

RECORD OF DEFERRAL

HUNTER & CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DEFERRAL	4 March 2025
DATE OF PANEL BRIEFING	18 February 2025
PANEL MEMBERS	Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Doug Eaton, Rachel Stanton
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 11 February 2025.

MATTER DEFERRED

PPSHCC-297 – Central Coast – DA/1295/2023 at U3, 49 -65 Wentworth Avenue, Doyalson 2262 –Community Title Subdivision (as described in Schedule 1)

REASONS FOR DEFERRAL

The Panel considered the matters listed at item 6, the material listed at item 7 and the material presented at the briefings and observed at site inspections listed at item 8 in Schedule 1.

The Panel has had the benefit of a number of briefings from both Council and the Applicant. The Panel also heard from two (2) residents who raised concern with the application.

The proposed community title subdivision and infrastructure works is the outcome of a rezoning finalised in 2022. A Voluntary Planning Agreement (VPA) was entered into as part of the Planning Proposal. This VPA is a matter for consideration for this Development Application (DA).

The subdivision and future use of the lot would be consistent with that anticipated by the zoning of the land. The intersection and roadworks, specifically at the Pacific Highway intersection, are those required by the VPA.

The VPA also included specific biodiversity and landscape outcomes. The Council report recommend conditions of consent to address some differences in the information regarding the biodiversity and landscape outcomes.

The Panel notes that the development does not meet the requirements of the VPA.

The Panel is not satisfied that these matters are conditional. The Panel also requires further consideration of the avoidance measures.

The following information is required for the Panel to properly assess the application as previously requested by Council:

- Consideration of the *Planners North v Ballina Shire Council* [2021] NSWLEC 120 decision. The BDAR is to be revised to detail avoidance and minimisation of biodiversity impacts being provided outside of land already zoned C2. In accordance with the BAM (including Section 7.1) the BDAR is to outline the analysis undertaken of alternative designs that would improve avoidance and minimisation of biodiversity impacts (such as options considered during the rezoning).
- Amend the design of water and sewer alignments that show these services set back from the C2 Biodiversity Corridor as to not impact any trees or vegetation in the corridor.
- A Tree Protection Plan and Amended Arboriculture Impact Assessments prepared by a minimum AQF 5 level Arborist is required which demonstrates:

- (i) Reassessment of trees proposed to be removed in Landscape Corridor E, to determine if they can be retained with suitable protection measures, including hollow bearing trees.
 - (ii) The intent of the Landscape Corridor E as outlined in the Voluntary Planning Agreement is to retain existing trees, including 31 hollow bearing trees. Specific Tree Protection Measures required to retain trees Landscape Corridor E are required as per the VPA, including mapping of TPZs for individual trees to show setbacks and specific protection measures required.
 - (iii) Trees in the Central Park area of Landscape Corridor E and in Landscape Corridor G must be included in the Arborist Assessment and Tree Protection Plan.
 - (iv) Show and consider the impact on trees of proposed location of road crossings for Corridor E. Roads are to be located to minimise tree impacts.
 - (v) In relation to Biodiversity Corridor F and Landscape Corridor G, the Tree Protection Plan and Amended Arboriculture Impact Assessment is to address tree protection requirements for trees within these corridors along the edges, including protection requirements and construction methodology for the proposed installation of water and sewer. Water and sewer location will need to be set back from the C2 corridor.
- d) An updated Landscape Management Plan which:
- (i) References the results of the Tree Protection Plan and Amended Arboriculture Impact Assessment and be consistent with those plans in relation to tree retention and removal.
 - (ii) Includes specific Tree Protection Measures required to retain trees in Landscape Corridor E as determined by the Arborist, including mapping of TPZs for individual trees to show setbacks and specific protection measures required. The LMP must include “the requisite measures for the retention of hollow bearing trees”, including SRZs and TPZs for each tree.
 - (iii) Shows and consider the impact on trees of proposed location of road crossings for corridor E as per VPA. Roads are to be located to minimise tree impacts.
 - (iv) Complies with all the requirements of Jemena for revegetation of the gas pipeline Landscape Corridor D.
 - (v) Addresses Bushfire requirements, noting that RFS GTAs have not required any APZs. This may allow for greater understorey vegetation retention within the landscape corridors. Outline any clearing required to meet bushfire protection requirements and specify low impact methods of meeting these requirements.
 - (vi) Includes type and timing of permanent fencing.
 - (vii) Adds 5m of tree and vegetation retention around all the edges of Corridor E to compensate for the reduced planting area and outcomes for corridor D due to Jemena specifications. A further 10m is to be retained as an undeveloped setback, where no earthworks or development will be permitted, including no changes to soil depth, excavation or construction. This is to accommodate TPZ of trees on edges of corridor which are at least 10m. The width of this setback in specific areas of the site could only be reduced if the Tree Protection Plan prepared by the AQF5 arborist demonstrates to the satisfaction of Council’s Ecologist and Tree Assessment Officer that smaller Tree Protection Zones (TPZs) will be adequate to protect trees within the corridor.
- e) An updated Vegetation Management Plan for the Biodiversity Corridor F, which includes:
- (i) Specific measures to maintain ecological connectivity across the pipeline clearance area required by Jemena for gas pipeline, with reference to Clause 5.6 in the VPA. The VMP must also be specific about revegetation works are achievable in Management Zone 7.
 - (ii) Updated VMP is to specify monitoring and reporting to Council be undertaken every 6 months for first 3 years, followed by once a year until year 10 or the VMP maintenance period is confirmed by Council as complete.
 - (iii) Type and timing of permanent fencing.
 - (iv) Incorporate the results of the new Arboriculture Impact Assessments, including in relation to water and sewer construction.
- f) A Wildlife Management Plan, including all measures specified in the approved BDAR and:

