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| **COUNCIL ASSESSMENT BRIEFING REPORT TO PANEL**  HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL | |

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| PANEL REFERENCE & DA NUMBER | PPSHCC – 294 – DA/598/2024 |
| PROPOSAL | Concept development and first stage of development – Subdivision |
| ADDRESS | Lot 1 DP 1286424  65 Glendale Drive, Glendale |
| APPLICANT | Transport Asset Holding Entity of NSW |
| OWNER | Transport Asset Holding Entity of NSW |
| DA LODGEMENT DATE | 21 May 2024 |
| APPLICATION TYPE | CROWN DA |
| REGIONALLY SIGNIFICANT CRITERIA | Section 2.19(1) and Clause 4 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* declares the proposal regionally significant development as: Crown development over $5 million |
| CIV | $7,611,392.00 (excluding GST) |
| CLAUSE 4.6 REQUESTS | Yes – Variation to Clause 4.3 Height of Buildings and Clause 7.10 Residential Development in certain employment and mixed-use zones |
| LIST OF ALL RELEVANT PLANNING CONTROLS (S4.15(1)(A) OF EP&A ACT) | * *State Environmental Planning Policy (Biodiversity and Conservation) 2021* * *State Environmental Planning Policy (Housing) 2021* * *State Environmental Planning Policy (Industry and Employment) 2021* * *State Environmental Planning Policy (Planning Systems) 2021* * *State Environmental Planning Policy (Resilience and Hazards) 2021* * *State Environmental Planning Policy (Resources and Energy) 2021* * *State Environmental Planning Policy (Transport and Infrastructure) 2021* * *Lake Macquarie Local Environmental Plan 2014* * *Lake Macquarie Development Control Plan 2014* |
| AGENCY REFERRALS  (re-referrals only) | Subsidence Advisory NSW  DPE – Heritage NSW  DPE – Water  Transport for NSW |
| TOTAL & UNIQUE SUBMISSIONS | Eleven total submissions were received during the initial notification period in 2024.  Three submissions have been received during the renotification period.  A total of 14 submission have been received. |
| KEY ISSUES | Status and context of Glendale – regional commercial hub  Affordable housing  Ecology  Traffic and Transport  Flooding impacts  Government Audit  Overall masterplan design |
| ADDITIONAL DOCUMENTS SUBMITTED FOR CONSIDERATION | Attachment A – TFNSW Response to RFI  Attachment B Revised Concept DA plans  Attachment C Urban Design Report addendum  Attachment D Tetra Tech advice – Contamination, Mine Subsidence and Geotechnical  Attachment E BMT Flood Impact addendum  Attachment F Civil Engineering addendum Attachment G Traffic and Transport addendum  Attachment I Bushfire advice addendum  Attachment J Terras revised landscape plan  Attachment K Open Space Policy Review  Attachment L Vegetation Management Plan update  Attachment M Updated Public Domain Plan Attachment N Updated Statement of Heritage Impact  Attachment O Revised ACHAR – redacted  Attachment P Revised ACHAR – unredacted  Attachment Q Updated Mine Subsidence Report (June 2024)  Attachment R Clause 4.6 variation request to LMLEP cl.4.3 |
| PREVIOUS BRIEFINGS | 6 August 2024 |
| ASSESSMENT STATUS | Under assessment |
| PREPARED BY | Glen Mathews |
| DATE OF REPORT | 10 February 2025 |

1. **THE SITE AND LOCALITY**
   1. **The Site**

The development site is an irregular shaped single lot consisting of three non-contiguous parcels of land separated by Stockland Drive and Glendale Drive (refer to Figure 1).

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**Figure 1 - Development site**

The *Lake Macquarie Local Environmental Plan (LMLEP) 2014* identifies multiple land use zones for the site, being MU1 Mixed Use, E2 Commercial Centre and C2 Environmental Conservation.

A defined water course, Winding Creek, traverses the site from east west and is contained within the C2 zone. Areas of the site north of Winding Creek’s C2 zoning are identified as MU1 mixed use and land to the south is E2 Commercial Centre.

