



Ref: F12/72-05, LA33547

11 May 2017

Civic Centre
22 Tozer Street
PO Box 3078
West Kempsey NSW 2440

Customer Services
P. 02 6566 3200
F. 02 6566 3205
ksc@kempsey.nsw.gov.au
www.kempsey.nsw.gov.au
ABN 70 705 618 663

DEPARTMENT OF PLANNING AND ENVIRONMENT
ATT: JANE FLANAGAN
SENIOR PLANNER – MODIFICATION ASSESSMENTS
GPO BOX 39
SYDNEY NSW 2001

Dear Jane

MODIFICATION (2) OF PROJECT APPROVAL MP 08_0167 FOR A RESIDENTIAL SUBDIVISION, BELLE O'CONNOR STREET, SOUTH WEST ROCKS

Thank you for once again providing Council with the opportunity to provide comments.

The proponent's response to submissions has been reviewed. For the most part, the comments remain as stated in Council's letter of 1 December 2016, a copy of which is provided at **Attachment A**.

The following additional comments are provided for your consideration.

Modification of project approval

Upon reviewing the most recent documentation from the proponent, along with the documentation provided by another proponent for the modification (3) application to the same project, it is becoming evident that the intention is to develop what was approved as a single major residential subdivision project, as three smaller separate developments.

That is, rather than a single 270 lot subdivision to be developed over 11 stages, the proponents are now seeking approval for three smaller developments comprising of:

- a 43 lot subdivision;
- a 119 lot subdivision; and
- a seniors living development comprising of 234 dwellings;

all of which are to be developed completely independent of each other. The Department should be satisfied that these changes can be properly characterised as modifications to the project approval.

It is worthwhile noting that if these developments were proposed, outside of the realms of the repealed Part 3A, these would be applications that would otherwise come to Council for assessment and the local planning controls would apply.

Kempsey Local Environmental Plan (KLEP) 2013 identifies the land to which the original project approval relates as an urban release area. Accordingly, if these three developments were to be otherwise lodged with Council, Part 6 of KLEP 2013 would apply. In particular, clause 6.3 would require a development control plan addressing the following matters to be prepared for the land prior to any consent being issued:

- a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,*
- b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,*
- c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,*
- d) a network of active and passive recreation areas,*
- e) stormwater and water quality management controls,*
- f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,*
- g) detailed urban design controls for significant development sites,*
- h) measures to encourage higher density living around transport, open space and service nodes,*
- i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,*
- j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.*

The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan.

The Department should therefore, in the absence of such a development control plan, be satisfied that the matters specified in sub clause (3) have been adequately addressed in the overall project, as proposed to be modified by both applications.

Other comments

- a) Since Council wrote to you last, a construction certificate for Stage 1A of the project has been issued by private certifier Barker Ryan Stewart Pty Ltd. This was issued on the 10 April 2017 with the applicant advising that works commenced on 13 April 2017. For your convenience, please find a copy at **Attachment B** to assist in assessing the application to modify MP 08_0167.

- b) Any implications for the overall project resulting from the proposed modification (2) should be addressed and resolved as part of that same application. It is not considered appropriate to rely on the submission of a further modification application to rectify any impacts resulting from the modification (2) application, merely because it involves different landowners. The existing project approval is a single approval and should be treated as such.

That is, this modification (2) application should address the impacts that the proposed changes will have on all key aspects of the overall project such as the provision of essential services, access to each of the developments, adequacy and integration of the overall road network, appropriateness and integration of the different stormwater management systems proposed, and the overall implications of and the interface between the various levels of cut/fill involved in each of the developments.

- c) The stormwater management infrastructure for Lot 36 is proposed on the adjoining and separate Lot 35. Whilst at present the two parcels are under the same ownership, how will this be addressed should this not be the case in the future? Furthermore, this land is zoned E2 Environmental Conservation under KLEP 2013 and such development is not only inconsistent with the objectives of this zone, but is also prohibited.
- d) If Lot 36 is to be developed independently, with no control over how the remainder of the project develops, it should incorporate its own open space area/s.
- e) If the Department is of a mind to support the modification (2) application, the conditions and statement of commitments should be modified in a way that makes it clear which proponent/landowner is responsible for what and when. It would seem a much larger reworking of the approval would be required than that originally identified by the proponent in their original submission.
- f) Furthermore, condition E10 relating to developer contributions would need to be updated and Council can provide the relevant information upon request.

Should you wish to discuss any of the above matters, please do not hesitate to contact me on (02) 6566 3244 or by email at erin.fuller@kempsey.nsw.gov.au .

Yours faithfully



Erin Fuller
MANAGER DEVELOPMENT ASSESSMENT
SUSTAINABLE ENVIRONMENT