



Our reference: ECM: 8594884  
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Ms Dianne Leeson (Panel Chair)  
Independent Planning Commission

Email: [ipcn@ipcn.nsw.gov.au](mailto:ipcn@ipcn.nsw.gov.au)

Dear Ms Leeson,

**Proposed Crown Cemetery Development, Wallacia  
(DA17/1092) (your ref.A084-18)**

I refer to our meeting on 19 February 2019 regarding the above proposal.  
Thank you for the opportunity to make a final submission further to the public meeting held on Wednesday 27 March 2019.

As requested at our meeting, please find attached a summary chronology of actions and correspondence relating to this proposal. The following points are made with regard to the chronology of events:

- The Catholic Metropolitan Cemeteries Trust (CMCT) referred the application to the Minister on 9 January 2019, ahead of the 70 day period prescribed under Clause 113B(1) of the Environmental Planning and Assessment Regulations 2000, pursuant to Section 4.33 (2)(a) of the Environmental Planning and Assessment Act, 1979 (the Act). The application has not therefore been referred to the Minister in accordance with the Act and the Minister has no functions to delegate to the IPC for this application.
- The consent authority being the Sydney Western City Planning Panel (SWCPP) has not submitted to the Independent Planning Commission (IPC), with functions as delegated by the Minister, a copy of the referred development application, details of nor reasons for a proposed determination nor relevant reports of another public authority as required by Section 4.33 of the Act.
- The Crown Development Division of the Act does not provide for the assessment of an application by the IPC nor Department of Planning and Environment (DPE) and this application does not represent State Significant Development. The Act does not provide for an amended application for assessment by the DPE nor IPC and the mandatory community participation requirements of Section 2.22 of the Act have not been met.
- In response to Council's 23 February 2018 request for information, an additional package of documentation was received by Council on 21 May 2018. Notwithstanding all of the above and as soon as practicable, Council on 3 August 2018 referred to the IPC and SWCPP concurrently copies of Council's Assessment Summary Report, recommendation and internal referrals to inform the SWCPPs proposed determination and their reasons for the proposed determination in accordance with Section 4.33(7) of the Act.

At that time it was trusted that these documents, proposed determination and reasons would inform any Directions that the IPC would give to the SWCPP in accordance with Section 4.34 of the Act. Importantly there was an opportunity to report the application to a scheduled public meeting of the SWCPP in August 2018 for a proposed determination however support to Council for this approach as requested was not provided by the Minister, IPC nor SWCPP Secretariat.

- Under Clause 55 (1) of the Environmental Planning and Assessment Regulation 2000, the consent authority (SWCPP), has not agreed to the application being amended or varied by the applicant. Further, matters required to be addressed under 55(2) and (3) are also not satisfied.
- Council questions the extent to which the assessment of the development application undertaken by the DPE is a full assessment of the development proposal in its own right or is a review of Council's preliminary review report. The DPE's assessment report relies on the internal specialist advice of Council officers. This internal advice was based on either the proposal as was lodged or, as was amended by the documentation submitted to Council on 13 December 2017.
- The internal advice of Council's specialist departments ought not to be interpolated to relate to any subsequent amended proposal and in most instances, it was made clear by the advice that insufficient information was submitted to allow a full and proper assessment of the proposal. Further advice regarding any future amended plans or documents would have been sought from these internal departments and in turn, the advice would differ. Council did not complete an assessment of the development application.
- It is noted in the Summary of the IPC 'Notes of site inspection' document dated 19 February 2019, that the site inspection included travelling to '1. The existing function centre'. The existing building is not a function centre and is approved as a '*Registered Club*' ancillary to the use of the site as a golf course. One element of the mixed use development application seeks approval for the change of use of this existing '*Registered club*' to a '*Function centre*'. '*Function centre*' is a prohibited use within the E3 Environmental Management zone under PLEP.

At the cessation of the use of the site as a golf course, which is proposed, the use of the exiting clubhouse will purely be 'Function centre'. It is raised for the consideration of the Panel, that the applicant is requesting approval for a '*Function centre*' which is a prohibited use within the zoning, decades in advance of the commencement of the use, with no assessment undertaken of the impacts this use may have at that time. No reference is made in the DPE's recommended conditions to require the applicant to adhere to any staging plan or for golfing to be retained on any part of the site for any length of time or to require the submission of a future development application for the use of the existing clubhouse, once any use of the site for golfing has ceased.