The overall site has an and area of 35.85 hectares and is predominately vegetated with the exception of the northwestern corner which had historically contained sporting fields. The natural watercourse and low topography of the site results in site being affected by Council’s high hazard flooding. The southeastern corner of the site is partially identified as local heritage item Cardiff Rail workshops.

The site is mapped as being bushfire prone land, being within a mine subsidence district, containing Class 3 and 5 acid sulfate soils and having areas of sensitive Aboriginal landscape.

* 1. **The Locality**

The established character of the locality is existing commercial uses to the south with residential to the north, while the site forms a natural bush corridor between the two uses, refer to figure 2 below.

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**Figure 2 - Locality Plan**

The northern edge of the site partially adjoins Main Road, with a separate lot (owned by Transport for NSW) running parallel to Main Road for approximately 850m of what would otherwise appear to be a 1050m frontage.

To the north of Main Road is Residential zoned land with R3 Medium Density residential zoning fronting the road and R2 Low Density Residential behind this.

Immediately adjacent to the site on the southern side of Winding Creek is the Hunter Sports Centre which is currently undergoing significant upgrade.

The site is bisected by Glendale Drive providing vehicle access to each of the three portion of the site. In addition to the site Glendale Drive provides access from Main Road through to the Glendale Shopping Centre in the southwest. The Shopping centre provides a substantial retail hub with open air central car park, major grocery and retail outlets and supporting specialty stores.

To the east of the development site is an area of R3 Medium density residential while to the west is an established large of commercial premises which generally include specialised retail and motor vehicle sales.

Of note existing residential uses in proximity to the development, generally consists of detached single dwelling style development.

The immediate area is the established major centre for Glendale and is serviced by existing public transport routes.

1. **THE PROPOSAL AND BACKGROUND** 
   1. **The Proposal**

The proposal seeks consent for a Concept Development Application under Section 4.22 of the Environmental Planning and Assessment (EP&A) Act 1979 and delivery of stage 1 subdivision in two phases.

Specifically, the Concept Development Application proposes to establish:

* Vehicle and pedestrian networks
* Connections to the existing transport network
* Civil and stormwater arrangements
* Bulk earthworks
* Bush fire, ecological and heritage management arrangements
* Defined future development parcels, land uses and building envelopes provide scope for:

Delivery of the first stage of development in two phases to provide:

* Phase 1 – Three lots which separate land north of Glendale Drive and create two lots to the south.
* Phase 2 – Subdivision of Lot 3 (created in phase 1) into seven lots including one proposed road reserve.
* Phase 2 – includes required bulk earthworks, essential service provision, and remediation works.

Amendments proposed to the development in response to request for information issued on 23 August include:

* Previous residential lot identified for lot 103 is replaced with mixed use.
* Proposed local park is relocated from lot 107 to lot 105 to adjoin the Winding Creek corridor.
* Lot 107 is now identified as mixed use
* Built form for mixed use lots has been increased to include portions of six storey on lots 103, 104 and 107.
* Lot 104 mixed use site includes an eight-storey portion adjacent to the Winding Creek corridor.
* Lot 115 and 116 residential flat buildings now include six and eight storey envelopes respectively.
* Building envelopes Lot 2 has been significantly reduced to increase setback from Powerful owl tree.
* Removal of shared path link across Winding Creek.

The key development data is provided in **Table 1**.

**Table 1: Key Development Data**

|  |  |
| --- | --- |
| **Control** | **Proposal** |
| Site area | 35.85ha |
| Clause 4.6 Requests | Yes – Clause 7.10 Residential development in certain employment and mixed use zones |
| No of apartments | Nil proposed for delivery |
| Max Height | 13m height limit |

* 1. **Background**

The development application was lodged on 21 May 2024. A chronology of the development application since lodgement is outlined in **Table 2**.

**Table 2: Chronology of the DA**

|  |  |
| --- | --- |
| **Date** | **Event** |
| 21 May 2024 | Exhibition of the application |
| 23 May 2024 | DA referred to external agencies |
| 6 August 2024 | Panel briefing |
| 23 August 2024 | Request for information issued |
| 20 December 2024 | Response to request for additional information was received. |
| 2 January 2025 | Referrals issued to internal and external experts |
| 14 January 2025 | Re-notification issued |
| 17 February 2025 | Panel briefing |

* 1. **Site History**

The site is strategically located and identified within both local and regional strategic documents.

