

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 18 April 2016

**PE1 – Application to Modify Development Consent
No.010.2003.00050952.008 – Menangle Retirement Village**

PLANNING AND ECONOMY

PE1 Application to Modify Development Consent No.010.2003.00050952.008 – Menangle Retirement Village

1026

TRIM I615-03

EXECUTIVE SUMMARY

- At the Ordinary Meeting held 15 February 2016, Council considered an application to modify consent conditions relating to the construction of shared pathways to service the retirement village located at 153 Menangle Road, Menangle.
- At that meeting Council resolved to defer determination of the application to permit further discussions with the Applicant regarding improvements to the network of pedestrian pathways in Menangle Village. Those discussions have taken place.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirement extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that the consent for Menangle Retirement Village be amended as follows:
 - Delete the requirement to construct a shared pathway along St James Avenue to the Menangle Anglican Church, along Riversford Close to Station Street and along Station Street from Menangle Store to the Railway.
 - Insert a condition requiring a monetary contribution towards the provision of shared pathways in the Menangle Village to access local facilities and/or public transport services.

REPORT

1.1 BACKGROUND

At the Ordinary Meeting held 15 February 2016, Council considered a report in relation to a Modified Application to the consent for Menangle Retirement Village. At that meeting, Council resolved:

PE1 – Application to Modify Development Consent No.010.2003.00050952.008 – Menangle Retirement Village

1. *That the Application to Modify Development Consent No.010.2003.00050952.008 to amend Development Consent I615-03 relating to shared pathways to service the Retirement Village at Lot 1 DP 270706 No. 153 Menangle Road be deferred to permit further discussions with the Applicant regarding improvements to the network of pedestrian pathways in Menangle Village, including consultation with the potentially effected residents and Council's Heritage Adviser.*
2. *That considering the previous difficulties with the development of pathways in Menangle, discussions are also to include alternative contribution opportunities in lieu of not providing pathway, for example, monies towards the refurbishment of Council owned assets such as the historic Menangle School.*
3. *That a report comes back to Council.*

Since the February Ordinary Meeting, Council has received written correspondence from the applicant's legal representative. Council staff also met with the applicant to discuss improvements to the network of pathways at Menangle. In this regard the applicant has offered to make a monetary contribution to improve the footpath network. A copy of the report to the February 2016 Ordinary Meeting together with the legal representations and letter of offer from the applicant are included at Attachments 1 to 3.

1.2 SECTION 79C ASSESSMENT

As discussed in the previous report to Council the retirement village was assessed under the provisions of SEPP 5 – Housing for Older people and People with Disability. This SEPP has since been repealed and replaced by the Seniors Living SEPP. The transitional arrangements however require the Modified Application to be considered against the provisions in SEPP 5.

Clause 12 of SEPP 5, requires residents to have access to retail and commercial services, community and recreational facilities and a general medical practitioner. Alternatively the development must be located within 400m of public transport that provides access to these services /facilities.

The only relevant local facilities include the Menangle Store, Catholic Church and Anglican Church. The above provision suggests that a pedestrian link is required to a public transport service. In terms of the public transport, Menangle benefits from a train and bus service.

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With respect to the consent requirements to construct shared pathways an inspection of the existing pathway located on the eastern side of the Anglican Church has confirmed that extension of the path along Riversford Close to Station Street is problematic given the change in grade. The requirement is not a viable or safe option for use by residents of the village and it is considered appropriate to modify condition 7.5 by deleting the second paragraph.

It is recommended that condition 7.5 be amended as follows:

“7.5 The applicant shall construct a 2.0 metre wide shared pathway along Menangle Road between the development site and the Menangle Store. The width may be reduced for short sections to retain existing trees and hedges along the footpath but only with the written agreement of Council’s Engineers. The footpath shall be a decorative surface and the residents are to be consulted prior to construction.”

