI ROAD FLETCHER (MP 06\_0031 MOD 2)**

I refer to your letter of 28 July, 2015 notifying Council that the above request to modify the concept plan approval, pursuant to section 75W of the *Environmental Planning and Assessment Act, 1979* (the Act), has been submitted to the Department and inviting Council to comment on the amended project.

The submission dated 25 August, 2015 prepared City Plan Services (CPS) and accompanying plan (MP-001) submitted in support of the request have been reviewed by Council officers and the following comments are offered for your consideration:

**A. CONCEPT PLAN AND PROJECT APPROVALS**

**A1.Total lot yield**

Schedule 1 Part A-Table and Schedule 2 Part A Condition A1.1 of the original Concept Plan Approval (MP06\_0031), dated 29 September, 2006 both refer to the granting of approval to a 400 lot residential subdivision.

Schedule 4 Part A Condition A1.1 of the existing modified Project Approval (MP06\_0031 MOD 2) dated 28 February, 2008, grants project approval to the carrying out of a development for a 337 lot community title subdivision. Stages 1 to 10 inclusive, as shown on the current approved 'Proposed Lot Layout' plan dated 28 September, 2006, comprise the 337 lots identified by the Project Approval.

The total number of residential lots that would result from the approved Stages 1 to 9 (298 lots) and the proposed Stage 10 modification (137 lots) would result in a total residential yield of 435 lots. This total exceeds the current Concept Plan approval and Project Approval by a total of 35 lots and 98 residential lots, respectively. These exceedances have not been acknowledged, justified or discussed in the CPS submission.

## **A2. Lot sizes**

In the CPS submission it is stated that '*...the average lot sizes proposed in drawing MP-001 are not dissimilar to the lot sizes set out in the approved Lot Layout drawing dated 28 September 2006.*'

On the approved 'Proposed Lot Layout' plan 'Town Houses' lots (having an approximate area of 250m<sup>2</sup>) were only proposed for a small enclave immediately opposite the commercially zoned land on the southern side of Minmi Road now occupied by an Aldi supermarket development. Clearly, the number of 'Town House' allotments, now proposed will dominate the Stage 10 area with 70 lots (51 % of the total Stage 10 yield) being proposed at 300m<sup>2</sup> or less in area.

The CPS submission fails to provide sufficient justification or discussion around the potential impacts of the significant increase in the number of lots having a site area of less than 300m<sup>2</sup>. It is recommended the proponent be required to address the above matter.

It is also recommended the proponent be required to submit a plan which uses the same key as the approved 'Proposed Lot Layout' plan so the different categories/sizes of residential allotments are more readily identified for comparison purposes with the approved plan.

## **A3. Approval and modifications**

It is noted that the proponent is seeking to modify the text of conditions A2 (b) and (c) of the modified Concept Plan (MP 06\_0031 MOD1) as approved under the terms of the modification of the Project Approval on 24 July, 2007. As there is an existing approved MOD 2 to the original combined Concept Plan and Project Approval document it is suggested the current modification request should be referenced as MOD 3.

## **B. NEWCASTLE LOCAL ENVIRONMENTAL PLAN, 2012 AND SUPPORTING DOCUMENTS**

The document titled 'Part 3A Major Project Report' dated March 2005 prepared in support of the original Major Project application included detailed considerations of the Newcastle Local Environmental Plan, 2003, Newcastle Urban Strategy and the Newcastle Development Control Plan, 2005.

When conditional approval was granted to the Concept Plan and Project Application in late 2006 the majority of the site was zoned 7(c) Environmental Investigation under the provisions of the Newcastle Local Environmental Plan, 2003.

On 2 February 2007 the Dan Land was formally identified as State Significant site under the former State Environmental Planning Policy (Major Projects) 2005 and new planning provisions were endorsed which rezoned the site to a 2(a) Residential zone, a 2(b) Urban Core Zone and 7(b) Environmental Protection Zone. At the same time the provisions of the Newcastle Local Environmental Plan, 2003 were also amended accordingly.

According to the Department's letter of 5 February, 2007 to the proponent's planning consultant, Adam Crampton, the zoning amendments '*are designed to facilitate the assessment of the remainder of the project by the Newcastle City Council under Part 4 of the Act.*'



Since that time the following circumstances have changed:

- the State Significant site status has been repealed.
- the Newcastle Local Environmental Plan (NLEP) 2003 was repealed by the NLEP 2008 which in turn was repealed and replaced by NLEP 2012.
- the site is zoned R2 Low Density Residential and E2 Environmental Conservation under the NLEP, 2012.
- Council's adopted 'Newcastle Urban Strategy' which informed the preparation of the NLEP, 2003 has been replaced by a 'Local Planning Strategy' which 'underpins' the NLEP, 2012.
- the Newcastle Development Control Plan, (NDCP) 2005 was repealed and replaced by DCP 2012.

