

DATE OF DETERMINATION	30 September 2020
PANEL MEMBERS	Alison McCabe (Chair), Juliet Grant, Sandra Hutton and Sharon Pope
APOLOGIES	Wayne Bedggood and Steve McDonald
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 16 September 2020.

MATTER DETERMINED

PPS-2017HCC052 – Upper Hunter – 163/2017 at 150 Gundy Road, Scone – 423 Lot Torrens title residential 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.

The Panel had the opportunity to hear from two (2) submitters and a detailed briefing and opportunity to question the applicant's consultant team.

The Panel has received since the preparation of the report the following information forwarded to Council on 18 and 21 September 2020:

- Draft Plan of Management – Drainage Reserve
- Option for offsetting removed hollow bearing trees
- Amended Emergency Vehicle Access Plan
- Detail of interface fencing
- Drainage Plan
- Drainage Strategy
- Supplementary Drainage Report

The Panel has not had the benefit of a further Council report or sufficient time to consider this additional material in detail. Council recommended that this information not be accepted as an amendment or variation to the application in accordance with clause 55 of the Environmental Planning and Assessment Regulation 2000.

The applicant requested that the Panel defer the consideration of this application to afford the opportunity to provide a further package of information that addressed the matters discussed at the briefing and to discuss matters further with Council.

The site is zoned R1 General Residential and has site specific Development Control Plan (DCP) provisions applying to the site. The zoning and DCP provisions were the outcome of a Planning Proposal. This process recognised that the site, while suitable for residential development,

required a detailed assessment of ecological and salinity constraints in addition to the typical issues associated with an urban release area.

The Panel also understands that the proposed 423 lots would constitute a significant supply of housing lots for the area.

The key issues with the application relate to:

- Adequacy of salinity assessments – there are two (2) differing opinions
- Ecological outcomes – acceptability and finality
- Acceptability of the stormwater management solution
- Rural and environmental interface
- Urban design – lot layout and configuration, open space, amount and location

Salinity is a known constraint and is affecting immediately surrounding lands, which warrants a precautionary approach within the catchment.

There are fundamental differences between the Council and Proponent on salinity. Council's position, informed by an independent review and advice from the Department of Industry Saline Support Unit, is that the model provided by the applicant is not the correct model – it needs to be salinity modelling. The applicant's model is essentially a stormwater model, and relied upon to inform the impact assessment and management approach to inform the proposal. Advice was provided that it is possible to create a salinity model in the absence of baseline piezometric and groundwater salinity data measured over an extended period.

The Panel has been informed that the types of models that should be used include:

1. CLASSU3M-1D.- A soil moisture model used for simulations
2. Catchment salinity models
 - a. 2CSalt (former DLWC water model)
 - b. CAT (former Victorian catchment model)
3. SOURCE model - large catchment scale model that is used for river salinity and water volume modelling

Accordingly, there is not sufficient information for the Panel to be confident and satisfied that onsite and offsite salinity impacts are minimised and mitigated. The advice about the need for a different model has been provided to the applicant over the course of the last two (2) years.

The Panel acknowledges that a substantial rehabilitation and restoration opportunity is proposed within reserve. However, the proposal includes stormwater detention basins within the drainage reserve that result in removal of endangered ecological community and hollow bearing trees. The Panel is not satisfied this is a reasonable solution and is of the view that there is scope to revisit the siting and type of stormwater management outcomes to further avoid impacts and retain more endangered ecological community and hollow bearing trees.

The biodiversity outcomes were also reliant on offsite works on a site not identified, a management regime that was not costed, and was not clear on whether the ongoing management of the drainage reserve -required to meet biodiversity outcomes – would be equal to or greater than that normally associated with a drainage reserve that would be dedicated to Council.

The integration of salinity management, vegetation, drainage, and bushfire recommendations was also unresolved. The Panel could not be satisfied, based on the available information (including

that submitted after 18 September 2020), whether the biodiversity outcomes were satisfactory and how they were to be implemented.