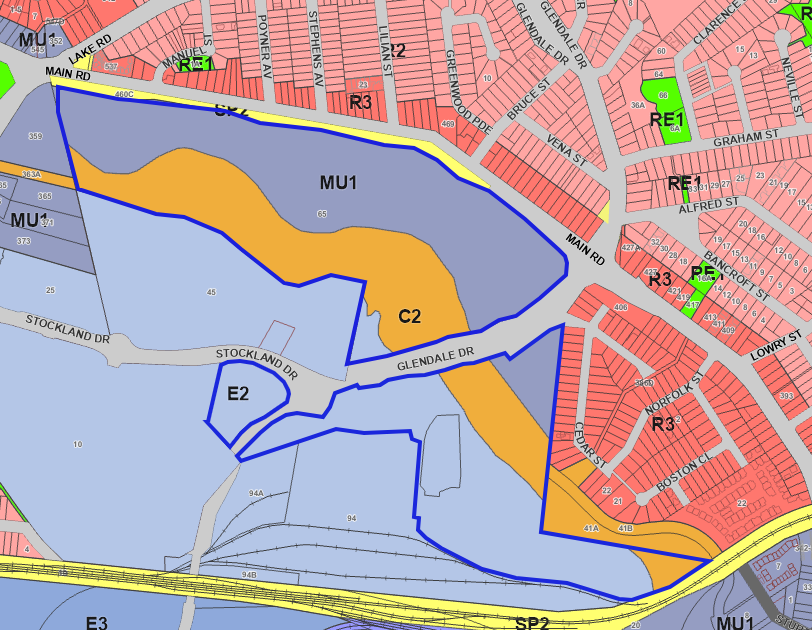
Glendale Drive was constructed in 2016 as the first stage of the Lake Macquarie Transport Interchange, with the ultimate intention to provide a railway station in the locality with additional vehicle and pedestrian network links.

The applicant commenced Pre-Lodgement discussion with Council in April 2023 and has been actively working with Council’s planning team to address items raised.

1. **PLANNING CONTROLS**

The site is split zoned, with a combination of C2 Environmental Conservation, E2 Commercial Centre and MU1 Mixed Use zones. Works have generally been excluded from the C2 Environmental Conservation zone with the exclusion of one detention basin on the northern edge and asset protection zones on the southern side of the Winding Creek.

Proposed development in areas of the site zoned E2 have been identified to generally contain uses which are permitted under Clause 2.3 of the *LMLEP 2014* rather than a specific use. This is supported.



**Figure 3 – Local zoning with site boundary shown in blue**

The proposed uses of residential flat building and multi dwelling housing, identified within the northern MU1 precinct are permitted with consent pursuant to Clause 2.3 of the *LMLEP 2014.*

However, clause 7.10 of the *LMLEP* requires any residential development to be part of a mixed-use development which provides an active street frontage. In this instance the application proposes to have a commercial precinct in the northern portion of the site providing a centralised commercial area within the site rather than requiring every development lot to provide commercial frontage. This has been proposed through use of Clause 4.6 to vary to the written standard.

The amended plans provided also include additional height to buildings in strategic locations of the site. This lock controls provided will exceed the maximum building height standards for the site. A written request to vary the standard has been provided with the amended information.

A summary of the key matters for consideration and non-compliances arising from the relevant EPIs are outlined in **Table 3**. The pre-conditions to the grant of consent have been considered and are outlined in bold.