Having regard to the above circumstances and the proposed increase in total lot yield and changes to the mix of lot sizes, it is recommended that the proponent be required to provide a more in depth consideration of the relevant provisions of the NLEP, 2012, as well as considerations of NDCP 2012 and Council's recently adopted Local Planning Strategy.

It is also recommended the Proponent be required to submit a plan which overlays the proposed subdivision layout onto the relevant zoning map of the NLEP, 2012. It being noted lot 19 appears to be in the E2 Environmental Conservation zone.

### **C. CONDITIONS OF THE MODIFIED CONCEPT PLAN**

Schedule 2 Condition B2 of the above modified Concept Plan approval requires the proponent to:

*'...submit amended plans (Concept Plan, Proposed Lot Layout, Structure Plan - Roads, Landscape Master Plan and Vegetation Management Plan)' and documentation reflecting the above prior to the issue of any Construction Certificate for works in Stage 10, or as otherwise determined by the Director General, to the satisfaction of the Director General.'*

Matters relating to landscape and vegetation management are discussed in more detail below.

#### **C1. Retention of mature trees**

In the Preferred Project Report dated August, 2006 referred to in the conditions of both the modified Concept Plan Approval and modified Project Approval it is stated:

*'Amenity issues are addressed within the design of the development through the retention of mature trees along Minmi Road and retaining vistas to the wetlands via the protected gullies.'*

A similar statement was made in the Report of Submissions dated 29 May, 2006 in response to Council's initial concerns regarding the loss of trees that:

*'It is not the intention of the development to remove all the trees along Minmi Road, nor will it be necessary. It is intended that the lots will be refined to retain mature trees on the site in response to accurate surveying at the time of the certification for the construction of the subdivision.'*

It is noted that during the subdivision works undertaken to date there have been significant departures away from the approved Vegetation Management Plan in respect of tree retention along Minmi Rd. It is noted that almost every mature tree has been removed from across the frontages of those residential lots facing Minmi Rd.

In accordance with Schedule 2 Condition B2 of the modified Concept Plan approval, it is recommended the proponent be required to submit an amended Landscape Master Plan and Vegetation Management Plan which demonstrates how the impacts of this development on existing significant and mature trees are to be satisfactorily mitigated.

## **C2. External Road and Pedestrian Connectivity**

According to the CPS submission, the modification demonstrates compliance with Schedule 4 Part B Condition B10(b) and (c) of the modified Project Approval relating to road and pedestrian connections from Stage 10 to Minmi Rd. Condition 10B (a) requires:

*'...provision is to be made for an appropriate road and pathway connection to the residential subdivision approved on Lot 2 DP 1009255 by Council under DA 97/0555, provided the Director General is satisfied that a corresponding road connection within this subdivision is able to be achieved to the common boundary with the Dan Land.'*

A roundabout and road connection to DA 97/0555 is shown on the approved Concept Plan (see inset No. 3). On 20 August 2007 Council wrote to the Director-General providing evidence that the developer of DA 97/0555 supported this road connection between the estates and that *'...a corresponding road and pathway connection is able to be satisfactorily achieved subject to only minor modifications to the approved residential subdivision on Lot 2 DP 1009255 under DA 97/0555 (known as 'Sanctuary').'* Subsequently, in 2010 the road and lot layout for DA 97/0555 was modified to incorporate that part of the road connection within DA 97/0555.

The CPS submission and proposed amended Stage 10 layout fails to consider this requirement as no appropriate provision has been made in the amended Stage 10 road and lot layout for this road and pedestrian connection.

It is recommended that the design of the proposed Stage 10 layout be further amended to incorporate this essential road and pedestrian connection between these estates.

## **D. TRAFFIC AND PARKING IMPACTS AND SAFETY**

It is noted that the proponent's documentation submitted in support of the original Major Project application recommended and facilitated vehicular access to all future dwellings in Stage 10 from access points within the development site. The proposed amended layout introduces a number of adverse impacts and safety concerns in relation to Minmi Road which are discussed in more detail below. It is considered



preferable that the previous intention of internal vehicular access be maintained in the current proposed amendments.

### **D1. Traffic Impacts**

As mentioned above, the proposed modification, if approved, will result in either a minimum of 35 or 98 additional residential lots over and above the existing Concept and Project approvals.

Any development application submitted to Council proposing to create this many new allotments would typically be required to address and mitigate the potential traffic impacts on the existing surrounding road network and intersections. Accordingly, it is recommended that the proponent be required to address the potential impacts by way of a Traffic Impact Assessment.

