



18 April 2018

Our ref: 218.113

General Manager  
Randwick City Council  
30 Frances Street  
RANDWICK NSW 2031

**ATTENTION: WILLIAM JONES**

**VIA EMAIL: COUNCIL@RANDWICK.NSW.GOV.AU**

**SUBJECT: DA-133/2018 - 27 JENNIFER STREET, LITTLE BAY  
SUBMISSION**

Dear William,

TPG Town Planning and Urban Design (TPG) has prepared this submission on behalf of our client, St Michael's Golf Club (SMGC), in relation to DA-133/2018 for 27 Jennifer Street, Little Bay. This DA seeks approval for "Torrens Title subdivision of existing site into 9 allotments". SMGC is the operator of the golf course and driving range located either side of the subject site.

St Michael's Golf Course was established in 1938 and has been in operation for 80 years. It is ranked as one of the top golf courses in New South Wales and within the top 50 across Australia. Currently, the golf course has approximately 1,200 members who make use of the facility.

It should be noted that our client, SMGC, strongly objects to this proposed development, and the purpose of this submission is to provide feedback to Council regarding the proposed development as well as to again reiterate the concerns SMGC has with the residential development of this parcel of land sandwiched between the golf course and the driving range.

A number of DAs have previously been submitted for the subject site and either refused or withdrawn. One such DA was lodged with Council on the subject site in 2016 (i.e. DA-640/2016), which sought approval for "Construction of 2x2 storey residential flat buildings comprising 34 dwellings and a basement car park for 76 vehicles, site preparation including excavation, civil and drainage works, removal of existing vegetation on site and landscaped works".

TPG did prepare a submission to DA-640/2016 on behalf of SMGC during the notification period, and most of the concerns raised within the submission are still relevant to this new DA-133/2018. These concerns are outlined again within this submission as are other issues that relate specifically to the current proposed development comprising Torrens title subdivision.

**SYDNEY OFFICE**

Suite 3a, 2 New McLean Street  
Edgecliff NSW 2027

PO Box 820  
Edgecliff NSW 2027

Telephone +61 2 9925 0444  
Facsimile +61 2 9925 0055

The Planning Group NSW Pty Ltd  
ABN 90 100 209 265

[www.tpgnsw.com.au](http://www.tpgnsw.com.au)

## 1. Key Issues

### a. Zoning

The zoning of the subject site for residential development is inconsistent with existing surrounding land uses and the proposed development for subdivision does not adequately consider the impacts likely as a result of residential development occurring in this particular location.

The subject site is zoned R3 Medium Density while the golf course and driving range to its east and west are zoned RE1 Public Recreation and bush land to the north and south is zoned E2 Environmental Conservation and E1 National Parks and Nature Reserves respectively. An extract of the Land Zoning Map for this particular locality is shown below in **Figure 1**.

There is no continuity of the subject site's residential zoning with other like zones and in fact, practically speaking, the subject site is "landlocked" by the surrounding land and its uses. Given this and the reasons identified below, the subject site's R3 zoning is considered inappropriate, and Council should consider amending the zoning to reflect surrounding uses. Nonetheless, as it stands, the proposed development represents a permissible use on the site albeit a development such as that proposed is not consistent with the character of the locality.

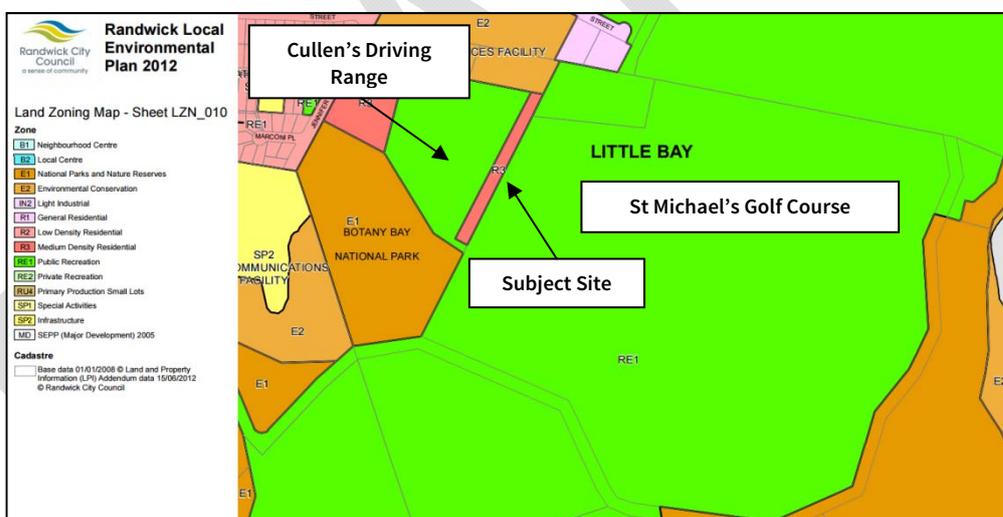


Figure 1: Land Use Zoning Map extract (Source: NSW Legislation website)

