

## RECORD OF DEFERRAL

### HUNTER AND CENTRAL COAST JOINT REGIONAL PLANNING PANEL

<b>DATE OF DEFERRAL</b>	23 November 2017
<b>PANEL MEMBERS</b>	Michael Leavey (Chair), Lindsay Fletcher, Clare Brown
<b>APOLOGIES</b>	Cr Nick Jones, Justin Hamilton
<b>DECLARATIONS OF INTEREST</b>	<p>Jason Perica, and Kara Krason declared non-pecuniary potentially perceived conflicts of interest as a former colleague on a former JRPP made a submission for a neighbour.</p> <p>Cr John Gilbert declared a significant, pecuniary interest due to an ongoing commercial relationship with the applicant and owner of the site.</p> <p>Sandra Hutton declared a non-pecuniary, potential conflict of interest due to historic involvement with owner, and chose not to participate. The nature being - well before the current submitted DA, Sandra Hutton gave her preliminary planning opinion on the below site.</p>

Public meeting held at Lake Macquarie City Council, 126-138 Main Road, Speers Point on 23 November 2017, opened at 4.30 pm and closed at 6.10 pm.

#### MATTER DEFERRED

2017HCC002 – Lake Macquarie – DA11/2017 at Brooks Parade and 5 Edgar Street, Belmont (AS DESCRIBED IN SCHEDULE 1)

#### PANEL CONSIDERATION AND DEFERRAL

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 noted the applicant provided updated plans to the Council on 22 November 2017 and that Council staff had not had the opportunity to review these plans.

The Panel agreed to defer consideration of the development application as described in Schedule 1 to allow the applicant to make its best endeavour to negotiate the inclusion of 44 Brooks Parade, Belmont (“the isolated site”) within the proposed development, and to strongly encourage the owner of the isolated site to enter into meaningful negotiations in a timely manner, and noting he has indicated his willingness to do so.

In the event that agreement cannot be reached between the parties within 4 weeks of the Panel Meeting (ie by 21 December 2017) then the Panel invites the applicant to submit:

1. Documentation of the negotiations held, offers made and responses from the owner of the isolated site; and
2. To submit amended plans to demonstrate compliance with Lake Macquarie LEP and DCP and the Apartment Design Guide, and to address the urban design issues and other technical matters raised in the Council’s assessment report.

In the event that the applicant cannot reach agreement with the owner of the isolated site and chooses not to amend the application, then the matter be referred to the Panel for an electronic meeting and determination.




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

The decision to defer the matter was unanimous.

**REASONS FOR DEFERRAL**

The reasons for the decision of the Panel were:

- The Panel was of the opinion that inclusion of the isolated site as part of the development proposal was the optimum solution for all parties and the locality, having regard to urban design outcomes, the limitations (and required design changes) the isolated site would impose on the development proposal and the impacts of future development on the isolated site, including a resulting limited development potential.
- The Panel also recognised there are established procedures for considering isolated sites, including the Land & Environment Court planning principle established in *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251. The Panel considered the background of offers made by the applicant for the purchase of the isolated site, including the most recent offer dated 10 November 2017, and noted the stated willingness of both the applicant and the owner of the isolated site to engage in meaningful negotiation to allow for the isolated site to be incorporated as part of the development proposal.
- The Panel was of the opinion that resolution of the isolated site issue, irrespective of the final outcome, is required in a timely manner so that the assessment of a major development proposal for the Belmont area can be progressed.
- The Panel had regard to a number of urban design considerations, including issues raised by Council’s SEPP 65 Design Review Panel and in the assessment report, and in particular the relationship between the proposed development and the isolated site.
- The Panel noted some agency comments remain unresolved, including Office of Water approval under the Water Management Act 2000 (noting the development is Integrated Development), additional information requested by RMS and assessment of odour issues as identified by Hunter Water.

PANEL MEMBERS	
 Michael Leavey (Chair)	 Lindsay Fletcher
 Clare Brown	

<b>SCHEDULE 1</b>		
<b>1</b>	<b>PANEL REF – LGA – DA NO.</b>	2017HCC002 – Lake Macquarie – DA11/2017
<b>2</b>	<b>PROPOSED DEVELOPMENT</b>	Demolition Works, Commercial Premises and Residential Flat Building
<b>3</b>	<b>STREET ADDRESS</b>	Brooks Parade and 5 Edgar Street, Belmont
<b>4</b>	<b>APPLICANT/OWNER</b>	Applicant: Monteath and Powys Pty Ltd Owner: Allbeach Pty Limited AM, KL and MF Brown BSE Holdings Pty Limited Lakesharp Developments Pty Limited Robert Neil McDonald
<b>5</b>	<b>TYPE OF REGIONAL DEVELOPMENT</b>	General development over \$20 million
<b>6</b>	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy No 71 – Coastal Protection</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ Lake Macquarie Local Environmental Plan 2014</li> </ul> </li> <li>• Draft environmental planning instruments: Various draft SEPP amendments</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Lake Macquarie Development Control Plan 2014</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>
<b>7</b>	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Council assessment report and attachments as listed: dated 9 November 2017</li> <li>• Additional commercial in confidence information provided by the applicant to Council, received on 13 November 2017, concerning valuations and an offer made to the owner of 44 Brooks Parade, Belmont dated 10 November 2017.</li> <li>• Written submissions during public exhibition: 24 Submissions from 19 Authors</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Object – Monty Hughes, Dean Allison</li> <li>○ On behalf of the applicant – Konrad Grinlaubs, Belinda Charlton, Charles De Bono</li> </ul> </li> </ul>
<b>8</b>	<b>MEETINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Site inspection 23 November 2017</li> <li>• Final briefing meeting to discuss council’s recommendation, 23 November 2017 at 2:30 pm. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Michael Leavey (Chair), Lindsay Fletcher, Clare Brown</li> <li>○ <u>Council assessment staff</u>: Brian Gibson, Elizabeth Lambert, Greg Field, Chris Dwyer, Robyn Pollock. Susie O’Neill (by phone)</li> </ul> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Refusal
<b>10</b>	<b>DRAFT CONDITIONS</b>	Conditions drafted without prejudice attached to the council assessment report (received by the Panel 15 November 2017)