**Table 3: Summary of Key Matters in the Relevant EPIs**

|  |  |  |
| --- | --- | --- |
| **EPI** | **Matters for Consideration** | **Comply (Y/N)** |
| State Environmental Planning Policy (Biodiversity & Conservation) 2021 | Chapter 4: Koala Habitat Protection 2021  Considered as part of a Biodiversity Assessment and there will be no impact on koalas or koala habitat. | Y |
| State Environmental Planning Policy (Housing) 2021 | Chapter 4: Design of residential apartment development   * Section 144 – Application of chapter   The development application is for the concept building envelopes and initial stages of subdivision. There is no built work proposed to be considered under the requirements of the Chapter 4 at this stage. | N/A |
| State Environmental Planning Policy (Planning Systems) 2021 | Chapter 2: State and Regional Development   * Section 2.19(1) - declares the proposal regionally significant development pursuant to Clause 4 of Schedule 6 - Crown development over $5 million | Y |
| SEPP (Resilience & Hazards) | Chapter 2: Coastal management   * Section 2.10(1) & (2) - Development on land within the coastal environment area   It is only the northwest corner of the site identified as being within the coastal environmental area. The proposal will have minimal impact on coastal and environmental values and natural coastal processes.   * Section 2.12 - Development in coastal zone generally   The development does not increase risk of occurrence for coastal hazards on the site or other land.  Chapter 4: Remediation of land   * Section 4.6 – Contamination and remediation to be considered in determining development application   The applicant has advised conditions would be required for an Environmental Protection Licence (EPL). It was noted the EPA will only consider the issue of an EPL when the EPA is certain that Council has included the requirement as part of the planning approval for the development site. | N |
| State Environmental Planning Policy (Transport and Infrastructure) 2021 | Chapter 2: Infrastructure   * Section 2.48(2) (Determination of development applications—other development) – electricity transmission   The proposal is satisfactory subject to conditions.   * Section 2.98(2) – Development adjacent to rail corridors   The proposal is satisfactory subject to conditions.   * Section 2.119(2) - Development with frontage to classified road   Matters for consideration can be adequately addressed and information provided demonstrates future residential development is capable of achieving internal comfort levels with regard to acoustic impacts.   * Section 2.122(4) - Traffic-generating development   Amended information was referred to Transport for NSW (TfNSW) who raised concern with the information provided and proposed methods of managing impact to TfNSW assets. | N |
| Proposed Instruments | No compliance issues identified. | Yes |
| Lake Macquarie Local Environmental Plan 2014 | * Clause 2.3 – Permissibility and zone objectives   Development is affected by multiple land use zones. The concept appropriately locates uses and works to ensure the development can meet the zone objectives.   * Clause 2.6 – Subdivision – consent requirements   The application seeks development consent for subdivision as the first stage of works.   * Clause 4.1 – Minimum lot size   The Mu1 and E2 portions of the site do not have a prescribed minimum lot size.  The C2 land is subject to a 40-hectare minimum lot size, however an exception to the lot size is proposed under clause 4.1E below.   * Clause 4.1E – Exceptions to minimum lot sizes for biodiversity conservation   The development meets objective of the clause providing an outcome where the flexibility of minimum lot size standards allows land already separated by significant road infrastructure to be maintained for long term biodiversity conservation.   * Clause 4.3 – Height of Buildings   The amended concept development and first stage of works propose building envelopes only.  The building envelopes now proposed to exceed the maximum building height of 13m with up to 8 storey development via a 26m high building envelopes.   * Clause 4.6 – Exceptions to development standards   A formal request to vary the requirements for all residential development lots to have an active street frontage under the requirements of clause 7.10 of the LMLEP was provided with the initial application.  The amended suite of information includes a separate formal request to vary clause 4.3 Height of buildings development standard for certain envelopes.   * Clause 5.10 – Heritage conservation   A Statement of Heritage Impact has been prepared to support the application for potential impact to European Heritage values of the site.   * Clause 5.21 – Flood planning   The development site is impacted by high hazard flooding. A flood impact assessment has been prepared by BMT to support the proposed concept use of the site. Detailed assessment is ongoing for this matter   * Clause 7.1 – Acid sulfate soils   Initial assessment of potential acid sulfate soils was submitted with the application which has been reviewed and enables a management plan to be provided as conditions of consent.   * Clause 7.2 – Earthworks   Bulk earthwork plans have been provided to support the development however the this is reliant upon impact form flooding being resolved.   * Clause 7.7 – Development on Sensitive Aboriginal landscape areas   A request for approval under the National Parks and Wildlife Act 1974 was submitted with the application for approval under section 90 for an Aboriginal Heritage Impact Permit (AHIP).   * Clause 7.10 – Residential development in certain business zones   The development proposes a concept plan which will establish commercial precincts for the development rather than all lots providing an active street frontage under the clause. A cause 4.6 variation request has been included for consideration of this variation to the written standard.   * Clause 7.21 – Essential Services   Appropriate servicing will be available to the development and is required to be provided in capacity to service all stages of the development. | N |
| Lake Macquarie Development Control Plan | Lake Macquarie Development Control Plan 2014:   * Part 4 – Development in Centre and Mixed-use Employment zones * Part 7 – Development in Environmental Protection Zones * Part 10.8 – Town Centre Area Plans – Glendale Regional Centre | Y/N |