With regard to Condition 7.6, it is recommended that any modification of the consent should reflect the requirements of SEPP 5. In this regard the retirement village should have access to relevant services and facilities or to public transport located within 400m of the site. The site is located approximately 450m from the bus stop adjacent to Menangle Store. The developer has completed approximately 630m of shared pathway from the Retirement Village to Menangle Store. The non-compliance in terms of the distance between the site and the bus stop is not considered significant. Construction of pathway to Menangle railway station is not mandated by SEPP 5. Accordingly it is recommended that condition 7.6 be deleted and replaced with a condition that reflects the applicants offer to contribute towards improvements to the footpath at Menangle.

It is recommended that Condition 7.6 be amended as follows:

“7.6 Prior to the issue of any Occupation Certificate for the final stage of the development, the applicant shall pay Council a financial contribution valued at \$20,000 towards the upgrade of the shared pathway network at Menangle to improve access to local facilities and/or public transport services”.

1.3 PUBLIC INTEREST

As outlined in the previous report to Council, notification of the Modified Application resulted in two submissions. The applicants offer to make a financial contribution towards pathway upgrade works serves to address concerns raised in the submissions.

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FINANCIAL IMPLICATIONS

The applicant has suggested that they are considering their options in terms of Appeal rights to the Land & Environment Court. If a Class 1 Appeal was lodged it is estimated that Council would expend between \$30,000 and \$50,000 to defend the matter.

ATTACHMENTS:

1. Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 15 February 2016 'PE1 – Application to Modify Development Consent No.010.2003.00050952.008 – Menangle Retirement Village'.
2. Correspondence from the Applicant's legal representative dated 10 March 2016.
3. Letter of offer from the Applicant's legal representative dated 29 March 2016.

CONCLUSION

The applicant has provided a bus stop / shelter at the entrance of the retirement village and a shared pathway from the development site to the Menangle Store in order to satisfy condition 7.5 of their consent.

In addition to the above Conditions 7.5 and 7.6 require a shared footpath to be constructed along St James Avenue and along Riversford Close to Station Street and along Station Street from the Menangle Store to the Railway station.

These conditions extend well beyond what is required under SEPP 5 for development of this nature. Given the SEPP provisions and cost of such works, it is highly unlikely that Council would successfully defend the requirements if challenged in Court.

The offer to pay a cash contribution of \$20,000 towards improved access to local facilities and for public transport services at Menangle is consistent with the Senior Living SEPP (which replaced SEPP 5). Council's Engineering Section has conservatively estimated that the \$20,000 monetary contribution by the applicant will allow construction of at least 100m of pathway. The offer is considered reasonable and will potentially avoid costly legal proceedings.

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RECOMMENDATION

That Council determine Application to Modify Development Consent No.010.2003.00050952.008 to amend Development Consent I615-03 relating to shared pathways to service the Retirement Village at Lot 1 DP 270706 No. 153 Menangle Road be determined in the following manner:

Condition 7.5

The applicant shall construct a 2.0 metre wide shared pathway along Menangle Road between the development site and the Menangle Store. The width may be reduced for short sections to retain existing trees and hedges along the footpath but only with the written agreement of Council's Engineers. The footpath shall be a decorative surface and the residents are to be consulted prior to construction.

Condition 7.6

Prior to the issue of any Occupation Certificate for the final stage of the development, the applicant shall pay Council a financial contribution valued at \$20,000 towards the upgrade of the shared pathway network at Menangle to improve access to local facilities and/or public transport services.

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ATTACHMENT 1 – I615-03 – 18 APRIL 2016