The DPE in its assessment report has relied upon Council's internal legal advice provided as to the permissibility of the proposed function centre component within the zone, which is contextually incorrect and was not provided to be utilised so.

Further, the proposed expansion of the existing clubhouse car parking which will be ancillary to the proposed new 'Function centre' is located within the both the E3 Environmental Management zone and RU5 Village zone under PLEP. 'Function centre' is a prohibited use in both zones. The DPE's assessment errs and does not make reference to the two zonings that apply to the site.

- Clause 2.3 of Penrith Local Environmental Plan 2010 (PLEP) states that *'The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.'* The scale of the development and the extent of related impacts are contrary to the objectives of the E3 Environmental Management zone which relate to protecting and managing the land, minimising conflicts between land uses and to ensure development is compatible with the environmental capabilities of the land and does not unreasonably increase the demand for public services or public facilities.
- Clause 7.2 of PLEP states that development consent must not be granted for development on land that is at or below that flood planning level unless the consent authority is satisfied as to the developments ability to comply with the matters at (a) through to (i). Council's development engineer has confirmed that the proposed stormwater concept does not cater for the calculated stormwater capacities and that insufficient detail has been provided to confirm that the areas of on-site detention will effectively contain and divert stormwater. Impacts on downstream infrastructure, waterways and residential properties are not known.

Furthermore, Council has recently been advised by Infrastructure NSW that the Hawkesbury-Nepean Valley Regional Flood Study is anticipated to be finalised and published publicly in mid-2019. A proper and complete assessment of this proposal should be informed by this study.

- Clause 7.7(2) of PLEP states that *"Before granting development consent for development on any land to which this Plan applies, the consent authority must be satisfied that (a) the development will be connected to a reticulated water supply, if required by the consent authority, and (b) the development will have adequate facilities for the removal and disposal of sewage".*

Currently, the existing clubhouse itself is connected to Sydney Water for the purposes of water supply and disposal of sewage. The areas of the site identified for the administration building, workshop and chapel are not readily able to connect to a reticulated system due to their isolated locations and the application has not demonstrated that these buildings will be connected. Should these component uses require connection to an On Site Sewer Management (OSSM) system, the proposal will be substantially impacted by the system(s) requirements and coupled with

the constraints of the site, it is not known if the site is suitable to cater for an OSSM system of the potential scale required.

- Clause 7.3(5) of PLEP states that consent must not be granted to development in subclause (3) unless the consent authority is satisfied of the particulars under (a) and (b) which relate to adverse environmental impacts. Subclause (3) states that consent is required for '(b) earthworks' and '(c) the carrying out of a work' on land to which the clause applies. In this respect, it is not satisfactory that unknown works related to future stormwater infrastructure, earthworks or OSSM be required as conditions of consent, particularly given the extent of works required is likely to be more than minor, although is unknown.
- Allotments at numbers 17 and 19 Park Road (two vacant allotments to the east of the clubhouse) are in the ownership of Catholic Memorial Cemeteries Trust (CMCT) and although do not form part of the lands being the subject of this application, it is raised that impacts of the proposed new '*Function centre*' on the future development of these allotments have not been considered.
- The IPC lists Council's internal departmental advice under the heading DPE, Internal Advice Reports on the IPC website which is misleading, particularly given the internal advice documents are not identified as being from Penrith City Council.
- It is unclear from the information available, what the proposal as has been amended encompasses. The DPE's assessment does not list a set of documentation which has been relied upon for the purposes of assessment.
- The recommended conditions of consent are inadequate in their ability to address the lack of information provided in support of the proposal or to mitigate against negative and detrimental environmental impacts of the proposal which remain unknown. The recommended Conditions of consent do not include those of the RMS.

We trust that further to the above the IPC will have regard to Council's previous submissions and assessment to date of the application. It is disappointing that the applicant has been afforded the opportunity to amend the proposal and submit additional information, including in response to a request from the DPE, despite referring an earlier version of the application to the Minister prematurely. It is also trusted that the IPC will afford the SWCPP as the consent authority the following prior to giving any Direction in accordance with the Act:

- an opportunity to decide whether or not it accepts the amended application;
- to be furnished with a complete and proper assessment of the application (as amended) and recommendation; and,
- to hold a public determination meeting in making a proposed determination



Please contact me if you have any questions or require any clarification further to the above.

Yours sincerely,

Peter Wood  
Development Services Manager