A residential zoning and subsequent residential development is highly inappropriate for the subject site given the potential for significant adverse impacts on potential new residents in this specific location resulting from the normal operations of the golf course and driving range. Residential development on the subject site is not conducive to good amenity for future residents nor is it conducive to the ongoing operations of the golf course and driving range, which have been in operation since 1938 and are well-enshrined within the local community.

As long as the subject site is zoned R3 Medium Density Residential and residential development is permissible, the issues resulting from development such as that proposed

will persist. Subsequently, serious consideration needs to be given to the rezoning of the subject site.

**b. Golf Balls**

The incidence of stray golf balls is well documented and common to all golf courses and driving ranges and not just the adjoining St Michael’s Golf Course and Cullen’s Driving Range. As stated in the Statement of Environmental Effects (SEE) prepared to accompany DA-133/2018, “...the erection of a safety fence that prevents golf balls from leaving the golf course site will be installed at the Stage 2 process”, although a concept plan is included in the DA documentation. It is acknowledged that the proposed development is an improvement on that proposed as part of DA-640/2016 where no such safety measures were included; however, it appears that the potential for stray golf balls from the driving range has been disregarded. The concept plans for DA-133/2018 show that the safety fence is only to be provided along the subject site’s eastern boundary where it adjoins the golf course and not along its western boundary where it adjoins Cullen’s Driving Range as shown below in **Figure 2**.

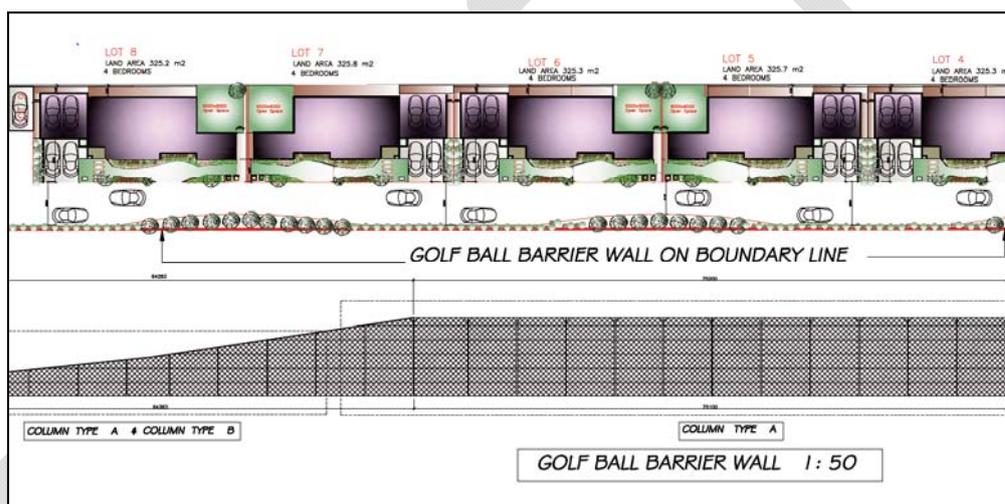


Figure 2: Site Plan extract (Source: NSW Legislation website)

The implementation of fencing or netting on the eastern side of the proposed development will protect future residents and existing users of the golf course from stray golf balls, although their provision is likely to significantly reduce the amenity for the future residents, as well as the amenity and use of the golf course for its 1,200 plus members and guests. The fact that residential safety and amenity cannot be equally achieved on the subject site is another reason why development of the subject site for residential purposes is considered unsuitable.