- (i) If hollow bearing trees are proposed to be removed from Landscape Corridor E as a result of the (as Amended) Arboriculture Impact Assessment, the hollow replacement strategy included in the WMS must include minimum 2:1 ratio of replacement.
- (ii) Timing of all measures.

The residents who presented to the Panel also raised concerns regarding the potential local impacts arising from the Ash Dam at the Lake Munmorah Power Station.

The Panel understands that the development site was zoned some years ago, and that the Department of Health did not reply to the referral made at the rezoning stage.

The Panel considers that this application should be referred to Department of Health as the subdivision of the land is the first stage in anticipating a range of uses including residential – not withstanding that the development is for subdivision and infrastructure works only.

The matter was deferred for the provision and assessment of the above information at points (a) – (f).

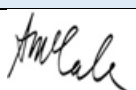
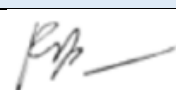
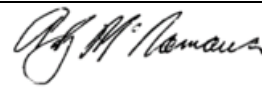

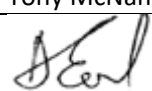
The decision to defer the matter was 4:1 in favour. Against the decision was Doug Eaton who supported the recommendations in the Council report and voted to approve the proposal subject to the conditions in the Council report.”

ACTIONS

The Development Application be deferred for the following:

1. The Applicant to provide the information at points (a) – (f).
2. A formal written request to amend the application is required to be uploaded to Planning Portal within six (6) weeks, outlining:
 - a. Particulars sufficient to indicate the nature of the change of the development, as required under section 37 of the Environmental Planning and Assessment Regulation 2021
 - b. updated technical reports relied on in the amended application.
3. Council is requested to refer the Development Application to the Department of Health.
4. Council is requested to provide an addendum assessment report responding to the matters above, which is to be uploaded to the Planning Portal within four (4) weeks of the upload of the Applicants required information to the Planning Portal.
5. When the updated assessment report is received the Panel will determine the application by way of electronic determination.

If the outstanding information is not provided the Panel will move to determine the DA based on the information currently at hand.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Roberta Ryan
 Tony McNamara	 Rachel Stanton
 Doug Eaton	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-297 – Central Coast – DA/1295/2023
2	PROPOSED DEVELOPMENT	Community Title Subdivision
3	STREET ADDRESS	U3, 49 -65 Wentworth Avenue, Doyalson 2262
4	APPLICANT/OWNER	Doyalson – Wyee RSL Club Ltd Doyalson – Wyee RSL Club Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 Central Coast Local Environmental Plan 2022 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Central Coast Development Control Plan 2022 Planning agreements: Planning Agreement - Central Coast Council and Doyalson Wyee RSL Club 15 September 2022. 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 February 2025 Written submissions during public exhibition: 4 Total number of unique submissions received by way of objection: 4
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Initial Briefing: 27 August 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Greg Flynn <u>Applicant Representatives</u>: Stephen O'Connor, Clare Brennock, Brett Elise, Peter Ross, Ben Young <u>Council assessment staff</u>: Salli Pendergast, Emily Goodworth <u>Department</u>: Leanne Harris, Holly McCann Site inspection: <ul style="list-style-type: none"> Alison McCabe: 12 October 2024 Roberta Ryan: 7 December 2024 Tony McNamara: 22 January 2025 Doug Eaton: 2 February 2025 Rachel Stanton: Final briefing to discuss Council's recommendation: 18 February 2025 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Rachel Stanton, Doug Eaton <u>Council assessment staff</u>: Salli Pendergast, Emily Goodworth <u>Applicant representatives</u>: <u>Submitters</u>: Gary Chestnut, Gary Blaschke
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council assessment report