

| <b>Report to The Sydney South West Planning Panel</b> |  |
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| <b>JRPP No</b>  | 2016SYW110 DA  |
| <b>DA Number</b>                                      | 010.2015.00000935.001  |
| <b>Local Government Area</b>                          | Wollondilly Shire Council  |
| <b>Proposed Development</b>                           | Demolition of existing structures, bulk earthworks, remediation of land, staged residential subdivision to create 425 lots, 4 reserves, 1 residue lot, drainage infrastructure, landscape works and vegetation clearing.   |
| <b>Street Address</b>                                 | 1-41 Marsh Road, Silverdale  |
| <b>Lot and DP</b>                                     | Lots 1301, 1302, 1303 and 1304 in DP 1236986   |
| <b>Applicant:</b>                                     | Simba Developments Pty Ltd   |
| <b>Owner:</b>   | Simba Developments Pty Ltd   |
| <b>Number of Submissions</b>                          | <p>On 2 March 2016, the development application was advertised for a period of 30 days. A total of fourteen (14) submissions were received by Council.</p> <p>On 17 August 2016, the development application was amended by the applicant and re-advertised for a period of 30 days. A total of nine (9) submissions were received to the re-advertised application.</p> <p>On 19 December 2016, Wollondilly Shire Council resolved to make a detailed submission to the Planning Panel opposing the development in its current form.</p> <p>In total there are 24 submissions received for this development application.</p>  |
| <b>Recommendation</b>                                 | Approval   |
| <b>Regional Development Criteria</b>                  | CIV > \$20M  |
| <b>List of all relevant matters for consideration</b> | <ul style="list-style-type: none"> <li>• Environment Protection and Biodiversity Conservation Act 1999 (Cth)</li> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Environmental Planning and Assessment Regulations 2000</li> <li>• Contaminated Lands Management Act 1997</li> <li>• Threatened Species Conservation Act 1995</li> <li>• Native Vegetation Act 2003</li> <li>• National Parks and Wildlife Act 1974</li> <li>• Roads Act 1993</li> <li>• Rural Fires Act 1997</li> <li>• Water Management Act 2000</li> <li>• State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No 44 — Koala Habitat Protection</li> </ul> |

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|  | <ul style="list-style-type: none"> <li>• State Environmental Planning Policy No 55—Remediation of Land</li> <li>• State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011</li> <li>• Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2—1997)</li> <li>• Wollondilly Development Control Plan 2016 <ul style="list-style-type: none"> <li>○ Volume 1 – General</li> <li>○ Volume 2 – Urban Release Areas</li> <li>○ Volume 3 – Subdivision of Land</li> </ul> </li> <li>• Wollondilly Developer Contributions Plan 2011</li> <li>• Draft Western City District Plan</li> <li>• Wollondilly Dedication of Land Policy</li> <li>• Wollondilly Planning Agreement Policy.</li> </ul> |
| <b>Integrated Development – Section 91 of the Environmental Planning and Assessment Act 1979</b> | <p>The application is Integrated Development in accordance with the provisions of Section 91 of the Act in relation to:</p> <ol style="list-style-type: none"> <li>1. an approval under s91 of the <i>Water Management Act 2000</i></li> <li>2. an authorisation under Section 100B of the <i>Rural Fires Act 1997</i></li> <li>3. a permit under Section 90 the <i>National Parks and Wildlife Act 1974</i>.</li> </ol>   |

## 1. BACKGROUND

- 1.1. The Panel, on 18 June 2018, considered the above report (JRPP ref. 2016SYW110 DA) for the demolition of existing structures, bulk earthworks, remediation of land, staged subdivision to create 425 lots, 4 reserves, 1 residue lot and construction of associated civil and stormwater drainage works, landscape works and vegetation clearing (see **Attachment 1**).
- 1.2. The Panel raised issues regarding the ecological significance of the site, particularly the future use and management of the E2 Environmental Conservation zoned land and the status of the voluntary planning agreement offered by the Applicant.
- 1.3. The Panel subsequently resolved to defer determination of the matter pending submission of additional information on the following matters (see **Attachment 2**).
  - (a) *The staff report advised that a proposed voluntary planning agreement offered by the Applicant (VPA) relevant to the provision of infrastructure essential to the proposed development has yet to be exhibited and has not yet been approved by the Council. The Panel is aware that it cannot refuse to grant development consent on the grounds that a planning agreement has not been entered into in relation to the proposed development or that the developer has not offered to enter into such an agreement (see s.7.7(2)( previously s.93I of the EP&A Act). However, the Panel was of the view that the VPA that has been offered by the Applicant ought to be exhibited, and its status then reported on, before the DA is finally determined.*