Notwithstanding that safety fencing/ netting is proposed to be provided as part of Stage 2, and the access road proposed along the eastern boundary provides an increased setback, **Photographs 1 and 2** show the subject site’s close proximity to the golf course and driving range. Residential developments on golf courses are normally setback much further from the fairway than that proposed in the current application for the subject site (i.e. DA-133/2018), albeit the location of the subject site sandwiched between the St Michael’s Golf Course and Cullen’s Driving Range both zoned for public recreation makes this impossible to achieve. This again reiterates the need for serious consideration to be given to the rezoning of the site.



Photograph 1: View of the Hole 1 fairway looking south from the car parking area of the St Michael's Golf Course (TPG)



Photograph 2: View of the driving range facility and subject site looking south-east from the driving range (TPG)

### c. Noise

The golf course and driving range both have the potential to generate a range of disruptive sounds and nuisances that are incompatible with residential development such as the following:

- Noise generated by participants teeing off;
- Conversational noise generated by patrons;
- PA announcements which occur at regular intervals on weekdays and weekends, often starting quite early in the morning and continuing well into the evening; and
- Traffic noise generated by golf course users and service vehicles.



The issue of noise from the existing development in the area is of particular concern to the proposed development given its proximity to the club house, course, car park and driving range.

Although it is noted that DA-133/2018 is for Torrens title subdivision of land into 9 allotments only, the lots resulting from the subdivision are being created specifically for residential development. SMGC has legitimate concerns with the location of residential redevelopment between the golf course and driving range and the impacts this could have on its ongoing operations. Of particular concern is the potential for new residents to complain about noise and other issues that are as a result of the normal operation of the golf course and driving range. SMGC has already received evidence of this as it is receiving noise complaints from residents in developments to the north despite the golf course having been operating for 80 years. In response to these complaints SMGC has made a number of operational changes, including reducing the volume of the PA system and redirecting speakers away from these developments. The Club has also looked at ways of altering their usual lawn mowing requirements.

In no way is this a suggestion that SMGC support the proposed development. However, if any development was to be supported on the subject site by Council in the future, SMGC would seek the inclusion of a condition of consent for the future residential development that its juxtaposition to an existing operational golf course and driving range that exempts residents from being able to complain either to SMGC or Council about noise or any other operational matters that would be expected as a result of living adjacent to a golf course.

In the event that DA-133/2018 is approved and the applicant progresses with Stages 2 and 3, it would be expected that an acoustic report be prepared by a suitably qualified consultant to assess potential noise impacts from the proposed development and surrounding land uses, as well as identify any measures incorporated in the design to mitigate and manage these impacts.

#### **d. Access and Parking**

The subject site is effectively landlocked and a proposal to increase the number of lots that are in this situation would be irresponsible and inconsistent with a good planning outcome. The subject site does not have direct access to Jennifer Street which is 300 metres to the west. The only way to access the subject site would be a right-of-carriageway over the unnamed roadway between Jennifer Street and the golf course carpark at its eastern end. This roadway and the golf course and driving range are Crown owned land leased by SMGC. The access road between Jennifer Street and the golf course carpark is a narrow bitumen roadway that to date has only ever been used to access the carpark for use by the golf course. It is unlikely to satisfy any requirements to act as a more formal residential access road. Any approval for development on the subject site would need to ensure that this roadway was formalized and upgraded to ensure permanent vehicle and pedestrian access.

The SEE notes that “[n]egotiations with the St Michael’s Golf Course and the Cullen’s Driving Range on behalf of the Crown have been uneventful to date in securing any formal rights of carriageway”. In light of this it is the intention of the applicant to submit an application under section 88K of the *Conveyancing Act 1919* to the NSW Supreme Court to obtain the required access, and not the Land and Environment Court (LEC) as suggested in the SEE for DA-133/2018.



It is noted Section 88K allows the NSW Supreme Court to make an order imposing an easement over land if the easement is reasonably necessary for the effective use or development of other land that will have the benefit of the easement if is satisfied of the following:

1. Use of the land benefiting from the easement is not inconsistent with the public interest;
2. The owner of the land to be burdened by the easement and each other person having a estate or interest in that land that evidenced by an appropriately registered instrument can be adequately compensated for any loss or disadvantage arising; and
3. All reasonable attempts have been made by the Applicant to obtain the easement or an easement having the safe effect but these attempts have been unsuccessful to date.

Given the various reasons identified and discussed in detail throughout this submission it is considered that the proposed development is inconsistent with the public interest, and therefore would not be able to adequately satisfy the provisions of section 88K summarised above.

