

## DETERMINATION AND STATEMENT OF REASONS

### HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	29 September 2020
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Sandra Hutton and John Brockhoff
<b>APOLOGIES</b>	Chris Doohan
<b>DECLARATIONS OF INTEREST</b>	<p>Sandra Hutton declared a non-significant interest for the application, as her employer, ADW Johnson, has had limited historical involvement more than seven years ago on an unrelated part of the wider site. The Chair agreed that this did not preclude Ms Hutton's involvement in the determination.</p> <p>Juliet Grant declared a conflict of interest for this application because the application is associated with the Kings Hills subdivision development application (PPS-2018HCC047). Ms Grant has declared a conflict of interest for the Kings Hills subdivision development application because her employer, City Plan, previously provided advice on an adjacent site.</p> <p>Ryan Palmer declared a conflict of interest as Council is a landowner for the proposed development</p> <p>Paul LeMottee declared a conflict of interest as he has been briefed as a Councillor on this development application</p> <p>Giacomo Arnott declared a conflict of interest as he has been involved in previous briefings relating to this site and the wider development</p> <p>Steven Peart declared a conflict of interest as he has been intimately involved with environmental assessments, negotiation of VPAs and general project assessment and feedback for both these DAs.</p> <p>John Maretich declared a conflict of interest as he has been involved in discussions with developers and their consultants, working through details on required and future works, engineering assessments and workshops with all of the developer's engineers, workshops with other government agencies (Planning, Hunter Water Corporation, the then RMS) and direct discussion with his staff who have also been involved the above.</p>

Papers circulated electronically on 15 September 2020.

#### MATTER DETERMINED

PPSHCC-34 – Port Stephens – DA 16-2020-81-1 at various addresses in Raymond Terrace and Kings Hill – Water and Sewer Infrastructure (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 had the opportunity to question the applicant and consultant team at length. The Panel sought further clarification and additional detail in respect to the height, form and location of ventilation stacks and the location and detail of the pumping station. This additional information was necessary for the Panel to understand factually what was being asked, specifically locations, scale and extent of built form structures that include specific reference to the site's context.

The Panel also considered that there should be no impact on trees in Boomerang Park and no works in the High Archaeological Potential Areas surrounding the heritage listed Irrawang Pottery Site.

Street trees are also important elements in a streetscape and trees of high value should be retained. Additional arboricultural assessment has been required to address the issue.

### Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the conditions attached to the Council assessment report as amended in the following way:

1. Under 1.0 - Conditions of Consent

(a) Delete condition 3 and replace with the following:

(3) Approved plans and documentation – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan reference/ drawing no.	Name of plan	Prepared by	Date
NL120526 / C1.01/ Rev 2.	Preliminary Sewer And Water Alignment – Overall Site Plan	Northrop	28/03/2019
NL120526 / C2.01 – C2.04 / Rev 2.	Preliminary Sewer And Water Alignment Detailed Plan	Northrop	28/03/2019
NL120526 / C2.05 / Rev 3.	Sheet 5 - Preliminary Sewer And Water Alignment Detailed Plan	Northrop	24/09/2020
NL120526 / C3.01 – C3.04/ Rev 2.	Preliminary Water Longitudinal Section	Northrop	26/03/2019
NL120526 / C3.05 Rev 3.	Preliminary Water Longitudinal Section	Northrop	21/08/2019
NL120526 / C3.06/ Rev 5.	Preliminary Water Longitudinal Section	Northrop	10/10/2019
-	Vent Stack Location Plan	Arcadis	25/09/20
SCP-606	Sewage Pumping Station General Arrangement	Hunter Water	1/06/2016
SCP-1003	Educt Vent Shaft and Holding Down Bolth Details	Hunter Water	01/07/2017

2. Under 3.0 - Prior to Commencement of Works

(a) Delete condition 8 and replace with the following:

- (8) Vegetation Management Plan - A Vegetation Management Plan (VMP) must be developed for the areas proposed to be disturbed along the approved corridor, or areas to be rehabilitated, and submitted to Council for approval prior to any clearing works occurring on site. The VMP must be prepared and implemented by a qualified Environmental Consultant.

The plan should include clear management objectives, a schedule of works and maps. The Vegetation Management Plan is to be prepared and implemented prior to the commencement of works on the site.

(b) Delete condition 14

(c) Delete condition 23 and replace with the following:

- (23) Arborist Report – A qualified arborist with minimum Australian Qualification Framework Level 3 qualifications or higher, is required to prepare a report to determine whether there will be impacts to the root zones of mature trees along Boomerang Park, Rees James Road and Adelaide Street. No clearing or pruning of the heritage listed trees is to occur for trees in Boomerang Park, and no impacts to their root zones are to occur.

A Safe Useful Life Expectancy (SULE) Assessment must be undertaken, by a qualified arborist, where significant trees (dia 100mm or height of 5m) are to be removed along the remainder of the alignment. Trees with a high SULE rating are to be retained unless demonstrated that their loss cannot be avoided by alternatives or construction techniques, and any such loss is identified, justified and approved by Council.