1. **REFERRALS AND SUBMISSIONS** 
   1. **Agency Referrals and Concurrence**

The amended development application has been re-referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 4**.

**Table 4: Concurrence and Referrals to agencies**

|  |  |  |  |
| --- | --- | --- | --- |
| **Agency** | **Concurrence/**  **referral trigger** | **Comments**  **(Issue, resolution, conditions)** | **Resolved** |
| Concurrence Requirements (s4.13 of EP&A Act) – N/A | | | |
| Referral/Consultation Agencies | | | |
| Transport for NSW | Section 2.122 – Traffic generating development – SEPP (Transport and Infrastructure) 2021 | Amended information has been referred to TfNSW who provided a response 24 January 2025 raising a number of items for clarification. | N |
| Integrated Development (S 4.46 of the EP&A Act) | | | |
| Subsidence Advisory NSW | Section 22 – Alter or erect improvements within a mine subsidence district  Coal Mine Subsidence Act 2017 | General Terms of Approval provided dated 14 January 2025 | Y |
| DPE Water | Section 91 – Controlled Activity Approval – Water Management Act 2000 | General Terms of Approval provided dated 16 January 2025 | Y |
| DPE Heritage NSW | Section 90 – Aboriginal heritage impact permits – National Parks and Wildlife Act 1974. | Provided response dated 23 January 2025 advising the concept application did not require an Aboriginal Heritage Impact Permit and as such General Terms of Approval could not be issued. However the advise did extend to provide recommended conditions. | N/A |

* 1. **Council Referrals**

The development application has been re-referred to various Council officers where technical concerns had been raised previously. review as outlined **Table 5.**

**Table 5: Consideration of Council Referrals**

|  |  |  |
| --- | --- | --- |
| **Officer** | **Comments** | **Resolved** |
| Engineering | Response to amended information remains outstanding. Initial items have been flagged with regard to flooding impacts. | No |
| Traffic | Response to amended information remains outstanding. Initial advice raises concerns with the existing bus network. | No |
| Landscape | Response to amended information remains outstanding. No initial advice has been provided | No |
| Heritage | Has requested as a minimum a Heritage Interpretation Strategy should be provided at this stage. | No |
| Ecology | The amended Biodiversity Assessment Report remains outstanding. | No |
| Environmental Management | Not satisfied with the response provided with regard to requirement for and Environmental Protection Licence. | No |
| Creeks and watercourses | Amended response remains outstanding. No initial advice provided. | No |
| Community Assets/ Natural areas | Request the local park provide a minimum 5,000m2 as identified in Council’s Parks and Play Strategy 2021 and provide appropriate embellishment.  A second park is not required for the development and the proposed embellishment of a playground and pump track is not supported in the Parks and Play Strategy 2021 and the Active Recreation Strategy 2024. The provision of this secondary park area would provide an unnecessary cost burden on Council for the continued maintenance, management and future replacement. | No |

* 1. **Community Consultation**

Initially the application was notified in accordance with the Council’s Community Engagement Strategy from 21 May 2024 until 26 June 2024. Seven submissions were received during the notification period and four submissions were received after the period finished totalling eleven submissions related to the initial notification period.

After receipt of amended information re-notification was issued on 14 January 2025 and is due to close on 19 February 2025. To date during the current re-notification period three additional submission have been received.

1. **KEY ISSUES**

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

* 1. **Status and context of Glendale – regional commercial hub**

The Lake Macquarie City Local Strategic Planning Statement identifies Glendale within the North West Growth Area as a strategic economic centre, one of only three in the LGA. It is part of the North West Lake Macquarie Catalyst Area, which is said to present opportunities for transformational urban development in a convenient central location.

