

## **Appendix 22 – Introduction to RPP and Response**

**PP ref: J002230**

### **Background – why a Review is being requested**

On 30 September 2020 the Hunter and Central Coast Regional Planning Panel (RPP) determined to refuse DA 163/2017 lodged with Upper Hunter Council under Planning Panels matter number PPS-217HCC052 (the Determination).

Through experts engaged, the applicant has addressed the reasons for the decision and the further explanation from the RPP under the heading PANEL CONSIDERATION AND DECISION in the Determination and Statement of Reasons dated 30 September 2020.

### **Legal Context**

The applicant has requested the consent authority to review the Determination made 30 September 2020 under s 8.3 EPA Act.

The Determination cannot be reviewed after the period within which any appeal may be made to the NSWLEC has expired if no appeal has been made: s 8.3(2).

The period in which an appeal may be instituted, applying to this matter under the extended period during Covid, is 12 months after 30 September 2020, i.e., by 30 September 2021: s 8.10.

The applicant has or will have prior to 30 September 2021 lodged an appeal with the NSWLEC. The lodgement of such an appeal preserves the jurisdiction of the Panel to conduct a review of the Determination under s 8.3.

The applicant will ask the NSWLEC to defer progressing, and particularly disposing of, the appeal before the court until there has been a determination by the Panel on Review.

### **How issues have been addressed**

#### Salinity

The foremost key issue leading to Refusal was *Adequacy of salinity assessments*. To address this issue the applicant has engaged Dr Daniel Martens and his team at Martens Consulting Engineers to undertake a groundwater salinity assessment for the development, to address the JRPP comments provided.

By collecting empirical data and reporting by Dr Martens there will be sufficient information available to enable Dr Martens to prepare a Salinity Management Plan for both the construction and following completion and occupation of the subdivision. Each of the salinity models listed in the PANEL CONSIDERATION AND DECISION about which the Panel was informed are inappropriate models, and unnecessary to undertake because there will be the empirical data divided by Dr Martens for the Panel to assess salinity impact.

The findings of the additional assessment prepared by Martens is anticipated to be completed by the end of December 2021, with the final report to be provided to the Consent Authority for assessment at this time.

#### Biodiversity outcomes and management of the drainage reserve to be dedicated

The cost of reserve maintenance varies depending on the maintenance schedule required. Guidance from Council is sought on this matter, given the basin will be dedicated to Council post construction. A Plan of Management for the Drainage Reserve has been prepared by Kleinfelder and supports the development application.

#### Subdivision design

The RPP had some express criticisms of the subdivision design. The subdivision layout and configuration as well as the drainage reserve has been adjusted by:

1. Providing a significant proportion of the lots fronting open space or rural aspect.
2. Reducing the number of Lots from 423 to 392 average lot size 825m<sup>2</sup> being 37% larger than minimum lot size 600m<sup>2</sup>.
3. Reducing the number of battle axe allotments.
4. Removing Lots from areas fronting drainage reserve to increase the retention of hollow bearing trees.
5. Increasing the number of parks from 3 to 5 with a minimum area of 2500m<sup>2</sup> as per DCP (except park lot 220 1575m<sup>2</sup> which is intended as passive space to protect Aboriginal tree).
6. Removing Lots in area of higher salinity area removed from DA.
7. Inclusion of design statement as to principles as why it is the best layout for the site and local situation.
8. Providing pedestrian linkages and cycling facilities between pocket parks and detention basins open space.
9. Including a landscape strip between zone edge and rural land. Fencing along this interface will be rural in form, inclusive of post and wire. A restriction on the use of land, prohibiting colourbond fencing is acceptable.

#### Design of stormwater detention basins within the drainage reserve

The Panel:

- was not satisfied that the proposed stormwater detention basin is within the drainage reserve was a reasonable solution;
- was of the view that there was scope to revisit the siting and type of stormwater management outcomes to further avoid impacts and retain more EEC vegetation and trees and hollow bearing trees.

This issue has been addressed by the applicant by:

- Obtaining a revised Stormwater Management Plan and associated Report, prepared by Acor:
  - The plan demonstrates that discharge will not be uncontrolled (i.e., sufficient detention).

- The three detention basins proposed have been designed and located to primarily adjoin the road network.
- The detention basin layout has been amended to avoid the removal of the hollow bearing trees. The ecological assessment includes further assessment on the finality around nest box locations.

#### Biodiversity outcomes

The RPP was concerned that biodiversity outcomes were not satisfactory, and how they would be implemented including ongoing management of the drainage reserve, and may impose unnecessary burden on the public, greater than a regular drainage reserve that would be dedicated to Council.

This issue has been addressed by the applicant by:

- Obtaining a revised Fauna and Flora Assessment Report (FFAR) and Drainage Reserve Plan of Management (PoM) provided, prepared by Kleinfelder.
- Avoidance and mitigation measures have been presented within the FFAR to reduce potential impacts to biodiversity values within the site and the environment. The PoM for retained vegetation within the Drainage Reserve has been developed to support the proposed DA.

#### **Documents and materials provided for the Review**

In addition to the above matters, the development application is supported by the following documentation, for assessment by the Consent Authority:

- Landscape Plans
- DCP Compliance Assessment
- Acoustic Report
- Traffic Impact Assessment
- Aboriginal Due Diligence Assessment
- Geotechnical Site Investigation
- Preliminary Site Investigation
- Water and Sewer Strategies
- Land Use Conflict Risk Assessment
- Crime Prevention through Environmental Design Report.