

# HUNTER & CENTRAL COAST JOINT REGIONAL PLANNING PANEL

Meeting held at Lake Macquarie City Council on Thursday 17 December 2015 at 5.00 pm

Panel Members: Garry Fielding (Chair), Kara Krason, John Colvin, Barry Johnston and Justin Hamilton

Apologies: None - Declarations of Interest: None

## Determination and Statement of Reasons

**2013HCC021 – DA1774/2013 – Lake Macquarie City Council**, Mixed use development, Residential flat buildings, Small lot housing, Stormwater management facility, Roads and subdivision, 142, 144 and 146 Dudley Road, Whitebridge and 2, 2A and 4 Kopa Street, Whitebridge

**Date of determination:** 17 December 2015

### **Decision:**

The panel resolved to grant Deferred Commencement Consent to the development application as described in Schedule A pursuant to section 80(3) of the *Environmental Planning and Assessment Act 1979*.

### **Panel consideration:**

The panel considered the matters listed at item 6, the material listed at item 7, and the matters observed at the site inspection listed at item 8 in Schedule 1.

### **Reasons for the panel decision:**

The Panel noted the proposal is permissible with consent under the applicable local environmental planning instrument, Lake Macquarie LEP 2004, in the zone, and provides for medium density housing within and adjoining a commercial centre.

The decision resulted in design changes to lower the height of the proposed building along the site's Dudley Road frontage to predominantly 3 storeys through the removal of dwellings A301 and A302 and the redesign of other dwellings within Lot 1. While dwelling B201 at the south eastern end of the proposed Dudley Road building is contained within a fourth level, its height has been reduced by 1.1 metres and its design character retains the roofscape form preferred by the Panel at its meeting of 23 July 2015. Whilst the Panel acknowledged there were height exceedances above the 10m height plane, it was considered the overall design merit of the building on Lot 1 supported the roof design element penetrating this plane.

Building setbacks for dwellings 401 and 410 on Lot 4 from the site's north western boundary were considered to be inadequate and therefore required to be increased from 1.5m to a minimum of 3m.

The proposed open space within Lot 25 was determined to be an inappropriate location for public open space purposes and it was therefore determined that any public open space would be better located contiguous with the drainage reserve in the north eastern corner of the site. A significant benefit of this outcome is that it will retain eight trees, which were otherwise considered under threat. This outcome was considered necessary to achieve the longer term retention of this stand of vegetation as well as supporting a further extension of the Squirrel Glider corridor.

Significant discussion took place regarding the need for a species impact statement for the development under section 5A of the Environmental Planning and Assessment Act. In this regard, the Panel was satisfied that the Council's assessment adequately determined that a species impact assessment was not required, as the Council's seven part test determined that the proposed development would not be likely to have a significant effect on threatened species, specifically the local population of squirrel glider.

Further detailed designs plans were considered necessary to support the application with regard the public domain works resulting in a more efficient parking layout within and adjacent to Dudley Road.

On these bases, the Panel unanimously decided to grant Deferred Commencement Consent under section 80(3) of the Environmental Planning and Assessment Act 1979 to the proposed development. This consent is granted with the deferred commencement conditions of consent included in Schedule A which are summarised as follows:

- maximum number of dwellings over the total development site are not to exceed 89;
- reconfiguration and relocation of the four dwellings on proposed Lots 21 – 24, inclusive, to Lot 25;
- relocation of the public open space to the area shown on plan as Lots 21 – 24 and its dedication to the Council at no cost to the Council;
- retention of vegetation shown on the Tree Retention Plan as trees 18 – 25 and 27, inclusive;
- provision of a revised landscape plan, compliant with RFS requirements and general terms of approval in respect of the public open space area, which shall include a children's playground and include a five year

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management plan to the Council's satisfaction;

- minimum 3m landscaped setback between any building or structure on Lot 4 and the north west boundary.
- further details regarding public domain works fronting Dudley Road including parking, kerb and gutter, landscaping, drainage, shared path and the Whitebridge Square.

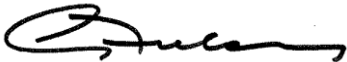




The consent is not to operate until the consent authority is satisfied as to any matter specified in the deferred commencement conditions. The Deferred Commencement Consent conditions shall be satisfied within six months of this determination.

