



26 March 2020
Anna Williams
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Manly NSW 1655

RE: Response to Council's RFI received 3 March 2020 in relation to DA2019/1512 – multi dwelling housing proposal at 140 Ocean Street Narrabeen

This letter and accompanying documentation provide a response to the request for additional information received from Northern Beaches Council in relation to DA2019/1512 which seeks approval for demolition of an existing single dwelling and construction of a new multi dwelling housing development at 140 Ocean Street, Narrabeen.

The letter is prepared by Mecone on behalf of the Missionary Sisters of the Blessed Virgin Mary, Queen of the World (Missionary Sisters) who have owned the property since 1982 following establishment of the Order in Australia in 1975.

The Missionary Sisters desire to develop the property for the purposes of a personal residential accommodation, which can be utilised by any of the 22 sisters within the Order, who are otherwise primarily based at the Mother House (Convent) at Granville. The purpose of the residents would be to provide a retreat away from the Mother House (convent).

While an offer from the adjoining landowner has been received for the subject site to enable a larger redevelopment, this is not of interest to the Sisters who are not motivated by financial gain and is against their charter. Instead, the Sisters wish to maintain the property for private purposes and undertake a modest medium density development which will improve the way the site can be utilised in the future.

Following review of the RFI received by Council, the matters raised which are required to be addressed are in relation to the following:

1. Site Consolidation considerations of the DCP; and
2. Development Engineering aspects of the proposal

In order to address Council's concerns, a response table has been provided by Mecone, supported by the following documentation:

- An RFI Response Table;
- Revised Stormwater Drainage Plans;
- A traffic Response prepared by the Traffic Engineer;
- Letter from the Congregational Leader
- Chronology letter

We trust the above information addresses the issues raised in Council's request for additional information. If you have any questions or would like to discuss the content of this letter further, please do not hesitate to contact me on 8667 8668 or acoburn@mecone.com.au

Yours sincerely,

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Item	Council Correspondence	Applicant Response
<p>1. Site consolidation</p>	<p>Clause D19 (Site Consolidation in in the R3 and IN1 Zone) Warringah DCP 2011.</p> <p>Clause D19 requires development not result in adjacent allotments that have areas or dimensions, or are constrained in other ways, that would render such allotment(s) incapable of being developed in accordance with Warringah Local Environmental Plan. The proposed development fails to address the objectives of Clause D19 relating to site consolidation in the R3 Medium Density Zone and with the Land and Environment Court Planning Principle - Karavellas v Sutherland Shire Council [2004] NSWLEC 251 at 17-19. In Particular, your attention is drawn to the isolation principle which read as follows:</p> <p><i>“Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.</i></p> <p><i>Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.</i></p> <p><i>Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant</i></p>	<p>The requirements of the WDCP 2011 and <i>Karavellas v Sutherland Shire Council [2004] NSWLEC 251 at 17-19</i> are addressed further below as requested by Council.</p> <p>D19 Site Consolidation in the R3 and IN1 zone</p> <p>D19 of the WDCP 2011 provides objectives and requirements for development within the R3 zone which aim to ensure new development does not render adjoining sites incapable of development in the future.</p> <p>The proposed development is consistent with the requirements and objectives of this clause given the following:</p> <ul style="list-style-type: none"> • The multi-dwelling development proposed will not render adjoining land (specifically 142 Ocean Street) incapable of being developed. This site will continue to be able to be developed for an array of varying residential typologies permitted within the R3 zone in accordance with the WLEP 2011. For example, the adjoining site can continue to be developed for any of the following: residential flat buildings, multi-dwelling housing, boarding houses, seniors housing or group homes. All of these land uses remain viable on the adjoining land without the need for amalgamation to occur. In addition, development of the subject site will not result in 142 Ocean Street having an allotment size or dimensions that result in non-compliance with the LEP or DCP. In contrast, 142 Ocean Street continues to be able to be developed as a standalone site consistent with both the WLEP and WDCP objectives. The development therefore complies with the relevant requirements of the DCP provided under D19. <p>The development provides an example of an efficient land use through the provision of a suitable medium density residential built form. The development will not hinder the ability of the adjoining site to develop for similar purposes</p>

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	<p><i>planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979."</i></p> <p><i>This DCP clause and associated planning principle needs to be suitably addressed and documented in your application.</i></p>	<p>or other types of development permitted within the R3 zone. Subsequently, the subject development complies with objectives provided under D19. Furthermore, the development provides an outcome consistent with the R3 zoning objectives by providing a suitable housing typology in keeping with a medium density environment.</p> <p>Planning Principle: Karavellas v Sutherland Shire Council [2004] NSWLEC 251 at 17-19</p> <p>The the planning principle does not strictly apply in these circumstances as there are stark differences between the Karavellas Case and the subject application.</p> <p>Unlike in <i>Karavellas v Sutherland Shire Council [2004] NSWLEC 251</i> development of the subject site will not render the adjoining 142 Ocean Street to be left in isolation as it can continue to be developed for an array of land uses permissible within the R3 zone that are consistent with the relevant zoning objectives. Furthermore, unlike in the planning principle case, the development will not result in adjoining land being unable to comply with development standards, provisions or controls in WLEP 2011 or WDCP 2011. The specific key differences between Karavellas and D2019/1512 are explored further below:</p> <p>Context of the Case</p> <p>The site isolation planning principle case in <i>Karavellas v Sutherland Shire Council [2004] NSWLEC 251</i> involves a development scenario whereby development of one site rendered an adjoining site an 'isolated lot'. This was a result of amalgamation failing to occur and the adjoining land subsequently being rendered 'isolated' due to its failure to comply with minimum lot size and minimum frontage requirements as a standalone allotment. Specifically, the case observed a scenario where a failure to amalgamate sites would result in isolation of adjoining land, as this land would have a site area of 674 square metres (where 1800 square metres was required by the LEP) and a frontage of approximately 16 metres (where 30 metres was required by the DCP).</p>