### **D2. Traffic Safety**

The approved modified Concept Plan does not provide individual driveway access from Minmi Rd to land comprising Stage 10, with all vehicular access being contained to/from the internal road network. Under the proposed modification 34 separate driveways would be required and these driveways, based on the proposed lot frontages, would be spaced around every 10m (maximum).

No assessment has been made in the CPS submission on the suitability of Minmi Rd to cater for increased turning into and reversing from these proposed allotments and the increased potential for vehicles to be standing in and blocking the sole westbound travel lane while waiting to turn with the potential for an increase in the number of 'nose-to-tail' collisions.

### **D3. Road Widths**

It is noted that the existing Statement of Commitment No A.3.1 requires the proponent to providing road infrastructure to certain minimum design requirements based on the intended road hierarchy. The widths of the roads have not been dimensioned on the submitted plan, however, by digital scaling, it has been determined that the road carriageway widths shown are 5.5m and 7.5m wide. Council no longer supports 5.5m carriageway widths due to a history of complaints of parked vehicles causing obstructions to traffic.

Having regard to the future link to Sanctuary residential estate to the east (i.e. DA 97/0555), the majority of Road No. 1 has the potential to be a bus route and therefore is required to have a minimum carriageway width of 9.5m. Roads No. 2, 3 and 4 and the remainder of Road No. 1 are required to have a carriageway width of 7.5m.

While the above road widths no longer comply with the minimum standards set out under Council's Development Control Plan, 2012, having regard to the circumstances of this case, no objections are raised to the continued use of the road widths as specified in Commitment A.3.1.

Turning areas on roads should comply with the design requirements shown on Council's Standard Drawing A1004 which is available on Council's website at [www.newcastle.nsw.gov.au](http://www.newcastle.nsw.gov.au).

It is recommended the proponent be required to revise the road and lot layout to meet the following requirements of Commitment A.3.1:

**(i) Impacts on kerbside parking**

As discussed in C2 above, the submitted plan indicates a significant number of lots having around a 10m wide frontage. It is considered these narrow frontages, combined with future driveways, are likely to impede vehicles being parked at the kerb in front of these lots without encroaching over driveways or causing an obstruction to vehicles traversing the street.

It is recommended the abovementioned Traffic Impact Assessment include an assessment of parking impacts or the widths of the affected lots be increased to address the problem.

**(ii) Impacts on cycling**

Council's adopted cycling strategy as well the strategy applicable in 2006 when the project application was determined both identify Minmi Road as requiring an off-road shared use pathway along this section of Minmi Rd. Statement of Commitment No. A.3.2 incorporates this work into other construction works required along the entire development frontage with Minmi Rd.

It is a matter of concern that the introduction of at least 34 new driveways (see C2 above), on average 10m apart, along the Minmi Rd frontage of Stage 10 will have a significant adverse impact on pedestrian and cyclist safety when compared to the current approval which allowed an unimpeded pathway.

**E. LOT LAYOUT**

The following specific concerns are raised in respect of the design of the proposed amended lot layout:

- (i) Lots 15 and 110 have not been provided frontage to a public road.
- (ii) Lots 10, 11 33, 34, 131 and 132 rely on poorly sited access from road areas restricted by the existing and proposed roundabouts resulting in inappropriate and dangerous vehicle manoeuvring.
- (iii) Lots 128, 129, 130, 110 (assuming it is intended to share access with Lot 111) and 111 rely on undesirably long and curved driveways across an excessively wide footway area. Reversing manoeuvres along lengthy and curved driveways is not supported.
- (iv) Access to Lots 69 and 70 cannot be reasonably constructed from the squared ends of a 'hammerhead' turning area.
- (v) Council's DCP2012 does not permit a shared battle-axe handle to support more than two lots. Lots 50, 51, 52 and 53 will need to be consolidated and

developed as a single development site or the access driveway will need to be within Community or Neighbourhood Association property under a Community Title subdivision.

(vi) Lots 54 and 71 require splayed boundaries to ensure the footway width is maintained.

(vii) Lots 138 and 139 correspond with land identified as parkland and playground on the approved Vegetation Management Plan and Landscape Master Plan. In accordance with the current Concept Plan approval, these parklands and playgrounds are to be owned and managed by the Community or Neighbourhood Associations under the Community Title subdivision.

#### **F. BUSH FIRE RISK**

It is recommended that a copy of the modification request be sent to the NSW Rural Fire Service for comment.

If you have any questions in relation to the various matters raised in this submission, please contact me by [gmansfield@ncc.nsw.gov.au](mailto:gmansfield@ncc.nsw.gov.au) or on 02 4974 2767.

Yours faithfully



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**PRINCIPAL PLANNER (DEVELOPMENT)**