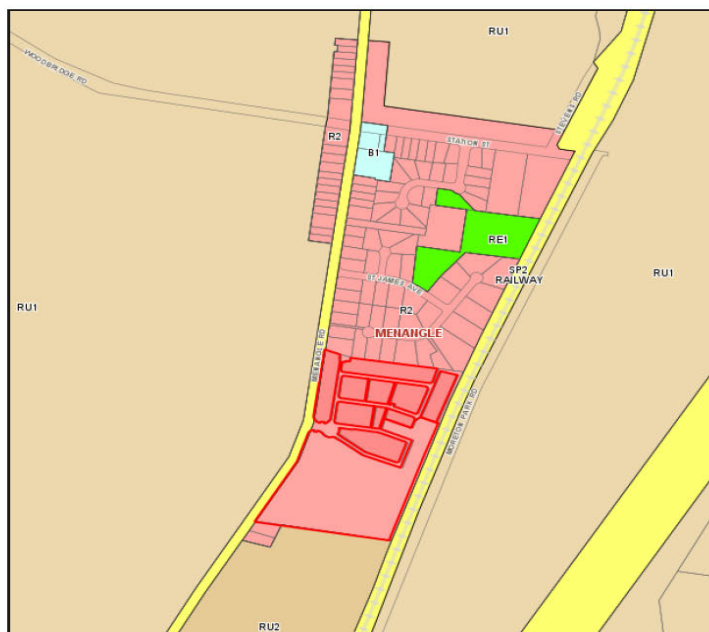
WOLLONDILLY SHIRE COUNCIL

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PLANNING AND ECONOMY

PE1 **Application to Modify Development Consent No. 010.2003.00050952.008 – Menangle Retirement Village – 153 Menangle Road, Menangle**
77 I615-03 (DD010.2003.00050952.008)



LOCATION MAP N
(Showing zoning of subject property and zoning of adjoining lands/area)

DEVELOPMENT INFORMATION

Application to Modify Development Consent No: 010.2003.00050952.008

Property Details: Lot 1 DP 270706 No. 153 Menangle Road, Menangle

Applicant: Bonvale Enterprises Pty Ltd

Owner: Bonvale Enterprises Pty Ltd & Cypjayne Pty Ltd & Towo Pty Ltd

Proposal Details: Amendment to Condition 7.5 & Deletion of Condition 7.6

Zone: R2 Low Density Residential

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Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 15 February 2016

**PE1 – Application to Modify Development Consent No.
010.2003.00050952.008 – Menangle Retirement Village**

EXECUTIVE SUMMARY

- This report provides an assessment of the application to modify conditions relating to shared pathways required to service the retirement village located at 153 Menangle Road, Menangle.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirement extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that the consent be modified to delete the requirement to construct a shared pathway along St James Avenue to the Menangle Anglican Church, along Riversford Close to Station Street and along Station Street from Menangle Store to the railway station.

REPORT

BACKGROUND

On 16 February 2004, Development Consent (I615-03) for Menangle Retirement Village was granted subject to conditions of consent. The development was originally approved in two stages being:

Stage 1: A maximum of 28 dwellings in the north-west corner of the site, including all site access and intersection works.

Stage 2: The remainder of the development, which may be completed through staged Construction Certificates provided that all road works, community facilities and services, landscaping and drainage works relevant to the particular Construction Certificate are completed prior to the occupation of the dwellings in that stage.

The original Consent (I615-03) requires the following:

"7.5 The applicant shall construct a 2.5m wide shared pathway along Menangle Road between the development site and Menangle Store prior to the occupation of any of the units in stage 1 of the development".

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On 22 December, 2004, approval was granted for the modification of this condition to read as follows:

“7.5 The applicant shall construct a 2.0m wide shared pathway along Menangle Road between the development site and the Menangle Store prior to any occupation of any of the units in stage 1 of the development. The width may be reduced for short sections to retain existing trees and hedges along the footpath but only with the written agreement of Council’s Engineers. The footpath shall be of a decorative surface and the residents are to be consulted prior to construction”.

On 15 May, 2005, approval was granted for the further modification of this condition to read as follows:

“7.5 The applicant shall construct a 2.0m wide shared pathway along Menangle Road between the development site and the Menangle Store. The width may be reduced for short sections to retain existing trees and hedges along the footpath but only with the written agreement of Council’s Engineers. The footpath shall be of a decorative surface and the residents are to be consulted prior to construction.

The footpath shall be constructed from the development to Haines Place prior to the release of the Occupation Certificate for any of the dwellings in stage 1. The footpath shall be constructed from Haines Place to Menangle Store prior to the release of the Occupation Certificate for more than 50 dwellings or within 2 years of the date of the engineering Construction Certificate”.

It should be noted that the above condition incorrectly referred to Haines Place. The correct reference should have been St James Avenue.

