

DETERMINATION AND STATEMENT OF REASONS
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	2 July 2021
PANEL MEMBERS	Alison McCabe (Chair), Sandra Hutton, Juliet Grant, Karen Hutchinson and Troy Fowler
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 16 June 2021, opened at 3:05pm and closed at 4:30pm.

MATTER DETERMINED

PPS-2019HCC014 – MidCoast Council – DA 100/2019 at 90 Viney Creek Road, Tea Gardens– 226 lot subdivision (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

This is a matter that the Panel has been briefed on twice. It is an application for subdivision of zoned land that has been under assessment for nearly three (3) years. This timeframe means that baseline reporting has become dated and planning legislative frameworks have changed.

There remains a threshold issue regarding the satisfaction of Clause 6.1. Arrangement for designated infrastructure, as the Director General has not certified in writing that satisfactory arrangements have been made towards the contribution of designated State Infrastructure.

The Panel also understands that satisfaction of the clause, requires a VPA to be entered into, that is reliant on an agreement for the sale of a portion of closed road from Council – a matter that has also been in negotiation since valuations were exchanged in September 2018.

The Panel has no confidence that the above matters will be resolved in a timely manner.

Furthermore the Panel has concerns that the proposed subdivision layout has not properly responded to its context, and there is insufficient information to properly assess the impacts of the development, particularly the interface with R5 zoned lands on the southern boundary, or the landscape and visual impacts generally, given the elevation of the site.

The Panel acknowledges the site is zoned R2 for urban development and that the existing VPA in place over the site will potentially deliver ecological and biodiversity outcomes that will benefit the broader area. The site is suitable for residential development however it needs to be designed to reflect the site's context and landscape setting.

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 following reasons.

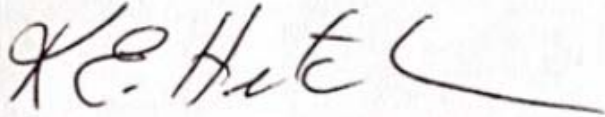
1. The proposed development has not demonstrated that satisfactory arrangements have been made for the provision of designated state public infrastructure and clause 6.1 of Great Lakes LEP 2014 has not been satisfied.
2. The potential traffic impacts on the state road network have not been quantified or appropriately mitigated.
3. The proposed development has failed to demonstrate that the subdivision design will not result in unacceptable visual, amenity and privacy impacts on neighbouring properties at the interface of the development along the southern boundary.
4. The proposed subdivision design and layout does not appropriately respond to its context and landscape character. The range of lot sizes and configuration has not demonstrated that the layout is an appropriate response to the site.
5. There is insufficient information to properly consider the visual impacts, boundary relationships and potential interface impacts.
6. The proposed development fails to satisfy the provisions of clause 7.2 of Great Lakes LEP 2014 in relation to earthworks

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- Object to proposed residential lot size
- Concerned about traffic generation
- Concerned about ecological impacts
- Concerned about access to services
- Object to process undertaken by Council and the applicant

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Sandra Hutton
 Juliet Grant	 Karen Hutchinson
 Troy Fowler	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPS-2019HCC014 – MidCoast Council – DA 100/2019
2	PROPOSED DEVELOPMENT	226 Lot subdivision, 1 drainage reserve, 2 public reserves, staged construction
3	STREET ADDRESS	90 Viney Creek Road, Tea Gardens
4	APPLICANT/OWNER	Tattersall Lander Pty Ltd Wolin Investments Pty Ltd, MidCoast Council
5	TYPE OF REGIONAL DEVELOPMENT	Coastal subdivision
6	RELEVANT MANDATORY CONSIDERATIONS	• Water Management Act 2000 • Rural Fires Act 1997 • National Parks & Wildlife Act 1974 • Roads Act 1993 • Environmental planning instruments: - o State Environmental Planning Policy (Coast Management) 2018 - o State Environmental Planning Policy (State and Regional Development) 2011 - o State Environmental Planning Policy No 55 – Remediation of Land - o State Environmental Planning Policy (Infrastructure) 2007 - o Great Lakes Local Environmental Plan 2014 - o Hunter Regional Plan 2036 • Draft environmental planning instruments: Nil • Development control plans: - o Great Lakes Development Control Plan 2014 - o Great Lakes Development Contributions Plan • Planning agreements: - o North Shearwater Planning Agreement executed 13 November 2012 • 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	• Council assessment report: 7 June 2021 • Council assessment memorandum: 15 June 2021 • Written submissions during public exhibition: 19 • Verbal submissions at the public meeting: - o Ronnie Nichols and Stephen Wilson - o On behalf of the applicant – Bob Lander • Total number of unique submissions received by way of objection: 19
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Site inspection: 25 February 2020 - o <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and Sandra Hutton • Briefing: 7 October 2020 - o <u>Panel members</u>: Alison McCabe (Chair) and Juliet Grant

		- o <u>Council assessment staff</u>: Robyn Shelley, Lisa Proctor and Bruce Moore • Briefing: 5 May 2021 - o <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Karen Hutchinson and Troy Fowler - o <u>Council assessment staff</u>: Lisa Proctor, Adam Matlawski, Bruce Moore, Paul DeSzell and Martin Tooze - o <u>Department</u>: Leanne Harris and Lisa Foley • Final briefing to discuss council's recommendation: 16 June 2021 - o <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton, Troy Fowler and Karen Hutchinson - o <u>Council assessment staff</u>: Bruce Moore, Prue Tucker, Lisa Proctor, Sarah Butcher, Paul DeSzell, Adam Matlawski and Mat Bell - o <u>Department</u>: Leanne Harris, Carolyn Hunt and Lisa Foley
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report