The Deferred Commencement Consent conditions also resulted in amendments to several conditions of development consent. Conditions 90 and 91, from the originally drafted conditions accompanying the assessment report, are deleted as a result of the changes to the development and the Deferred Commencement Consent conditions, Condition 54 amended in relation to car parking and allocation of spaces and relevant conditions amended to reflect the changes to Lots 21 to 25 inclusive and associated timing of works.

It was acknowledged that, as a result of the Deferred Commencement Consent conditions, there may be a need for Council staff to undertake amendments to the current drafted conditions of consent. However, these amendments will only apply as required to ensure complete consistency with the Deferred Commencement Consent conditions.

**Conditions:** Consent via a Deferred Commencement Consent, subject to the conditions provided in Schedule A.

### Panel members:

		
<b>Garry Fielding (Chair)</b>	<b>John Colvin</b>	<b>Kara Krasen</b>
		
<b>Justin Hamilton</b>	<b>Barry Johnston</b>	

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## SCHEDULE 1

1	<b>JRPP Reference – 2013HCC021, LGA – Lake Macquarie City Council, DA/1774/2013</b>
2	<b>Proposed development:</b> Mixed use development, Residential flat buildings, Small lot housing, Stormwater Management Facility, Roads and Subdivision.
3	<b>Street Address:</b> 142, 144 and 146 Dudley Road, Whitebridge and 2, 2A and 4 Kopa Street, Whitebridge.
4	<b>Applicant/Owner: (Applicant)</b> SNL Building Constructions Pty Ltd, <b>(Owner)</b> SIMHIL Living Pty Ltd.
5	<b>Type of Regional development:</b> Development has a capital investment value of more than \$20 million.
6	<b>Relevant mandatory considerations</b> <ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ Environmental Planning and Assessment Act 1979</li> <li>○ State Environmental Planning Policy 1 – Development Standards (SEEP) 1</li> <li>○ State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)</li> <li>○ State Environmental Planning Policy (BASIX) 2004</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ Lake Macquarie Local Environmental Plan 2004</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004)</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Regulations: <ul style="list-style-type: none"> <li>○ Environmental Planning and Assessment Act Regulation 2000</li> </ul> </li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.</li> <li>• The suitability of the site for the development.</li> <li>• Any submissions made in accordance with the EP&amp;A Act or EP&amp;A Regulation.</li> <li>• The public interest.</li> </ul>
7	<b>Material considered by the panel:</b> <ul style="list-style-type: none"> <li>• At the meeting on 23 July 2015, the decision of the Panel was to defer determination of the application pending the submission of additional plans and details. The applicant was requested to provide the following in relation to the redesign of the proposal: <ol style="list-style-type: none"> <li>1. Deletion of dwellings 401 &amp; 410 on Lot 4 to provide greater building separation between the development and adjoining land. Additional landscape screening is to be provided in this setback.</li> <li>2. Deletion of the fourth storey dwellings on Lot 1 (A301, A302 and B201).</li> <li>3. Redesign of apartments A101, A102, A201 and A202 to create a minimum setback of 7 metres from the rear of the maisonette apartments, resulting in the deletion of one dwelling on each floor in this location.</li> <li>4. Redesign of the roof form of the building on Lot 1 (incorporating the changes in 3 above) to maintain the roofscape form of the current design.</li> <li>5. Additional details being provided regarding the proposed mechanism to deliver and manage the proposed open space on Lot 25 as publically accessible open space.</li> </ol> </li> <li>• Supplementary report, recommended draft conditions of consent, amended plans of development, summary of submissions, concurrence from Department of Planning, Mine Subsidence Board General Terms of Approval, NSW Rural Fire Service General Terms of Approval, Council's ecology assessment, Squirrel Glider Peer Review, Submissions by Dr Clulow, Report to HCCJRPP dated 23 July 2015, submissions to the Council, Addendum Advice.</li> <li>• Verbal submissions heard at the panel meetings of 23 July 2015 and 17 December 2015.</li> </ul>
8	<b>Meetings and site inspections by the panel:</b> 23 July 2015 - Site Inspection and Final Briefing. 17 December 2015 – Final Briefing Meeting.
9	<b>Council recommendation:</b> Approval

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10	<b>Draft conditions:</b> Attached to Council assessment report and as amended by the Panel. Final set incorporating deferred commencement conditions and amendments provided at Schedule A.
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