On 19 June 2008, approval was granted for the further modification of this condition to read as follows:

“7.5 The applicant shall construct a 2.0 metre wide shared pathway along Menangle Road between the development site and the Menangle Store. The width may be reduced for short sections to retain existing trees and hedges along the footpath but only with the written agreement of Council’s Engineers. The footpath shall be a decorative surface and the residents are to be consulted prior to construction.

A shared pathway shall also be constructed from Menangle Road through to St James Avenue and along Riversford Close to Station Street via Lot 37 DP 830297 and Lot 5 DP 829190 prior to the release of Occupation Certificate for any of the dwellings in stage 1, or within 2 years of the date of the Engineering Construction Certificate, whichever is earlier”.

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Separate to the above requirements, on 22 December 2004, approval was also granted for the modification of Condition 7.6 to read as follows:

"7.6 The applicant shall construct a 2.0m wide footpath along Station Street from Menangle Store to the railway station prior to the occupation of any units in Stage 1. The width may be reduced for short sections to retain existing trees and hedges along the footpath but only with the written agreement of Council's Engineers. The residents are to be consulted prior to construction."

On 12 May 2005, approval was granted for the further modification of this condition to read as follows:

"7.6 The applicant shall construct a 2.0m wide footpath along Station Street from Menangle Store to the Railway Station prior to the occupation of any dwellings in Stage 2. The width may be reduced for short sections to retain existing trees and hedges along the footpath but only with the written agreement of Council's Engineers. The residents are to be consulted prior to construction."

CONSULTATION

The application was referred to the following internal and external parties and their comments are summarised below

Party		Comment
Internal	Development Engineer	Has recommended that conditions 7.5 and 7.6 be amended.
External	Heritage Advisor	No response at time of writing report.
External	NSW Rural Fire Service	Response received without any specific conditions imposed

1.1 DESCRIPTION OF SITE AND SURROUNDING AREA

The site is a regularly shaped allotment located on the eastern side of Menangle Road and has an area of 8.9 hectares. The sites eastern boundary adjoins the Great Southern Railway line, while the northern boundary adjoins the southern side of the Menangle residential area. The site is mostly developed as Housing for Seniors Living and does not contain any significant stands of vegetation.

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1.2 DESCRIPTION OF DEVELOPMENT

Consent is sought for the following modifications to Development Consent I615-03:

- **Amend condition 7.5 as modified on 19 June 2008 by deleting the second paragraph.**

The applicant is proposing to have this condition amended to read as follows:

"7.5 The applicant shall construct a 2.0 metre wide shared pathway along Menangle Road between the development site and the Menangle Store. The width may be reduced for short sections to retain existing trees and hedges along the footpath but only with the written agreement of Council's Engineers. The footpath shall be a decorative surface and the residents are to be consulted prior to construction."

Applicant's Justification

The following summarise part of the Applicant's justification for the requested modification:

- a) St James Avenue has a reasonable incline from west to east, as the road climbs the hill. Elderly people seeking to walk along St James Avenue must climb that part of the hill.
- b) The land at the top of the grade in St James Avenue (Lot 37 DP 830297 and Lot 5 DP 829190) features a concrete path, skirting around the edge of the hill on which the Menangle Anglican Church is located.
- c) That pathway terminates at a high point approximately 40-50m from Riversford Close. At that point the concrete pathway changes to a rough broken track, down a steep incline. The continuation of the Council constructed pathway in this area, to provide access suitable for older persons, would require significant works, and possibly a zigzag or switchback type construction.
- d) A pathway or access way which followed the route identified in the second paragraph of third modified Condition 7.5 would introduce a much less desirable path of travel for older people (including residents of the Village) than the level pathway previously constructed from the development site along Menangle Road to the Menangle Store and in all probability would never be used by the residents of the Village.

