

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

DATE OF DETERMINATION	2 April 2024
DATE OF PANEL DECISION	2 April 2024
DATE OF PANEL MEETING	25 March 2024
PANEL MEMBERS	Paul Mitchell (Chair), Judy Clark, Tony McNamara, Jason Dunn, John Tate
APOLOGIES	Nil
DECLARATIONS OF INTEREST	Nil

Public meeting held by teleconference on 25 March 2024, opened at 2:00 PM and closed at 3.50pm.

MATTER DETERMINED

PPSHCC-192 – Newcastle – RE2023/00003 at 144 Woodford Street, Minmi 2287 – SEC 8.2 (1) Review of DA2018/01351 (as described in Schedule 1)

BACKGROUND

On the 13th December 2022 the Hunter and Central Coast Regional Planning Panel refused a development application on this site for the subdivision of 874 residential lots, 7 development lots for future residential development, 14 local centre lots, 1 neighbourhood centre, 2 residue lots and 20 lots for road widening, public reserves and drainage reserves. The Panel members were Alison McCabe (Chair), John Brockhoff, Chris Wilson, Peta Winney-Baartz and John Mackenzie. Following this determination, the Applicant requested a review of the Panel's decision in response to amended plans and additional documentation which addresses the previous reasons for refusal.

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.

Review of Development Application

The Panel accepted the amended plans and documentation under Section 8.2 of the *Environmental Planning and Assessment Act 1979* as it was satisfied that the proposed development remained substantially the same as that previously considered by the Hunter and Central Coast Regional Planning Panel.

The Panel reviewed the Council's assessment report noting the recommendation for approval and that the reasons for refusal of the original application had been resolved. The Panel determined to approve the development application pursuant to section 8.4 of the *Environmental Planning and Assessment Act 1979*. In making its determination the Panel carefully considered the submissions made by members of the local community about perceived negative impacts from current construction activities and the evident communication difficulties occurring between community members and the applicant and its construction contractors. Accordingly, the Panel recommends that the applicant establishes a community liaison committee which would meet locally and be part of its overall consultation program required by condition A48.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons given below:

1. The proposal is generally consistent with the approved concept plan and the Minmi Precinct Design Guidelines, as well as being consistent with relevant provisions of the Hunter Regional Plan 2041, the Greater Newcastle Metropolitan Plan 2036, all applicable SEPPs, the Newcastle LEP 2012 and Newcastle DCP 2012.
2. The proposed development is an appropriate use of the site given that it is identified as an Urban Release Area in the Newcastle LEP, the Hunter Regional Plan and the Greater Newcastle Plan, and because it facilitates an important provision of the Lower Hunter Conservation Plan by enabling partial establishment of a major proposed green corridor.
3. The site of the proposed development is suitable for the intended use because it is appropriately zoned, has or will have all essential infrastructure and services, and is compatible with the site's environmental character and land use setting.
4. The proposal, including the associated environmental safeguards and compensation measures, will have no unacceptable impacts on the natural, cultural or built environments. Also, given the substantial dedication of land for conservation purposes and the remediation of currently contaminated land that will occur, the overall outcome of the proposal is likely to be a net positive one for the environment.
5. The proposal will provide much needed residential land in a location that is proximal to the major city of Newcastle. As such, the proposal will contribute to improved housing choice and affordability, and thus be beneficial from a social and economic perspective.
6. The Panel noted that the broader development site includes a number of existing allotments and that these lots had been appropriately incorporated into the proposed subdivision layout so that all lots will have access to the new road network.
7. The design of the proposed development is based on thorough consideration of all relevant environmental, land use and infrastructure considerations enabling it to draw on the site's attributes and avoid hazardous areas or those of environmental value. The proposal is therefore consistent with ESD principles. For this and the aforementioned reasons approval of the application is in the public interest.
8. The proposed subdivision layout and staging plan is an acceptable response to the site constraints and subject to the proposed conditions, appropriately integrates the existing isolated lots not owned by the Applicant.

CONDITIONS

The application was approved subject to the conditions in the assessment report and the amended conditions prepared by the Council and dated 25 March 2024 with the further amendment of Condition A.48 as follows:

A.48 Prior to the commencement of any works, the Developer is to develop and commence a Local Community Consultation and Education Strategy. The terms of reference and operational procedures for the Strategy are to be prepared in consultation with Newcastle City Council and be based on the NSW Department of Planning's 'Community Consultative Committee Guidelines for State Significant Developments (June 2023)'. The Strategy is to be approved by the Department of Planning, Housing and Infrastructure (as is required by the Statement of Commitments) and is to remain operational for the duration of the construction period and for a minimum period of 6 months following the issuing of the Subdivision Certificate for the last Stage. The Strategy is to be prepared and operated at full cost to the Developer and is to include, but not be limited to, the following components:

- 1. The appointment of an independent chairperson who must be a person registered with the NSW Department of Planning, Housing and Infrastructure as an Independent Chairperson;*
- 2. The calling of nominees and the appointment of between 3 to 5 residents of the suburb of Minmi, NSW;*
- 3. Representatives of the Developer who must have delegated authority to advise and act on matters including compliance with the Site Specific Environmental Management Plan (within reason) that may arise;*