* 1. **Affordable housing**

The Concept DA has not included any affordable housing with the applicant noting Council does not have an Affordable Housing Policy. Notwithstanding this, the applicant has noted the delivery of affordable housing is a focus of the NSW Government advising details of any affordable housing will be provided as relevant with each subsequent development application.

* 1. **Ecology**

Prior to submission of additional information, the general direction of the development and potential changes were discussed with Council staff. From this discussion plans have been amended to provide:

* an increased buffer around the identified powerful owl habitat tree and provide a corridor to Winding Creek.
* Connectivity has been provided for Squirrel gliders through the identifying provision of poles and a rope bridge.

Council expressed a preference for detention basins to be removed from C2 Land which has not occurred. However, the applicant advises the location of basins is previously disturbed or of low environmental quality and can be provided without adversely impacting on the significance of the site.

The amendments provided on the plans appear generally consistent with discussions prior to lodgement. However, the applicant has yet to provide the amended Biodiversity Assessment Report (BDAR). The BDAR is crucial to determining the overall suitability of the masterplan, to justify impacts proposed from the loss of habitat within the mixed use zone.

Detailed consideration of Planners North vs Ballina has not been included, it is assumed justification of the offset strategy will form part of the amended BDAR when received.

* 1. **Traffic and Transport**

Amended information was referred to TfNSW for comment as Traffic generating development in accordance with section *2.122* of *State Environmental Planning Policy (Transport and Infrastructure) 2021*. In TfNSW response it is highly recommended Council request an assumption and methodology paper be prepared for the development. This paper should include traffic volumes, trip distribution, background and growth, noting there are no funded or committed road works for Main Road or to construct Pennant Street rail overpass.

As a minimum TfNSW require a copy of the revised SIDRA model to determine suitability and provide agreement to the identified signalised intersection treatments.

After receipt of the formal response, TfNSW reached out to advise potential of flooding impact to the road have been identified as a result of the amended flooding information provided

The flood assessment demonstrates that additional flooding occurs on Main Road and flood heights will increase as a result further interrogation of stormwater works proposed to ameliorate these impacts is required.

Council’s internal traffic response remains outstanding, however initial comment has raised concern Sidra modelling indicates the Road network will fail once fully developed. Further implementation of a green travel plan is not appropriate due to the low bus servicing of the Glendale area.

Further detail can be provided upon receipt of final comments.

* 1. **Flooding impacts**

Internal review of amended flood assessment remains under consideration. This remains a significant concern to be addressed which was included as part of the initial request for information by Council.

* 1. **Government Audit**

The applicant has confirmed the site was identified in the governments housing audit in March 2024.

* 1. **Overall masterplan design**

The applicant initially advised the master plan conformed to the existing building height limit as the Geotechnical investigations had dictated this.

Upon advice form the Panel, further investigation was undertaken which identified a negligible cost impact for delivery of increased building heights up to eight storeys.

In response to this information the masterplan design has been reconsidered particularly around the potential building heights for the mixed use precinct and Main Road Glendale Drive intersection. The applicant proposes a height increase up to eight storey and sections of six stories which will help to define key areas of the overall development. The keys areas for increase height are to define the mixed use component and at the Glendle Drive intersection acting as a gateway to the Glendale precinct.

In addition to height, the location of mixed use development has been consolidated adjacent to the commercial land providing a transition between residential and commercial uses. Mixed use is now identified for three blocks adjoining Main Road providing activation of the main street frontage of the site.

Proposed local park has been relocated away from Main Road which is supported, however the overall design raises concern with Council’s Community Management team.

The preliminary masterplan details identify the following changes to yields would be expected:

* Three less multi dwelling homes with a total of 114
* 88 addition apartments with a total of 687
* 223m2 less GFA for local shops with a total of 2892m2
* No change to large format retail GFA with a total of 9,400m2
* No change to “other permissible uses” GFA with a total of 18,540m2
* An additional 2,072m2 of commercial GFA

1. **RECOMMENDATION**

Following receipt of referral response, the final detailed assessment shall be complete taking into account any additional issues raised in submissions from the community.

A final request for information letter should be sent to the applicant, requesting the key issues identified to be addressed to allow final determination of the proposal to occur.