- (b) *Future use and management of the E2 zoned bushland, including:*
  - (i) *Whether any aspect of the use, management or preservation of the bushland within the E2 zone (an any associated vegetation management plan) is part of the development proposed by the DA or justification for that development or not,*
  - (ii) *The proposed biobanking arrangement to the extent it is relied upon as justifying the ecological impacts of the development,*
  - (iii) *The application of relevant legislation and relevant savings and transitional provisions,*
  - (iv) *The operation of any applicable conditions of consent (see proposed condition 7 for example), and,*
  - (v) *The relevance of any proposed or adopted voluntary planning agreement.*
- (c) *Cumulative impacts of this and other developments upon the intersection of Silverdale Road and Greendale Road/Mulgoa Road (possibly with reference to any relevant assessment conducted at the rezoning stage).*

## **2. ADDITIONAL INFORMATION**

2.1 A consolidated response to the issues raised by the Panel is in Attachment 3 and it is summarised below.

- (a) It has been decided by the Panel Chair and communicated to Council through the Panel's Secretariat that this report does not need to detail the final consideration and endorsement by Council of the exhibited VPA. It is understood that the matter can instead be dealt with via a consent condition, which is now included in the draft consent that accompanies this report. As per section 7.7(3) (previously section 93(i)) of the EP&A Act) the VPA is conditioned to be in accordance with this draft consent.
- (b) The draft VPA was publicly exhibited between 23 July 2018 and 20 August 2018. No written submissions were received. The VPA will be reported to the next available Council meeting.
- (c) The applicant provided Council with the information regarding a proposed pedestrian linkage in April 2017. Whilst there are merits for the provision a pedestrian facility across Production Avenue, provision of a pedestrian path within the road reserve beside Warradale Road to provide passive surveillance is considered more desirable.
- (d) The E2 Environmental Conservation zoned land (the site subject to Biobanking Agreement), embellishment and contributions for maintenance are included in the VPA. The VPA includes dedication of Biobanking land to Council.

- (e) Approval of the development application is not dependent on the E2 Environmental Conservation zoned land which is the subject of Biobanking Agreement No 328.
- (f) Council will only accept dedication of the E2 Environmental Conservation zoned land subject to the costing for the management of the biobanking site being satisfactory and the agreed Total Fund Deposit is paid into the trust funds of Office of Environment and Heritage. Once ownership is transferred to Council, Council will manage the site in accordance with the terms of the Biobanking Agreement.
- (g) The following legislations were considered as part of the assessment:
- Threatened species Conservation act 1995 (replaced with the Biodiversity Conservation Act 2016)
  - Native Vegetation Act 2003 (replaced with the Local Land Services Act 2013 and the Biodiversity Conservation Act 2016)
  - Noxious Weeds Act 1993 (replaced with the Biosecurity Act 2015)
  - Fisheries management Act 1994
  - Water Management Act 2000
  - Environment Protection & Bio-Diversity Conservation Act 1999 (Commonwealth)
- (h) The traffic study undertaken by TDG in 2016 concluded that the road network in Silverdale has high level of reserve capacity to cope with the additional traffic volume generated by the development. Broader upgrade of Silverdale Road is within Council's current S94 plan. Strategic review of these upgrades is due to commence in 2018/19.

### **3. RECOMMENDATION**

- 3.1 That JRPP No. 2016SYW110 (DA No. 010.2015.00000935.001) for the demolition of existing structures, bulk earthworks, remediation works and staged residential subdivision including 425 lots, 4 reserves, 1 residue lot, drainage infrastructure, landscape works and vegetation clearing at Lots 1301, 1302, 1303 and 1304 in DP 1236986 1-41 Marsh Road Silverdale be approved by the Sydney Western City Planning Panel, subject to the draft Notice of Determination provided at Attachment 4.