4. *Representatives of each Principal Contractor (engaged from time to time) who must have delegated authority to advise and act on matters including compliance with the Site Specific Environmental Management Plan (within reason) that have been brought to their attention or that may arise;*
5. *Provide a suitable meeting venue within Minmi;*
6. *Set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the development;*
7. *Set out procedures and mechanisms:*
 1. *Frequency of meetings*
 2. *Through which the community can discuss or provide feedback to the applicant.*
 3. *Through which the Developer will respond to enquiries or feedback from the community;*
 4. *To resolve any issues and mediate any disputes that may arise in relation to construction of the development and to keep a record of these; and*
 5. *For the distribution of Committee minutes to Newcastle City Council and placement of minutes on the Developers website.*




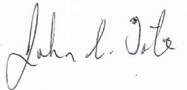

A copy of the approved Strategy is to be provided (.pdf format) to the Principal Certifier and Newcastle City Council.

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:

- Inadequate consultation
- Impacts on heritage and the character of the locality
- Traffic impacts
- Environmental impacts from construction
- Impacts on amenity
- Inadequate recreation facilities and impacts on the existing Regional National Park
- Lack of necessary infrastructure and services
- Ineffective remediation of contaminated land and resultant impacts on public health
- Impacts on Aboriginal land and culture
- The concept plan being outdated and not reflecting community expectations or contemporary planning controls.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report, the amended design of the proposed development and the conditions to be imposed, and that no new issues requiring additional assessment were raised during the public meeting.

PANEL MEMBERS	
 Paul Mitchell (Chair)	 Judy Clark
 Tony McNamara	 John Tate
 Jason Dunn	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-192– Newcastle – RE2023/00003
2	PROPOSED DEVELOPMENT	SEC 8.2 (1) Review of DA2018/01351, subdivision of 6 lots into 858 residential lots, 7 development lots for future residential development, 14 local centre lots, 1 neighbourhood centre lot, 3 residue lots and 21 lots for road widening, public reserves and drainage reserves plus associated works.
3	STREET ADDRESS	144, and 177 Woodford Street, Minmi and 610 Minmi Road, Minmi 2287
4	APPLICANT/OWNER	Winten (No. 21)
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment Value over \$20M (DA lodged before 1 March 2019)
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Koala Habitat Protection) 2020 Newcastle Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Newcastle Development Control Plan 2012 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</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: 18 March 2024 Council supplementary memo and amended conditions: 25 March 2024 Written submissions during public exhibition: 226 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Kathleen White Bethne Hart Kathleen White on behalf of Mary Pianka Madeleine Colquhoun Mitch Carter on behalf of NSW National Parks and Wildlife Service Councillor Elizabeth Adamczyk Brian Purdue on behalf of Green Corridor Collation On behalf of the applicant – Christina Renner, Dabid Rothwell, Bill Sarkis, Greg Smith, Alex Biscan, Lincoln Gibbs, Jessica Bayley, Daniel Martens Total number of unique submissions received by way of objection: 226

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Council and Applicant Briefing: 2 June 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Tony McNamara, Judy Clark, Jason Dunn, John Tate ○ <u>Council assessment staff</u>: Steven Masia, Priscilla Emmett ○ <u>Applicant representatives</u>: David Rothwell, Bill Sarkis, Christina Renner, Alex Biscan, Lincoln Gibbs, Jessica Bayley ○ <u>DEP</u>: Leanne Harris ○ <u>TfNSW</u>: Damian Pfeiffer, Holly Taylor • Council and Applicant Briefing: 25 July 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Tony McNamara, Judy Clark, Jason Dunn, John Tate ○ <u>Council assessment staff</u>: Steven Masia, Priscilla Emmett ○ <u>Applicant representatives</u>: David Rothwell, Bill Sarkis, Christina Renner, Alex Biscan, Lincoln Gibbs, Jessica Bayley ○ <u>DEP</u>: Leanne Harris • Council Briefing: 9 October 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Judy Clark, Jason Dunn, John Tate ○ <u>Council assessment staff</u>: Steven Masia, Priscilla Emmett ○ <u>Applicant representatives</u>: David Rothwell, Bill Sarkis, Christina Renner, Alex Biscan, Lincoln Gibbs, Jessica Bayley ○ <u>DPE</u>: Leanne Harris, Holly McCann • Council Briefing: 28 November 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Judy Clark, Tony McNamara, Jason Dunn, John Tate ○ <u>Council assessment staff</u>: Steven Masia, Priscilla Emmett ○ <u>DPE</u>: Leanne Harris; Holly McCann • Site inspection: <ul style="list-style-type: none"> ○ <u>Panel members</u>: 2nd June 2023 • Final briefing to discuss council's recommendation: 25 March 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Judy Clark, Tony McNamara, Jason Dunn, John Tate ○ <u>Council assessment staff</u>: Steven Masia, Priscilla Emmett ○ <u>DPE</u>: Leanne Harris, Holly McCann
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Provided in the council report dated 25 March 2024 and as amended by this determination.