The SEE indicates that the applicant intends to appeal DA-133/2018 to the LEC on a deemed refusal. It is again questionable whether an approval can be granted by the LEC without permanent vehicle and pedestrian access to the proposed development being confirmed, noting that such as decision would be completely reliant on an entirely separate court decision. If the applicant chooses to proceed with an appeal to the LEC on a deemed refusal, it would be considered premature to lodge such an appeal until a time when a right of carriageway has been successfully obtained by way of section 88K of the Conveyancing Act. Noting for the various reasons identified in this submission that such an achievement is unlikely.

The plans submitted with DA-133/2018 show an internal road proposed to access each of the lots. From these plans it appears street parking cannot be accommodated on the internal road. This raises the questions of where visitors to the proposed development would park. The golf course and driving range car parks are for use by the patrons of these facilities only and would not in any circumstances be available for use by visitors of the proposed development. This means that the only alternative for visitor car parking is on Jennifer Street whereby visitors would have to walk along the access road to the golf course car park. Given the narrowness of this access road and the absence of a footpath as shown in **Photograph 3** below, this alternative is not considered a safe or viable option for visitor car parking. Its lack of safety is further exacerbated by the absence of lighting along either side of the access road.



Photograph 3: View of the access road between Jennifer Street and the golf course car park looking west (TPG)

The concept plans submitted with the DA also show the collection point for the waste bins. It appears as though a truck will have to enter the proposed internal road to collect waste. Given the narrowness of the subject site and the proposed subdivision and road layout, waste collection trucks will be required to complete a three-point turn at the end of the road. Alternatively, the waste collection trucks may have to reserve along the length of the road. For safety reasons this is considered to be an unacceptable outcome for the site and seeks to highlight further the inappropriateness of the subject site's current zoning for residential purposes.

**e. Emergency Services**

In the event of an emergency such as a fire there is no indication in any of the documentation submitted to Council with the DA as to where residents of the proposed development would congregate. The congregation of residents on the golf course, driving range or golf course car park is not an acceptable solution and would also be prevented by fencing or netting, which is considered necessary to protect residents of the proposed development from stray golf balls.

**f. Services**

The subject site does not currently have existing access to any key infrastructure services. An easement for services would be required over the Crown land similar to the right of carriage way. As stated in the SEE it is the applicant's intention to have these easements and right of carriageway imposed by the NSW Supreme Court under section 88K of the Conveyancing Act. For the reasons identified throughout this submission such a court approval is considered unlikely and seeks to highlight the inappropriateness of the site for residential development.

### g. Flora, Fauna and Biodiversity

A report prepared by Anne Clements & Associates Pty Ltd titled 'Addressing environmental issues raised by Council' dated 6 March 2018 accompanies the DA as identified in the SEE. This report; however, has not been made available to the public online via on Council's DA tracker.

There are known communities of Eastern Suburbs Banksia Scrubs (ESBS) in this locality. The SEE states that the proposed development is "not likely" to be a significant impact on the ESBS; particularly as according to the author of the SEE no ESBS was recorded on the subject site. It is assumed such conclusions are based on the findings of Anne Clements & Associates' report, but as this report has not been made publically available it is difficult to confirm. These conclusions should be reviewed independently and appropriately by a qualified expert/s for inputs into Council's assessment and internally by the relevant experts within Council to confirm that the proposed development does not have any adverse impacts on ESBS. Especially given that the subject site may in fact be home to significant flora and/or fauna as part of the site is identified as land with high biodiversity value as shown in **Figure 3**. The subject site is land to which *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* applies and therefore the Biodiversity Offset Scheme may apply to DA-133/2018. The SEE as submitted to Council with the application for subdivision is silent on this matter. Furthermore, it is unknown if Anne Clements & Associates' report also addresses this matter.