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▪ **Deletion of condition 7.6 as modified on 22 December 2004:**

Applicant's Justification

The following summarise part of the Applicant's justification for the requested modification:

- a) A concrete footpath has been constructed from the Village to the Menangle Store. This footpath provides solid all-weather access from the Village to the Menangle Store, and to the bus stop adjacent to the store, for residents who require that access.
- b) Busabout provides a regular bus service from Menangle to Macarthur Station and to Campbelltown, and also provides a regular return trip.
- c) In addition to the Busabout service highlighted above, Durham Green Retirement Village operates Nurses2U from within the Village. Nurses2U is offered to all residents of the Village and the residents have access to this service for transport to and from, but not limited to private appointments, medical appointments and shopping appointments. Nurses2U provides transport to any resident of the Village upon request.
- d) The total distance from the Village to the railway station is approximately 1.4km. Very few elderly people, including residents of the Village, would walk that distance, particularly when a bus service is available at the entrance to the Village.
- e) Menangle Railway Station does not comply with the relevant requirements for accessible access. The station is not an accessible station.

1.3 SECTION 79C ASSESSMENT

Section 96(1a) Assessment

▪ **Is the proposal substantially the same development as that previously approved?**

The approval was for a retirement village and this remains the case. The proposal is therefore considered to be substantially the same development and thus the proposal can be considered under Section 96(1a) of the Act.

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- **Is consultation with the Minister, public authority or other approval body required?**

No such consultation is required in respect of this application.

- **Relevant Environmental Planning Instruments**

The recommendations in this report are consistent with the requirement of the Wollondilly Local Environmental Plan 1991 (LEP 1991).

The original retirement village was assessed under the provisions of SEPP 5 – Housing for Older people and People with Disability. This SEPP has since been repealed and replaced by the Seniors Living SEPP. The transitional arrangements however require consideration of the provisions in SEPP 5.

Clause 12 of SEPP 5, requires residents to have access to retail and commercial services, community and recreational facilities and a general medical practitioner. Alternatively the development must be located within 400m of public transport that provides access to these services /facilities.

The above provision suggests that a pedestrian link is required to a public transport service. In terms of the public transport, Menangle benefits from a train and bus service. The only relevant local facilities include the Menangle Store, Catholic Church and Anglican Church.

- **Wollondilly Local Environmental Plan (WLEP) 1991**

It is considered that the proposed modifications recommended in this report are not contrary to the zone objectives in Council's planning instrument.

Assessment Officer's Comments

An inspection of the existing pathway located on the eastern side of the Anglican Church has confirmed that extension of the path along Riversford Close to Station Street is problematic given the change in grade. The requirement is not a viable or safe option for use by residents of the village and it is considered appropriate to modify condition 7.5 by deleting the second paragraph.

It is recommended that condition 7.5 be amended as follows:

"7.5 The applicant shall construct a 2.0 metre wide shared pathway along Menangle Road between the development site and the Menangle Store. The width may be reduced for short sections to retain existing trees and hedges along the footpath but only with the written agreement of Council's Engineers.

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The footpath shall be a decorative surface and the residents are to be consulted prior to construction."

With regard to Condition 7.6, it is recommended that any modification of the consent should reflect the requirements of SEPP 5. In this regard the retirement village should have access to relevant services and facilities or to public transport located within 400m of the site.

The site is located approximately 450m from the bus stop adjacent to Menangle Store. The developer has completed approximately 630m of shared pathway from the Retirement Village to Menangle Store.

The non-compliance in terms of the distance between the site and the bus stop is not considered significant. Construction of pathway to Menangle railway station is not required under SEPP 5. Accordingly it is recommended that condition 7.6 be deleted.

1.3.1 PROVISIONS OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

See comments made elsewhere in this report.

1.3.2 PROVISIONS OF RELEVANT DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

The proposed amendments, the subject of this application, will have no impact on the strategies of the Greater Macarthur Land Release Investigation.

1.3.3 PROVISIONS OF RELEVANT DEVELOPMENT CONTROL PLANS

Development Consent No. I615-03 was assessed with regard for the provision of Development Control Plan No. 41 - Menangle Village (DCP 41). It should be noted that DCP 41 does not apply to the site and only applies to the area marked as the Menangle Heritage Conservation Area. The site, however, adjoins the southern boundary of the Conservation Area and the retirement village was designed to continue the existing character of the Menangle Village in respect for its heritage significance.

