

RECORD OF DEFERRAL

HUNTER & CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DEFERRAL	23 December 2020
PANEL MEMBERS	Alison McCabe (Chair), Sandra Hutton and Clare Brown
APOLOGIES	None
DECLARATIONS OF INTEREST	<p>Sandra Hutton declared a non-significant, non-pecuniary interest as her employer has had limited historical involvement over seven years ago on an unrelated part of the URA. Ms Hutton declared that this presented no conflict to her role and functions as an RPP member; the Chair considered her declaration and agreed.</p> <p>Juliet Grant declared a conflict of interest as her employer is currently engaged by an adjoining land-owner.</p> <p>Cr Ryan Palmer declared a conflict of interest as he has advocated for this project in the past.</p> <p>Cr Paul LeMottee, Cr Giacomo Arnott and Cr Chris Doohan declared conflicts of interest as they have been briefed on the project as councilors.</p> <p>Steve Peart declared a conflict as he has been intimately involved with environmental assessments, negotiation of VPAs and general project assessment and feedback for this DA.</p> <p>John Maretich declared a conflict of interest as he has been involved in discussions with developers and their consultants, working through details on required and future works, engineering assessments and workshops with all of the developer’s engineers, workshops with other government agencies (Planning, Hunter Water Corporation, the then RMS) and direct discussion with his staff who have also been involved the above.</p>

Public meeting held at by teleconference on 22 December 2020, opened at 2:35pm and closed at 5:35pm.

MATTER DEFERRED

PPS-2018HCC047 – Port Stephens Council – 16-2018-772-1 at 3221 Pacific Highway Kings Hill and 35 Six Mile Road Kings Hill – residential subdivision (as described in Schedule 1).

The Panel understands that the strategic framework for Urban Release Areas for Kings Hill has been in place since 2010, and that the development site and surrounding area has been the subject of numerous studies over the last 10 to 15 years.

The Panel understands that one of the key issues in the assessment and consideration of this matter is the potential impact that urban development will have on koalas and koala habitats specifically, but more generally threatened species, populations and ecological community habitats.

There is a heightened concern regarding Koalas arising from recent Parliamentary enquiries and the 2019/2010 bushfires.

The Panel heard from a range of submitters, who in addition to addressing the merit and impacts of the development, raised concerns about the timing of the meeting. Concerns related to the meeting being so close to Christmas, the availability of documents and the volume of documents, and the short timeframe available to consider those documents.

A number of submitters had requested deferral of the meeting.

The applicant relies on a suite of documents which includes a Species Impact Statement, prepared under the *Threatened Species Conservation Act 1995*, that concludes that the proposed development will not have a significant effect on threatened species, populations or ecological communities.

If this conclusion is accepted, this would mean that concurrence of the Chief Executive of OEH (now Coordinator-General, Environment, Energy and Science) is not required.

Given the complexity of this matter and very nuanced and detailed approach to the mitigation of impact and conservation measures proposed, and the recognised importance of the area as part of the Port Stephens Koala Hub, the Panel is of the opinion that independent expert advice should be obtained to assist in informing the Panel in its determination.




REASONS FOR DEFERRAL

The panel agreed to defer the determination of the matter for the following:

1. The Panel obtain separate independent advice from an appropriately qualified person to peer review the application and submissions received, and provide recommendations to the Panel regarding:
 - The adequacy of the SIS and whether the conclusions are supported or otherwise.
 - The statutory and policy framework that is required to be addressed for the Panel to determine the matter and whether it has been satisfied.
2. The Panel seek a briefing from the Biodiversity Conservation Division.
3. A further supplementary report addressing the recommendations and matters arising from the independent report be prepared by the Council.

When this information has been received, the Panel will hold another public determination meeting and ensure any independent advice is made public.

The decision to defer the matter was unanimous. The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Sandra Hutton
 Clare Brown	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPS-2018HCC047 – Port Stephens Council – 16-2018-772-1
2	PROPOSED DEVELOPMENT	Concept Proposal for Residential Subdivision and Stage 1 Works including Vegetation Clearing and Establishment of a Conservation Area
3	STREET ADDRESS	3221 Pacific Highway KINGS HILL & 35 Six Mile Road KINGS HILL (Lot 41 DP 1037411 & Lot 4821 DP 852073)
4	APPLICANT/OWNER	Kings Hill 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"> ○ State Environmental Planning Policy No.55 – Remediation of Land; ○ State Environmental Planning Policy (State and Regional Development) 2011; ○ State Environmental Planning Policy No 44—Koala Habitat Protection; ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; ○ State Environmental Planning Policy (Infrastructure) 2007; ○ State Environmental Planning Policy (Coastal Management) 2018; ○ Port Stephens Local Environmental Plan 2013. • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Port Stephens Development Control Plan 2014 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> • 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 assessment report: 14 December 2020 • Written submissions during public exhibition: 21 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Ann Lindsey on behalf of Hunter Bird Observers Club Inc, Ben van der Wijngaart on behalf of Port Stephens Koalas, Nigel Waters on behalf of Port Stephens Greens, Anne-Marie Abell on behalf of Voice of Wallalong and Woodville and Surrounds (VOWW) and Kathy Brown on behalf of EcoNetwork Port Stephens ○ On behalf of the applicant – Adam Smith, Mark Aikens, Jason Wasiak, Ben Clark and Todd Neal • Total number of unique submissions received by way of objection: 17
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 3 June 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair) and Sandra Hutton ○ <u>Council assessment staff</u>: Ryan Falkenmire and Rean Lourens • Site inspection and applicant briefing: 12 August 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair) and Sandra Hutton

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Ryan Falkenmire and Rean Lourens ○ <u>Applicant representatives</u>: Adam Smith, Mark Aitkens, Jason Wasiak and Wesley Chong <ul style="list-style-type: none"> ● Final briefing to discuss council’s recommendation: 22 December 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton and Clare Brown ○ <u>Council assessment staff</u>: Ryan Falkenmire, Elizabeth Lamb, Kate Drinan and Matt Doherty ○ <u>Department</u>: Jane Gibbs, Leanne Harris and Lisa Foley
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report