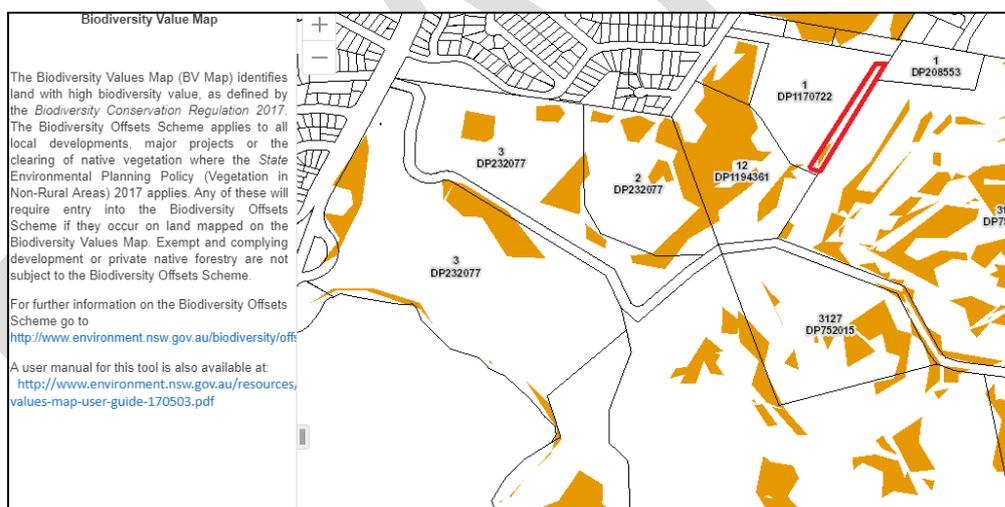


Figure 3: NSW Government Biodiversity Value Map (subject site outlined in red) (Source: NSW Government/TPG)

### h. Heritage

It is noted that the subject site is not an identified heritage item or conservation area; however, remnants of old cobblestone road are known to transverse the subject site. A statement of heritage impact should be prepared by a suitably qualified consultant to ensure that land containing potential items of heritage significance is not subdivided for residential purposes. Again, it would be expected that Council would engage relevant independent experts to consider the conclusions of such a report to be requested of the Applicant by Council.



### ***i. Stormwater***

The subject site currently sits sandwiched between the golf course and driving range, which are accessed off an existing unnamed road on land leased to the SMGC by the Crown. This unnamed road is sealed but does not have any guttering or stormwater infrastructure. In addition to natural overland flow paths that occur in the locality and impact the golf course, stormwater run-off also enters the unnamed road and flows east across the golf course. This run-off creates further significant overland flow issues that impact on SMGC's ongoing operations.

It is noted that stormwater plans for DA-133/2018 have been made publically available online. The issue of stormwater is critical to overland flows and the stormwater plans should take into account the extent of the water that travels across the course from Jennifer Street. The issue of stormwater is also critical to the water management systems in place for the golf course.

Although it is understood that DA-133/2018 seeks approval for the subdivision of land only, in the event that the subdivision is approved, development could then occur on the whole site. This will result in a loss of permeable land and therefore potentially increase run-off, both from natural overland flows that already occur in the area and during rain events. SMGC requests that Council considers the proposed development's accumulative impact of stormwater run-off on the land surrounding the subject site given the existing stormwater issues. It would reasonably be expected that any future development on the subject site include an integrated stormwater management system that ensures development does not result in impacts on the adjacent golf course and driving range as well as other surrounding areas. The solution should be demonstrated at this early subdivision stage to demonstrate that any future development proposed on the subject site can be accommodated in terms of stormwater.

It also appears that no stormwater modelling has been undertaken as part of the proposed development. Given the significant implications that future residential development could have on the stormwater management systems for the golf course and driving range facilities, stormwater modelling should be requested from the applicant if the assessment is to proceed.

## **2. Conclusion**

As a result of the issues raised it is apparent that the proposed development on the subject site is incompatible with the surrounding existing surrounding land uses, including St Michael's Golf Course directly to the east and Cullen's Driving Range directly to the west. It is also not in the public interest to see this slither of R3 zoned land without permanent vehicle or pedestrian access be developed for residential purposes as is proposed in DA-133/2018. This is in addition to the potential for the proposed development to result in adverse impacts in terms of flora, heritage and stormwater on the subject site and the locality.

The subject site is a long narrow parcel of land that as per section 4.15 of the *Environmental Planning and Assessment Act 1979* is considered to not be suitable for the proposed development.

As long as the subject site remains zoned R3 Medium Density Residential these issues will arise. Serious consideration needs to be given to the rezoning of the subject site to a zone



that is more consistent with the surrounding land use zones and uses which include public recreation.

Should you have any queries or require clarification on any of the matters raised in this submission to DA-133/2018 please do not hesitate to contact the undersigned on 02 9925 0444.

Yours sincerely

**TPG Town Planning and Urban Design**

A handwritten signature in black ink that reads "H. Deegan." The signature is written in a cursive, flowing style.

Helen Deegan  
Director of Planner

DRAFT