The design of the subdivision where approximately 2/3 of the drainage reserve frontage is to fences of rear yards fails to provide an integrated open space system in a new subdivision. **The drainage reserve should have road frontages and not be closed off and at the rear of sites.** Even if parts cannot be accessed for biodiversity reasons, it should still provide for outlook and visual amenity for the broader subdivision, as well as lineal walkways and cycling facilities on its interfaces.

It is the Panel's view that the subdivision design needs to be properly informed by the salinity constraints and management, ecological constraints and biodiversity outcomes, minimise tree loss and result in appropriate interfaces to drainage reserves, Gundy Road and adjoining rural lands, and not be constrained to the concept layouts included in the DCP. To address these matters would not result in a minor change but require a rethinking of the layout and approach to the site and potentially reduced lot yield.

For these reasons the Panel is of the view that it is not appropriate to defer the matter as the changes required are unlikely to be minor to satisfy the above- once the baseline salinity and stormwater management issues are addressed.

Because of the salinity issues, the need to monitor impacts, and accommodate biodiversity outcomes early, it is the Panel's view that the site would be better approached with a focus on an initial stage with a clear linkage to early revegetation and hold points, before the next stages are progressed.

The application requires an integrated approach to subdivision design that appropriately responds to site constraints and urban design principles.

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 in the council assessment report and the following additional reasons:

- The proposed biodiversity outcomes lack finality and potentially imposes unnecessary burden on the public
- The extent of tree loss is unacceptable. The engineered solution to stormwater management results in an unnecessary and unacceptable loss of hollow bearing trees
- The proposed lot layout and configuration has failed to achieve the integration of the drainage reserve and its biodiversity value as part of the open space network and linkages to maximise the amenity for future residents
- The lot layout and yield proposed does not respond to the constraints and interfaces of the site

CONDITIONS





Not applicable.

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:

- Traffic impact
- Noise impact
- Increase in crime
- Provision of services – water and public transport
- Devaluation of property
- Employment levels
- Increased stormwater
- Increased salinity
- Loss of rural outlook
- Environmental impact, including on riparian corridor
- Impact on heritage items
- Stormwater and flooding issues

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 briefing.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Juliet Grant
 Sandra Hutton	 Sharon Pope

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPS-2017HCC052 – Upper Hunter – 163/2017
2	PROPOSED DEVELOPMENT	Torrens title residential subdivision comprising 423 lots and incorporating new roads, public open space, stormwater basins, footpaths, landscaping and associated infrastructure
3	STREET ADDRESS	150 Gundy Road, Scone
4	APPLICANT/OWNER	Charles David Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million (DA lodged prior to 1 March 2018)
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none">• Environmental planning instruments:<ul style="list-style-type: none">○ State Environmental Planning Policy (Infrastructure) 2007○ State Environmental Planning Policy No 55 – Remediation of Land

		<ul style="list-style-type: none"> ○ Upper Hunter Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Upper Hunter Development Control Plan 2015 • Planning agreements: Nil • 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 assessment report: 16 September 2020 • Addendum Council assessment report: 21 September 2020 • Addendum Council assessment report: 22 September 2020 • Written submissions during public exhibition: eight (8) • Written submission received after public exhibition: one (1)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection and briefing: 11 August 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and Sandra Hutton ○ <u>Council assessment staff</u>: Paul Smith and Matt Pringle • Final briefing to discuss council's recommendation: 23 September 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton and Sharon Pope ○ <u>Council assessment staff</u>: Paul Smith and Allan Nicholson ○ <u>Submitters</u>: Steve Eccles and Laurie Parkinson ○ <u>Applicant representatives</u>: Matthew Fraser, David Sparkes, Matt Brown, Michael Cole, Daniel Morgan, Edward Throsby
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Without prejudice conditions attached to the council assessment report