The DCP 41 has no provisions for design and material requirements for construction of footpaths within the verge area in respect to being sympathetic to the heritage significance.

1.6 SUBMISSIONS

The application was advertised in accordance with the requirements of Wollondilly Development Control Plan 2011 and two (2) submissions were received and all of these submissions were against the application. The content of the submissions is considered below:

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Concern	Comment
Linkage for pedestrian access to Menangle Railway Station.	Proposed amendment to Condition 7.6 will achieve pedestrian linkage to Menangle Railway Station. Future subdivisions resulting from rezoning of the adjacent land will provide the final link involving works in Stevens Road.

1.7 THE PUBLIC INTEREST

It is considered that the proposed modification is in the public interest subject to condition 7.6 being amended for the footpath to be extended along the northern side of Station Street and the condition not deleted.

FINANCIAL IMPLICATIONS

This matter has no financial impact on Council's adopted budget or forward estimates.

ATTACHMENTS

No attachments.

RECOMMENDATION

That Council determine Application to Modify Development Consent No. 010.2003.00050952.008 to amend Development Consent I615-03 relating to shared pathways to service the Retirement Village at Lot 1 DP 270706 No. 153 Menangle Road be determined in the following manner:

Condition 7.5

The applicant shall construct a 2.0 metre wide shared pathway along Menangle Road between the development site and the Menangle Store. The width may be reduced for short sections to retain existing trees and hedges along the footpath but only with the written agreement of Council's Engineers. The footpath shall be a decorative surface and the residents are to be consulted prior to construction.

Condition 7.6


Deleted.

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ATTACHMENT 2 – I615-03 – 18 APRIL 2016



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10 March 2016

Mr Chris Stewart
Director Planning
Wollondilly Shire Council
DX 26052
PICKTON NSW

WOLLONDILLY SHIRE COUNCIL

TRIM NO. **I615-03P26**

PROP. No. **11 MAR 2016**

AUTH. No.

ASSIGNED TO: **Chris**

CONFIRMATION

SOLICITORS

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Also by email: council@wollondilly.nsw.gov.au

Dear Mr Stewart,

Bonvale Enterprises Pty Limited – Durham Green Retirement Village, 153 Menangle Road, Menangle - Lot 2 DP 835196 (Lot 2)
Section 96 Application – DA 1615-03 (as modified)
Response to Council Letter Dated 29 February 2016


- We act for Bonvale Pty Limited (Bonvale) the registered owner and operator of the Durham Green Retirement Village, Menangle (Village). We are instructed by Bonvale to respond to the Council's letter dated 29 February 2016 (the Council's letter).
- First, we are instructed that our client is aware of the resolutions passed at the ordinary Council meeting held on Monday 15 February 2016, in respect of the report concerning the Village and the proposed further modification of development consent DA 1615-03, as previously modified (development consent).
- The Council's letter makes no reference to the report that was before the Councillors at the meeting on 15 February 2016. As you are aware, the Executive Summary to that report included the following staff recommendation:

"It is recommended that the consent be modified to delete the requirement to construct a shared pathway along St James Avenue to the Menangle Anglican Church, along Riversford Close to Station Street and along Station Street from Menangle Store to the Railway Station."
- In Bonvale's submission, that recommendation was entirely appropriate, given the material set out in Bonvale's modification application.

McPHEE KELSHAW PTY LTD TRADING AS MCPHEE KELSHAW

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**PE1 – Application to Modify Development Consent
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141871

