

20 February 2017

Planning Panel Secretariat
Level 22, 320 Pitt Street,
SYDNEY NSW 2000

Attention: Suzie Jattan

Dear Sir/Madam

Response to Briefing Meeting held 9 February 2107
Re: 2013HCC016 – DA/1284/2013

Thank you for the opportunity to address the Panel on 9 February and to hear of its concerns regarding our long standing Development Application lodged with the Lake Macquarie City Council at Myall Road, Hillsborough. I appreciate the chance to confirm the reasons why this application is delayed and seek to establish our bon a fides in asking for it to remain on foot.

The application has been delayed as a consequence of two compounding factors:

1. The refusal of Council to accept parts of the site as an environmental offset due to concerns about public liability perceived to arise from shallow mine workings and
2. Our ability to identify and then acquire an alternative offset site in the Local Government Area that might satisfy Council Policy.

Whilst the delays are regrettable and this will likely necessitate re-advertise the application and submitting a supplementary flora and fauna assessment, we believe withdrawal and re-applying will lead to longer delays and more costs that will impact land prices.

We note, as confirmed by Mr Field that at the time of deferring the application we had almost reached agreement with Council on all subdivision matters except environmental offsetting. The last step for Council to complete consideration was to accept our Planning Agreement offer to provide offsets and publically exhibit.

Since Council refused our onsite offset offer we have been seeking to identify other Crown land within the Local Government Area that has comparable species suitable for offsetting purposes. A site has been identified and surveyed by Conacher Environmental that has the appropriate species and we are now in the process of acquiring that land under the Lands Acquisition (Just Terms Compensation) Act. A process which requires Public Notice of our intent to acquire after Ministerial approval to acquire is given.

We currently await approval of the Ministers for Planning, Primary Industries and

Community Services, but this approval has been delayed due to changes to both the Planning and Community Services portfolio's.

We anticipate Ministerial approval within approximately 30 days following which public notification can proceed and then gazettal of the acquisition within another 60 days.

This timeframe will mean we expect to put an offsetting proposal to Council in June 2017, supported by an updated flora and fauna assessment on the subject site, together with an assessment of the proposed offsetting site. Should this site be acceptable to Council a formal Planning Agreement offer will be made to secure the Biodiversity solution for the proposal and allow public exhibition to complete the assessment.

Public exhibition of the Planning Agreement can also provide an opportunity to re-advertised the application to allay any concerns about the delay since the original DA notification. We note the original notification raised only issues that Council and the applicant were able to fully address by amendments or provision of further information.

In addition, we do not believe the impending expiry of the Site Compatibility Certificate (SCC) for the site creates grounds for withdrawal. Advice obtained from the Department of Planning confirms a new application can be made, and if approved, will ensure legitimacy of any DA Consent, should the expiry date pass prior to approval. We now propose to lodge for a new SCC as we expect a Consent will not pre-date the current SCC expiry in September 2017.

We note also that the Department of Planning advises that expiry of a SCC after subdivision approval but before any development applications are made or approved for construction of housing on the developed land does not render those applications invalid. We anticipate Council and the Department will need to converse on this issue and we will encourage this to occur.

In conclusion, we submit that withdrawal and re-application has the potential to cause only further delays to any possible approval and create increased costs to delivering housing on the site. The application currently has the full support of UrbanGrowth NSW and the Department of Primary Industry; which together manage the Crown Land Homesite Programme (CLHP) for Government, which includes this project. The CLHP is aimed at identifying and delivering affordable housing projects in regional areas and this site not only meets that criteria but has also created significant interest from local residents keen to acquire land.

We ask the Panel to grant a further 3 months' postponement of the application to allow us time to acquire the offset land, make application for a new SCC and advance an offset proposal for the site with Council.

Yours sincerely,



Charles Bartlett
Development Director