

## DETERMINATION AND STATEMENT OF REASONS

### HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	12 February 2024
<b>DATE OF PANEL DECISION</b>	8 February 2024
<b>PANEL MEMBERS</b>	Tony McNamara (Acting Chair), Stephen Leathley, Ryan Palmer, Giacomo Arnott
<b>APOLOGIES</b>	Roberta Ryan
<b>DECLARATIONS OF INTEREST</b>	Alison McCabe - non-pecuniary conflict of interest as the applicant is Schools Infrastructure NSW who are clients of unrelated jobs for SJB Planning.

Papers circulated electronically on 29 November 2023 and 8 February 2024.

#### MATTER DETERMINED

PPSHCC-197 – Port Stephens – DA 16- 2023 -259 - 1 at 36 Elkin Avenue, Heatherbrae 2324 – Alterations and Additions to Educational Establishment (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 deferred determination of this DA in December 2023 to refer the matter to the Minister under Section 4.33 of the Environmental Planning and Assessment Act due to the Crown applicant not agreeing to two conditions of consent:

- One regarding the requirement for monetary contributions under Section 7.12 of the Act; and
- A second condition regarding the proposed landscaping and the need for additional Jacaranda trees.

The Crown applicant advised in a letter dated 19 January that the landscaping condition had been accepted and in further letter dated 8 February 2024 that the contribution condition was also accepted. This was the only reason that the matter had been deferred as the Panel previously supported the merits of the proposal.

#### Development application

The Panel determined to approve 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 approve the application for the reasons outlined in the council assessment report.





#### CONDITIONS

The development application was approved subject to the conditions in the council assessment report with an amendment to condition 19 for additional jacaranda plantings on the southern boundary of the site with the conditions all accepted by the Crown applicant.

**CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered the two written submissions made during public exhibition. The Panel notes that issues of concern included traffic, parking, the new service road, tree removal, amenity, impacts during construction and community consultation.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
 Tony McNamara (Acting Chair)	 Stephen Leathley
 Giacomo Arnott	 Ryan Palmer

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-197 – Port Stephens – DA 16- 2023 -259 - 1
2	PROPOSED DEVELOPMENT	Alterations and Additions to Educational Establishment
3	STREET ADDRESS	36 Elkin Avenue, Heatherbrae 2324
4	APPLICANT/OWNER	School Infrastructure NSW Department of Education / School Infrastructure NSW
5	TYPE OF REGIONAL DEVELOPMENT	<b>Crown development over \$5 million</b>
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>Port Stephens Local Environmental Plan 2013</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Port Stephens Development Control Plan 2014</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>.</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: <b>29 November 2023</b></li> <li>Letters from Applicant dated 19 January 2024 and 8 February 2024 agreeing to the disputed consent condition.</li> <li>Written submissions during public exhibition: 2</li> <li>Total number of unique submissions received by way of objection: 2</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Preliminary Briefing: 18 July 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Ryan Palmer, Giacomo Arnott</li> <li><u>Council assessment staff</u>: Dylan Mitchell, Ryan Falkenmire</li> <li><u>Applicant Representatives</u>: Rebecca Johnston, Katrina Walker, Simon Davies, Mina Gadelrab, Mina Ibrahim, Timothy Field, David Wheeler, Jessie Webb and David Lewis</li> <li><u>DPE</u>: Leanne Harris, Lisa Foley</li> </ul> </li> <li>Site inspection: <ul style="list-style-type: none"> <li>Tony McNamara 17 July 2023</li> <li>Ryan Palmer 28 November 2023</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Final briefing to discuss council's recommendation: 6 December 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Tony McNamara (Chair), Stephen Leathley, Ryan Palmer, Giacomo Arnott</li> <li>○ <u>Council assessment staff</u>: Dylan Mitchell, Ryan Falkenmire</li> <li>○ <u>Applicant representatives</u>: Rebecca Johnston, Simon Davies, Jessica Webb, , Mina Gadelrab, David Lewis, Ashley Barnes, Allan McCully, Adrian Connell, Kazi Anwar,</li> <li>○ DPE: Leanne Harris, Holly McCann</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	<b>Approval</b>
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report