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5. In response to Bonvale's modification application, the Assessing Officer concluded that the originally proposed extension of the pedestrian footpath along Riversford Close to Station Street "*is problematic given the change in grade*". The officer recommended the amendment of condition 7.5 to require the construction of a shared pathway along Menangle Road between the Village and the Menangle Store. That work was carried out by Bonvale many years ago.
6. In relation to condition 7.6, the Assessing Officer noted that the Village is located approximately 450m from the bus stop adjacent to the Menangle Store. Bonvale was also noted to have completed approximately 630m of shared pathway from the retirement village to the Menangle Store. Construction of a pathway from Menangle Store to Menangle Railway Station was noted as "*not required under SEPP 5*". The officer therefore recommended that condition 7.6 be deleted.
7. The resolution passed by the Councillors on 15 February 2016 does not address the matters recorded in the Assessing Officer's report. Rather than dealing with the application on its merits, having regard to the expert assessment of the Assessing Officer, the Councillors elected to defer the matter and to seek from Bonvale a commitment to expend funds for purposes that are not associated with the Village or with access for Village residents to appropriate services.
8. We are instructed that Bonvale notes, with considerable concern, paragraphs 2 and 3 in the Council's letter. Following discussions between Council officers and Bonvale in late 2015, Bonvale prepared and submitted the modification application, to ensure that the footpath issue could be addressed and resolved by the Council within sufficient time to allow all required occupation certificates for the current stage of the development to be issued in a timely fashion.
9. Bonvale has already entered into contracts for the sale of the units within the current stage of the Village construction (which is known to Bonvale as Stage 10). The construction of Stage 10 commenced during January 2016 and the units will be ready for occupation in November 2016.
10. We are instructed that Bonvale intends to commence construction of the final stage of the Village (which is known to Bonvale as Stage 11) in September 2016. Council officers have previously advised Bonvale that occupation certificates for the dwellings in Stages 10 and 11 will not be issued by the Council (as Principal Certifying Authority) until the footpath issue is resolved.
11. The Council is aware that Bonvale has a right of appeal to the Land and Environment Court, on a deemed refusal basis, under s97AA(b) of the *Environmental Planning & Assessment Act 1979* (EP&A Act). That appeal could be commenced forthwith, without further notice to the Council.
12. We are also instructed that Bonvale is not, on the basis of the information provided by the Council to date, prepared to meet with the Council. Please ensure that Bonvale's modification application is listed for further consideration by the Council in the business paper for the meeting to be held on 21 March 2016 and confirm within 7 days that this action will be taken.

00234923:Patterson Building Group re Durham Green Retirement Village - s96 Approval/TC:RP:141871

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday
18 April 2016

**PE1 – Application to Modify Development Consent
No.010.2003.00050952.008 – Menangle Retirement Village**

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13. If this confirmation is not given, Bonvale will file a Class 1 appeal without further notice to the Council.

Yours faithfully
McPhee Kelshaw



Trevor Cork

00234923:Patterson Building Group re Durham Green Retirement Village - s96 Approval:TC:RP:141871

**PE1 – Application to Modify Development Consent
No.010.2003.00050952.008 – Menangle Retirement Village**

YOUR REF:

• SOLICITORS

McPHEE
KELSHAW

• CONVEYANCERS

PAUL BRAZIER B.A., LL.B.

Liability Insurance 00037074
scheme approved under
Professional Standards
Legislation

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday
18 April 2016

**PE1 – Application to Modify Development Consent
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We are instructed to seek the Council's confirmation (as a condition of our client making the proposed contribution) that, once the contribution of \$20,000.00 is made by Bonvale to the Council, there will be no impediment to the Council (as Principal Certifying Authority) issuing Occupation Certificates for dwellings in the final stages of the development of the Village and that the Council will act to issue those certificates without delay, once the dwellings concerned are completed in accordance with DA1615-03 (as modified) and with the applicable construction certificates.

Finally, we note that the draft of the report to be considered by the Council at the meeting on 18 April 2016 does not refer to the bus stop which has been constructed by Bonvale at the entrance to the Village, and to the dedication of the road at the entrance to the Village as a public road. Any person reading the draft report, without knowledge of the existence of that bus stop, could reasonably conclude that the closest bus stop to the Village is located some 450 metres from the entrance, adjacent to the Menangle Store. Bonvale requests that this omission in the draft report be corrected.

Yours faithfully
McPhee Kelshaw


Trevor Cork

00237174:Patterson Building Group re Durham Green Retirement Village - s96 Approval:TC:LM:141871