

BRIEFING DETAILS

BRIEFING DATE / TIME	Wednesday, 7 February 2024
LOCATION	MS Teams Teleconference

BRIEFING MATTERS

PPSHCC-271 –Port Stephens – DA 16 -2023 – 690 - 1 - 14 Popplewell Road, Fern Bay 2295 - Subdivision

PANEL MEMBERS

IN ATTENDANCE	Alison McCabe (Chair), Roberta Ryan, Tony McNamara,
APOLOGIES	Nil
DECLARATIONS OF INTEREST	Ryan Palmer, Giacomo Arnott and Leah Anderson - have previously voted on the planning proposal, DCP and VPA for this matter on 27 July 2021, and for the DCP on 14 March 2023 and 23 May 2023. John Maretich – perceived as involved in infrastructure development and previous discussions with State Agencies regarding impact as well as role at Council.

OTHER ATTENDEES

APPLICANT REPRESENTATIVES	Tom Allison, Andrew Biller, Laura Neville, George Allan
COUNCIL ASSESSMENT STAFF:	Dylan Mitchell, Ryan Falkenmire
DEPARTMENT STAFF	Leanne Harris

COUNCIL BRIEFING:

- Overview of the strategic context and explanation of the Fern Bay Strategy.
- The site shares a border with land within Newcastle Council to the south with a possible future mixed-use purpose. Council will be consulting with Newcastle Council regarding the specifics of the DA.
- The site was re-zoned in mid-2022 and a site specific DCP also developed (specific provisions for small lot housing, 300 square metres etc).
- The site is a highly sensitive area for Aboriginal Heritage. An ACHAR has been prepared but further test investigations are now required. An AHIP has been received to enable the applicant to undertake these excavations and investigations.
- Council's preliminary biodiversity assessment is underway with issues about the appropriateness of connection to the south to accommodate fauna movements and encroachment of some of the drainage infrastructure into the conservation area being worked through.
- Pedestrian access to the beach and extent of clearing required needs to be considered.
- There is a broader question about the responsibility for the ongoing management of the residual land / conservation area noting a vegetation management plan has been submitted.

Planning Panels Secretariat

- NPWS have been notified and questions have been raised in relation to potential un-regulated access to the adjacent National Park.
- Various off-site works proposed including the signalisation of Bardon Rd and Nelson Bay Rd and the DA has been referred to TfNSW.
- Council is seeking clarification regarding consistency of documentation and assessment of all offsite works eg sewer and water connections and other road works.
- Possible need for a VPA for some of these off-site works as identified in the Council's contributions plans.
- Council has concerns about the co-location of public open space / detention basins and functionality of this arrangement.

APPLICANT PRESENTATION:

- Background and context to DHA and future intentions for this site with a mix of housing for Defence personnel and lots that will be sold.
- Overview of the proposal provided.
- Background to the rezoning – now R3Medium Density Residential, with a site specific DCP.
- Description of the site and surrounding context.
- Current investigations and testing in relation to Aboriginal Heritage.
- Local heritage significance and DA accompanied by a Heritage Impact Statement.
- Contamination investigations undertaken to date.
- Full clearing of vegetation proposed.
- Overview of proposed subdivision pattern, civil works, and off site works (intersection, road and pedestrian network upgrades, landscaping and stormwater management).
- Overview of specialist reports provided to support the DA.
- Overview of community consultation undertaken by the applicant from 2016 through to 2023

PANEL COMMENTS:

- The Panel need to understand how ecology has been dealt with in terms of the avoid and minimise requirements under the Biodiversity Conservation Act given previous Land and Environment Court decisions (Planners North v Ballina Shire Council, 2021 and IRM Property Group (No.2) Ltd v Blacktown City Council, 2021). It is likely that the Panel will seek a further briefing from Council in relation to the ecological framework that applies and relationship to the recent rezoning.
- The Panel will need to understand how the balance of the site will be managed. There is a need for certainty particularly when this relates to intended biodiversity outcomes.
- Any proposed beach access arrangements including parking, amenities, waste collection etc need to be documented and understood.
- Social Infrastructure needs and assessment should be considered.
- The assessment also needs to consider interfaces with boundaries, connectivity and location of roads, vegetation removal and engineering works.
- The currency and adequacy of the contamination investigations needs to be investigated given the age of the previous site audit.
- Heritage impacts and the impacts on the conservation land needs to be assessed.
- The Panel want clarity over the extent of off-site works, apportionment responsibilities and the need (if any) for a VPA.

The Panel understand Council will be issuing an RFI and will seek further briefings as required.

Planning Panels Secretariat

4PSQ 12 Darcy Street, Parramatta NSW 2150 | Locked Bag 5022, Parramatta NSW 2124 | T 02 8217 2060 | www.planningportal.nsw.gov.au/planningpanels