

<b>DATE OF DETERMINATION</b>	21 December 2020
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Juliet Grant and John Brockhoff
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Sandra Hutton declared a reasonably perceived conflict of interest as a client of her employer, ADWJohnson, is negotiating and pursuing land use planning outcomes for one or more of the lots within the proposed development.

Papers circulated electronically on 3 December 2020.

#### **MATTER DETERMINED**

PPS-2018HCC044 – Central Coast – DA/919/2018 at 99-107 Sparks Road, Woongarra – 160 Lot Subdivision (as described in Schedule 1).

This is an application that has been under assessment close to 2.5 years. It is located in an area planned for urban release and is part of the broader Warnervale Town Centre which is undergoing development. This should have been a relatively straightforward application had greater consideration been given to Council controls and the need for proper documentation to be lodged.

The application was amended in July 2020 which resulted in different impacts and issues, from those previously identified. The matter has been the subject of a previous applicant briefing.

The applicant also had a further opportunity to brief the Panel before it made a determination and requested that the matter be deferred to allow them the opportunity to address the issues. This was subsequently followed up with a written request.

The key issues with the application which is recommended for refusal include:

- Road widths and layout
- Location of road intersection and safety and sight line distance – MC01 and MC11
- Implications of any changes to the height and extent of retaining walls along public recreational space
- Interface with adjoining school site and lands to the north
- Urban design in respect to the number of east/west orientated lots and solar access and amenity outcomes for future dwellings
- Identification of finished levels
- Lack of RFS sign off
- Appropriateness of height of any proposed retaining walls

These matters are interrelated and require some redesign to the proposed scheme.

The current proposal warrants refusal based on the information in front of the Panel.

The Panel is not supportive of reduced road width as put forward by the applicant.

Irrespective of a safe intersection sight distance being provided. The Panel notes that it would be preferable to relocate the MC01 & MC11 intersection towards the western side of the development lot to improve separation between MC11, MC03 & the road to the north off MC01. The separation would

improve road safety due to short separations between the opposing intersections, that would promote weaving & overlapping vehicle movements, particularly near a combined horizontal & vertical curve.

While there is definitely a solution to this matter – it is something that the applicant will need to explore through s8.2 Review given the amount of time and numerous opportunities that have been available to the applicant to address the issues.

### **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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

### **Development application**

The Panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

### **REASONS FOR THE DECISION**



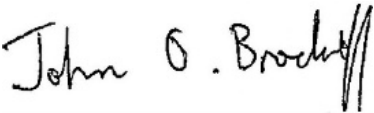
The Panel determined to refuse the application for the reasons outlined below:

1. The proposed development is identified as bushfire prone land and Integrated Development, a Bushfire Safety Authority (BSA) specific to the proposal as amended has not been issued by the Rural Fire Service as the application is not supported by;
  - i. A bushfire report that demonstrates that the proposed subdivision meets the relevant requirements of Planning for Bush Fire Protection (PBP) 2019; and,
  - ii. Evidence that demonstrates that the proposed allotments can meet the minimum asset protection zones (APZs) in Table A1.12.2 of PBP 2019 for the life of the development; especially where APZs are proposed external to the proposed lots to the north and offsite to the east.
2. The proposal fails to demonstrate consistency with the provisions of Wyong Development Control Plan 2013. The following matters have not been addressed and satisfied:
  - i. Chapter 5.5 Clause 3.2 – the proposed street hierarchy and design is inconsistent with the adopted DCP requirements in figures 3.1, 3.2 and clause 3.3. The proposal does not satisfy the objectives for the Street Hierarchy and Design controls or the objectives for Landscaping In The Road Reserve Control.
  - ii. Chapter 5.5 Clause 7.1 - the proposed subdivision does not represent best practice in landscape and urban design. There is insufficient consideration of issues relating to solar access including a dominance of east- west lots, servicing, access and street conflicts, location (extent and height) of retaining walls and sizing of corner lots for which the future dwellings have not been provided.
3. A detailed servicing plan for proposed stages 6 and 7 has not been provided. Any servicing plan is required to consider future demands of residue residential land (lot 601) and is required to satisfy cl6.2 and cl7.9 of Wyong Local Environmental Plan 2013.
4. Inadequate engineering detail to support variations to Wyong Development Control Plan 2013 Chapter 5.5, Section 3 Traffic and Movement, including:
  - a. Inadequate information to determine if adequate “safe intersection sight distance” is provided at the intersection of ROAD MC01 & MC11 due to the crest in MC01.
  - b. Proposed Road MC01 is not designed in accordance with Austroads. The curve radius on MC01 is below acceptable design criteria based on the design speed and adverse crossfall. This tight horizontal curve maybe more critical due to the proximity of the adjoining over vertical curve (crest).
  - c. The proposal has not demonstrated that the design vehicle turning path of a garbage truck (12.5m garbage truck and emergency vehicles) can be accommodated within the proposed road construction.
  - d. The proposal fails to consider how the road network would tie into a layout for the residue lot to the south and address matters including the:

- i. Location of 100yr major over land flow path and suitable location of the minor piped system. Duplicated systems are not supported.
    - ii. Sewer servicing needs to be demonstrated.
  - e. The proposed roads do not comply with Council standards for road construction and insufficient detail is provided to warrant variation of the minimum standards. More detailed consideration of verge widths is required to ensure widths that can satisfactorily accommodate street trees, street light columns (and footings), concrete footpath/s, water mains, gas mains, communications and underground power with the required and safe separations between these utilities.
  - f. The traffic and safety benefits of the proposed one way sections of road have not been demonstrated. The lack of pedestrian facilities in this portion of the development will force pedestrian onto the roadway which is unacceptable.
  - g. The earthworks cut and fill information highlights steep grades over the site and no information is provided to identify the location of retaining walls.
5. The proposed street and lot layout is considered unsatisfactory and unsuitable as the design is insensitive to the topography and other constraints and opportunities of the site.

#### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Juliet Grant
 John Brockhoff	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPS-2018HCC044 – Central Coast – DA/919/2018
2	PROPOSED DEVELOPMENT	160 Lot Subdivision
3	STREET ADDRESS	99-107 Sparks Road Woongarrah - Lot 1 DP 371647, Lot 1 DP 375712, Lot 1 DP 376264, Lot 41 DP 1200210, Lot 51 and 52 DP 561032 and Lot 54 and 55 DP 7527
4	APPLICANT/OWNER	Colliers International Project Management/ Central Coast Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 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 (State and Regional Development) 2011</li> <li>State Environmental Planning Policy 55 – Remediation of Land</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy 44 – Koala Habitat Protection</li> <li>Wyong Local Environmental Plan 2013</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Wyong Shire Development Control Plan 2013 <ul style="list-style-type: none"> <li>Chapter 1.2 – Notification of Development Proposals</li> <li>Chapter 3.1 – Site Waste Management</li> <li>Chapter 3.6 – Tree and Vegetation Management</li> <li>Part 4 - Subdivision</li> <li>Chapter 5.5 – Warnervale Town Centre</li> </ul> </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: 3 December 2020</li> <li>Additional memo from Council 15 December 2020</li> <li>Written submissions during public exhibition: Nil</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 22 July 2020 <ul style="list-style-type: none"> <li><u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Kyle MacGregor and Chris Burke</li> <li><u>Council assessment staff</u>: Nathan Burr and Emily Goodworth</li> </ul> </li> <li>Site inspections: <ul style="list-style-type: none"> <li>Alison McCabe (Chair): 3 April 2020</li> <li>Juliet Grant: 9 October 2020</li> <li>John Brockhoff: 28 November 2020</li> </ul> </li> <li>Applicant Briefing: 7 October 2020</li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Kyle MacGregor and Chris Burke</li> <li>○ <u>Council staff</u>: Nathan Burr, Salli Pendergast, Emily Goodworth and Andrew Roach</li> <li>○ <u>Applicant representatives</u>: Anthony Price, Scott Kneller and John Stalley</li> </ul> <p><u>Note</u>: Applicant briefing was requested to provide the Panel with clarification and to respond to issues</p> <ul style="list-style-type: none"> <li>• Final briefing to discuss council's recommendation: 10 December 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and John Brockhoff</li> <li>○ <u>Council assessment staff</u>: Jillian Sneyd, Adam Mularczyk, Nathan Burr, Salli Pendergast and Emily Goodworth</li> <li>○ <u>Department of Planning, Industry and Environment</u>: Carolyn Hunt and Lisa Foley</li> </ul> </li> <li>• Applicant Briefing: 10 December 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and John Brockhoff</li> <li>○ <u>Council assessment staff</u>: Jillian Sneyd, Adam Mularczyk, Nathan Burr, Salli Pendergast and Emily Goodworth</li> <li>○ <u>Department of Planning, Industry and Environment</u>: Carolyn Hunt and Lisa Foley</li> <li>○ <u>Applicant representatives</u>: Scott Kneller, Anthony Price and John Stalley</li> </ul> <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Refusal
10	<b>DRAFT CONDITIONS</b>	Not provided