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		<p>These circumstances clearly vary greatly from D/2019/1512 for the following reasons:</p> <ul style="list-style-type: none"> • Development of 140 Ocean Street will not result in 142 Ocean Street being inconsistent with the WLEP 2011 as development of both sites can remain in line with development standards, provisions and objectives of the R3 zone. • Development of 140 Ocean Street does not result in 142 Ocean Street being non-compliant with any numerical controls within the WDCP 2011 such as minimum site frontage requirements, nor are the sites identified as required for amalgamation in any site-specific DCP. <p>Based on the above, and given both sites can continue to be developed for a range of purposes permissible within the zone that are consistent with the R3 zoning objectives, it is evident that 142 Ocean Street will not be isolated by the development proposed under D2019/1512 and the planning principle does not apply in the circumstances.</p> <p>17-19 of the Karavellas Case</p> <p>It is evident that orderly economic development of the subject sites can be undertaken in isolation from one another, and therefore, site isolation does not occur in the circumstances. As such, while it is understood that the adjoining landowner wishes to purchase the subject site to develop for their own personal benefit, no such offer is required to be considered by the Missionary Sisters unless desired.</p> <p>Given the Missionary Sisters have no interest in developing the land they have owned for 45 years in the manner desired by the adjoining landowner, they are not obliged to consider any offers which are made unless it is by their own free will. As demonstrated above, the planning principle does not apply in the circumstances given the adjoining lot will not be rendered an isolated lot following development. Therefore, the planning principle requires no further consideration by Council in their assessment.</p>

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<p>2. Development Engineering</p>	<p><u>Stormwater</u></p> <p>The proposed Stormwater Concept Plan is unsatisfactory. In accordance with Council's Warringah Stormwater Drainage from Low Level Properties Technical Specification Section 2.3, stormwater disposal shall be via a gravity fed pipeline where properties fall naturally away from the street. This will require an easement to drain water through downstream property.</p> <p>The maximum discharge to the kerb and gutter is to be the lesser of 20 litre per second per kerb outlet or the 1 in 100 year ARI pre developed discharge. Where this cannot be achieved, extension of the Council piped drainage system in Lagoon Street will need to be provided at the Applicant's cost. Full hydraulic details of the drainage line must be submitted with the Development Application.</p> <p>Insufficient information has been provided to demonstrate compliance with Council's Warringah Onsite Stormwater Detention (OSD) Technical Specification. The minimum information required to be submitted is detailed in Section 3.3, including the provision of DRAINS model and longsection of any inter-allotment drainage. The longsection of the inter-allotment drainage line shall be supported by a HGL analysis. The levels shown on the stormwater plans appear to be inaccurate, and are not consistent with the architectural drawings.</p>	<p>In order to ensure that the proposed development suitably responds to stormwater drainage requirements, amended stormwater drainage documentation has been prepared (see enclosed).</p> <p>The revised documentation provides the following:</p> <ul style="list-style-type: none"> • The installation of absorption tanks located to the rear of the site designed to dispose of runoff on the site; • Pump out stormwater drainage system. <p>While it is acknowledged that the proposed stormwater response does not strictly accord with Council policy, which identifies a preference for a stormwater easement to be established through downstream properties, it is requested that an alternative solution is considered in the circumstances. The stormwater management system proposed will provide an effective means of managing stormwater at the site and effectively address the objectives of stormwater provided in C4 of WDCP 2011.</p> <p>In addition to the above, Council are also requested to note that discussions with neighbours to the rear of the subject property have commenced in relation to obtaining an easement over their land.</p>
	<p><u>Driveway</u></p> <p>Insufficient information has been provided with regard to the proposed access driveway. The Applicant shall provide a long-section of the proposed access driveway across the road reserve to the proposed carpark and demonstrate compliance with AS2890. The driveway shall incorporate one of Council's standard vehicle crossing profiles. Any transitions to the driveway levels/gradients are to occur within the development site.</p> <p>In accordance with AS2890.1, a passing bay shall be provided a minimum of 5m wide and 10m long for every 30m of access driveway.</p>	<p>A response letter has been prepared by In Roads Group to address the matters raised by Council in their RFI (as enclosed). The RFI provides the following:</p> <ul style="list-style-type: none"> • A long section drawing demonstrating comfortable compliance with the requirements of AS2890.1 with regard to vehicular access arrangements. • Responds to Council's request for a passing bay on the driveway. The response argues that given the nature of the land use proposed and the scale of development, the need for a passing bay is 'extremely low'. There will be very little traffic generation at the site and the need for vehicle passing will be very limited. As such, it is considered that

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	<p>The proposed application cannot be supported by Development Engineering due to lack of information to address:</p> <ul style="list-style-type: none"> • Vehicle access for the development in accordance with clause C2 Traffic, Access and Safety. • Stormwater drainage for the development in accordance with clause C4 Stormwater. 	<p>the proposed vehicular access arrangement is suitable from a traffic engineering perspective given it will accord with AS2890.1 and adequately service the development. Furthermore, the current arrangement will ensure that unnecessary additional hardstand areas are not required at the site.</p>