

DETERMINATION AND STATEMENT OF REASONS

SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	17 September 2018
PANEL MEMBERS	Justin Doyle (Chair), Nicole Gurran, Bruce McDonald, Judy Hannan and Peter Wright
APOLOGIES	Nil
DECLARATIONS OF INTEREST	Nil

Public meeting held at Wollondilly Library Picton Branch, on 17 September 2018, opened at 5.30pm and closed at 6:40pm.

MATTER DETERMINED

Panel Ref – 2016SYW110 – LGA – Wollondilly – DD010.2015.00000935.001 AT 1-41 Marsh Road, Silverdale (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 approve the development application as described in Schedule 1 pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was approved with a majority of 4 members voting for approval, but with Councillor Hannan voting against.

REASONS FOR THE DECISION

1. The proposed development will add to the supply and choice of housing within the Wollondilly local government area and the Sydney Western City District by the provision of a planned housing estate. The proposed development as planned is well integrated with and will complement the existing Silverdale and Warragamba village settlements.
2. While the proposed development will change the township of Warragamba by adding to its population, it is not considered that the increase will change its rural residential character. The proposed lot sizes are sufficiently sized to accommodate family sized homes. The increase in population will assist with making the declining local shopping centre more viable and will provide funds for an upgrading of public spaces through the proposed voluntary planning agreement. Together those positive attributes of the development will contribute to long term preservation of the character of the town centre.

3. The exhibited Voluntary Planning Agreement as offered by the Applicant if adopted will provide additional public recreation facilities and roadworks, and will provide for the conservation and ongoing maintenance of recognised environmentally significant lands.
4. The proposed development with the adopted conditions has been found to be acceptable in terms of bushfire risk by the Rural Bushfire Service if the conditioned protection measures including recommended minimum *Bushfire* Attack Level (*BAL*) ratings are adopted.
5. The proposed development subject to the imposed conditions adequately satisfies the relevant Federal and State legislation including the Commonwealth Environment and Biodiversity Conservation Act, the Native Vegetation Act, the Threatened Species Conservation Act 1995, the National Parks and Wildlife Act 1974, Contaminated Lands Management Act, the Water Management Act 2000 and the Rural Fires Act 1997.
6. The proposed development subject to the imposed conditions adequately satisfies the relevant State Environmental Planning Policies including SEPP 55 (Remediation of Land), SEPP (Infrastructure) 2007, SEPP 44-Koala Habitat Protection, SEPP (Sydney Drinking Water Catchment) 2011 and SEPP 20- Hawkesbury Nepean River.
7. The proposed development subject to the imposed conditions adequately satisfies the objectives and provisions of Wollondilly LEP 2011 and Wollondilly DCP 2016
8. The proposed development subject to the imposed conditions should have no unacceptable adverse impacts on the natural or built environments including the local ecology or the operation of the local road system.
9. In consideration of conclusions 1-8 above, and the terms of the voluntary planning agreement (VPA) offered by the applicant in connection with the development application, the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

RECOMMENDED ADDITIONAL CONDITIONS

The following changes to the conditions are to be made:

1. A new deferred commencement condition under s. 4.16(3) of the PE&A Act requiring the design of an appropriately designed pedestrian crossing adjacent to the intersection of Production Avenue and Road No. 2 within the development to the satisfaction of Council prior to the development consent becoming operative.

Reason: The approved design can be expected to direct significant pedestrian traffic to that intersection, with the likelihood that pedestrians will cross Production Avenue to walk across the Council owned land towards the Warragamba town centre and the school. Notably, the Applicant's representatives at the public meeting indicated agreement to a condition in that form being imposed to address the pedestrian safety risk identified by the Panel.

2. Amendment of Condition 17(3) by changing “public road” to “public roads” and deleting the words “and the future lots”.

Reason: To more clearly express the intended purpose of the condition.

3. Amend Condition 17(15) by changing “public road” to “public roads”.

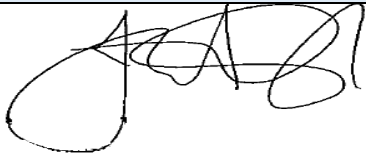



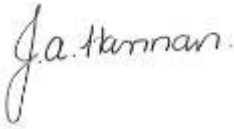
Reason: Typographical error.

DISSENTING VOTE

The Reason for Councillor Hannan’s dissenting vote was concern about the issues coming from the proposed raising of the Warragamba Dam wall, and evacuation issues for Warragamba/ Silverdale associated with bushfire or any issues associated with the chlorination plant.

PANEL NOTATION

While the Panel has no determinative function on the subject, the Panel notes that it was unanimously of the view following its assessment of the DA that there is substantial merit in a portion of the VPA funds which are not specifically allocated by the terms of the VPA being applied to the construction of a pedestrian path (or possibly a shared pedestrian and bicycle path) to link the pedestrian crossing required by the deferred commencement condition and the town centre of Warragamba (with possible allowance for that work to be provided as works in kind if agreed to by both parties).

PANEL MEMBERS	
 Justin Doyle (Chair)	 Nicole Gurrán
 Bruce McDonald	 Peter Wright
 Judy Hannan	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	Panel Ref – 2016SYW110 – LGA – Wollondilly – DD010.2015.00000935.001

2	PROPOSED DEVELOPMENT	Demolition of existing structures, bulk earthworks, remediation of land, staged residential subdivision to create 425 residential lots, 4 reserves, 1 residue lot, drainage infrastructure, landscape works and vegetation removal clearing.
3	STREET ADDRESS	1-41 Marsh Road, Silverdale
4	APPLICANT/OWNER	Simba Developments Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ Environment Protection and Biodiversity Conservation Act 1999 (Cth) ○ Environmental Planning and Assessment Act 1979 ○ Environmental Planning and Assessment Regulations 2000 ○ Contaminated Lands Management Act 1997 ○ Threatened Species Conservation Act 1995 ○ Native Vegetation Act 2003 ○ National Parks and Wildlife Act 1974 ○ Roads Act 1993 ○ Rural Fires Act 1997 ○ Water Management Act 2000 ○ State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy No. 44 – Koala Habitat Protection ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 ○ Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2-1997) ○ Wollondilly Dedication of Land Policy • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Wollondilly Development Control Plan 2016 ○ Draft Western City District Plan • Planning agreements: <ul style="list-style-type: none"> • Wollondilly Developer Contributions Plan 2011 • Wollondilly Planning Agreement Policy

		<ul style="list-style-type: none"> • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council supplementary report – September 2018 • Council assessment report: 18 June 2018 • Written submissions during public exhibition: 24 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Support – Nil ○ Object – Sharon Moroney, David Powell and Cr Matt Gould ○ On behalf of the applicant – Carmen Osborne, Ron Lamari, Ben Allam, Vaughan McInnes and Gavin Drennan. ○ On behalf of Council – Aimee Lee and Andrew Golden • Email from NSW Water dated 17 September 2018 handed up at meeting.
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection and briefing meeting – 16 March 2017 • Public Meeting - 18 June 2018. • Final briefing meeting - to discuss council's recommendation, 17 September 2018. • Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Bruce McDonald, Peter Wright and Judy Hannan ○ <u>Council assessment staff</u>: Andrew Golden and Aimee Lee
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached with council assessment report