Any street tree removal must be replaced by compensatory tree planting in accordance with Council's Tree Technical Specification and must occur as part of Rehabilitation Works.

The report must be provided to Council and the Certifying Authority.

3. Under 4.0 – During Works

(a) Delete condition 20 and replace with the following:

- (20) Heritage – All works are to be undertaken in accordance with the recommendations and mitigation measures contained in the Aboriginal Cultural Heritage Assessment (Section 8) prepared by Artefact (October 2019), Statement of Heritage Impact (Section 7) prepared by Artefact (October 2019), the Addendum to the Statement of Heritage Impact prepared by Artefact (July 2020) and Compilation of Mitigation measures prepared by Arcadis (August 2020).

No works are to be undertaken within the High Archaeological Potential areas surrounding the heritage listed Irrawang Pottery Site.

The decision was unanimous.

**REASONS FOR THE DECISION**

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

The proposed development will provide the essential infrastructure to facilitate the development of the King Hill Urban Release Area.

The assessment and consolidated management and mitigation measures is supported by Hunter Water Corporation following extensive consultation, noting their capacity as not only the water and sewer

authority and future asset owner and operator of the infrastructure but also the manager of Irrawang Swamp, the drinking water catchment and land and infrastructure being connected to and crossed.

#### CONDITIONS

The development application was approved subject to the conditions in the council assessment report amended as outlined above.



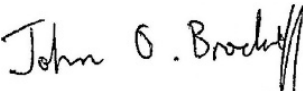
#### CONSIDERATION OF COMMUNITY VIEWS

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:

- Increased traffic noise due to removal of vegetation

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised.

Conditions were amended to ensure minimal impact to Boomerang Park, avoid unnecessary tree removal, identify location and details of sewer ventilation stacks and pumping station and minimise impact on heritage areas.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Sandra Hutton
 John Brockhoff	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-34 – Port Stephens – DA 16-2020-81-1
2	PROPOSED DEVELOPMENT	Water System and Sewerage System
3	STREET ADDRESS	LOT: 1 DP: 1085482, LOT: 1 DP: 1226115, LOT: 35 DP: 259487, LOT: 36 DP: 259487, LOT: 38 DP: 259487, LOT: 175 DP: 251129, LOT: 291 DP: 262169, LOT: 292 DP: 262169, LOT: 4 DP: 241685, LOT: 13 DP: 882528, LOT: 1 DP: 1130764, LOT: 113 DP: 733181, LOT: 41 DP: 1037411, LOT: 5 DP: 234521 17D Irrawang Street RAYMOND TERRACE, 17E Irrawang Street RAYMOND TERRACE, 87B Adelaide Street RAYMOND TERRACE, 87C Adelaide Street RAYMOND TERRACE, 87A Adelaide Street RAYMOND TERRACE, 36 Adelaide Street RAYMOND TERRACE, 34 Adelaide Street RAYMOND TERRACE, 109A Alton Road RAYMOND TERRACE, 3 Rees James Road RAYMOND TERRACE, 35 Rees James Road RAYMOND TERRACE, 37 Rees James Road RAYMOND TERRACE, 70 Rees James Road RAYMOND TERRACE, 3221 Pacific Highway KINGS HILL, 3217 Pacific Highway RAYMOND TERRACE
4	APPLICANT/OWNER	<b>Applicant</b> – PM No. 1 PTY LTD <b>Owner</b> – Hunter Water, Port Stephens Council & Kings Hill Developments PTY LTD
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
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 No.55 – Remediation of Land</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy No 44—Koala Habitat Protection</li> <li>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy (Coastal Management) 2018</li> <li>State Environmental Planning Policy No. 33 – Hazardous and Offensive Development</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 2000</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 : 16 September 2020</li> <li>Council addendum memorandum received: 23 September 2020</li> <li>Written submissions during public exhibition: one (1)</li> </ul>

		<ul style="list-style-type: none"> <li>• Total number of unique submissions received by way of objection: one (1)</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 3 June 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton and Juliet Grant</li> <li>○ <u>Council assessment staff</u>: Ryan Falkenmire and Rean Lourens</li> </ul> </li> <li>• Applicant Briefing and site inspection: 12 August 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair) and Sandra Hutton</li> <li>○ <u>Council assessment staff</u>: Ryan Falkenmire and Rean Lourens</li> <li>○ <u>Applicant representatives</u>: Adam Smith, Mark Aitkens, Jason Wasiak and Wesley Chong</li> </ul> <p><u>Note</u>: Applicant briefing was requested to provide the Panel with clarification and to respond to issues</p> </li> <li>• Applicant Briefing: 24 September 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton and John Brockhoff</li> <li>○ <u>Council assessment staff</u>: Ryan Falkenmire and Rean Lourens</li> <li>○ <u>Applicant representatives</u>: Adam Smith, Westley Owers, Rachel Perry and Kate Carroll</li> </ul> <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p> </li> <li>• Final briefing to discuss council's recommendation: 24 September 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton and John Brockhoff</li> <li>○ <u>Council assessment staff</u>: Ryan Falkenmire and Rean Lourens</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report