

## RECORD OF DEFERRAL

### HUNTER AND CENTRAL COAST JOINT REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	24 May 2018
<b>PANEL MEMBERS</b>	Jason Perica (Chair), Cr. Anne Sander, Cr. Mark Lyons, Kara Krason and Michael Leavey
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Bob Pynsent has declared a conflict of interest as he voted on the Planning Proposal at the Ordinary Council meeting on 22 January 2014

Public meeting held at Cessnock Council Chambers on 24 May 2018, opened at 1:30 pm and closed at 3.30pm.

#### MATTER DEFERRED

2016HCC069 – Cessnock – 8/2016/557/1 AT 1058, 1054 & 1184 Wine Country Drive, Lovedale (AS DESCRIBED IN SCHEDULE 1)

#### PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to defer determination of the development application.

The decision was unanimous.

#### REASONS FOR DEFERRAL






The reasons for the decision of the Panel were:

- While the Panel was conceptually and strategically supportive of the use and the approach to staging, and favourably predisposed to grant approval, there was inadequate certainty regarding giving effect to the concept approval, particularly as key aspects relevant to the future development of the site were not satisfactorily resolved and documented, which is important as future development must be consistent with the concept approval.
- The proposal failed to meet the requirements of Clause 6.3 of Cessnock Local Environmental Plan 2011, and the matters required to be addressed in that Clause provide an important framework and guidance for the future assessment of Development Applications, and to ensure appropriate development of the site.
- While the approach to approval as recommended was understood, as it allowed practical subdivision while further matters of detail are resolved, these matters of detail are important to resolve prior to approval, particularly where the subdivision pattern enshrines the concept development layout, specific land uses and maximum development yield.
- It is in the public interest for future owners and purchasers of lots to have a development application and approval which provides greater certainty regarding the future development of the site.
- Further confirmation and clarification was warranted regarding permissibility in the zone, as the site is neither currently, or in the future, on “one parcel of land”.

#### TERMS OF THE DEFERRAL

The development application was deferred to allow:

1. Council staff provide updated referrals and seek advice from key agencies regarding giving effect to the whole development subject of the Staged DA, including: Hunter Water and/or relevant agency responsible for the on-site waste water solution (which should include a preferred conceptual solution, not options); RMS (regarding road access taking into account entry location identified on the concept plan, the proposed concept land uses and yields) and what matters need to be resolved by when to enable the development to proceed and be serviced); DPI (regarding water impacts to and from the proposal) and OEH (regarding fauna and flora impacts and the proposed offset solution). While not all matters need to be resolved in detail at this stage, there needs to be a framework that stipulates what pre-conditions need to be met at what stage of the development, to a degree of certainty to enable the development to proceed. This is expected to need iterative involvement of Council staff, the proponent and the relevant agencies.
2. The applicant to submit details to comply with Clause 6.3 of Cessnock Local Environmental Plan 2011. In terms of these matters: the staging plan shall include details of infrastructure provision and timing linked to the staging; the transport/road solution shall indicate the hierarchy of road access and sections to show width of roads, footpaths and any street parking; the urban design guidelines could use the adjoining "Vineyards DCP" as a guide; and commercial uses should include measures to ensure destinational and independent retailing is not provided. The applicant shall also provide the Aboriginal Management Plan and advise of the current status of negotiations with the LALC. All this information shall be provided to Council within 2 months of the publishing of this decision. If the timetable is not able to be met, another option available for the applicant is withdrawal of the DA and lodgement of a new DA with the requisite information.
3. Council staff shall provide:
  - a. Written clarification that the proposal meets the definition of an "Integrated Tourist Development (noting the existing site is not on one lot and noting the proposed subdivision); and
  - b. An assessment report addressing the above matters as soon as practicable, and within 6 months; and
  - c. A briefing to the Panel on the progress of the matter after 3 months

PANEL MEMBERS	
 Jason Perica (Chair)	 Kara Krason
 Michael Leavey	 Anne Sander
 Mark Lyons	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016HCC069 – Cessnock – 8/2016/557/1
2	PROPOSED DEVELOPMENT	Staged development – integrated tourist development in seven stages proposing an 18 hole golf course, 50 room hotel, 250 serviced apartments, 300 residential lots and ancillary function centre & Aboriginal Heritage Centre, retail & food outlet and spa & recreation facilities – masterplan approval and stage 1 – four lot community title subdivision
3	STREET ADDRESS	1058, 1054 & 1184 Wine Country Drive, Lovedale
4	APPLICANT/OWNER	Capital Hunter Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy No 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy No 44 – Koala Habitat Protection</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ Cessnock Local Environmental Plan 2011</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Cessnock Development Control Plan 2010</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</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 <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 8 May 2018</li> <li>• Written submissions during public exhibition: three (3)</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ On behalf of the applicant – Joshua Real</li> </ul> </li> </ul>
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Site inspection on 24 May 2018</li> <li>• Final briefing meeting to discuss council's recommendation, 24 May 2018, 12:45pm. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Jason Perica (Chair), Kara Krason, Michael Leavey, Anne Sander and Mark Lyons</li> <li>○ <u>Council assessment staff</u>: Kristen Wells and Richard Forbes</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report