

RECORD OF DEFERRAL

HUNTER & CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DEFERRAL	28 October 2022
PANEL MEMBERS	Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan
APOLOGIES	None
DECLARATIONS OF INTEREST	Sandra Hutton declared a conflict of interest as her recent employer, ADW Johnson, has previously provided advice to the landowner relating to the site and the project. Jason Pauling and Luke Cubis declared conflicts of interest as they have participated in related matters previously within Council.

Papers circulated electronically on 12 October 2022.

MATTER DEFERRED

PPSHCC-35 – Lake Macquarie– DA/2238/2017 at 1A Flowers Drive, Catherine Hill Bay – residential subdivision (as described in Schedule 1).

The Panel has previously considered the matter at a detailed briefing meeting on 13 October 2021. At this meeting the Panel resolved to defer the matter for additional information and a further assessment report. Subsequently a significant amount of additional information has been lodged and the application amended.

The report that is before the Panel and as recommended does not fully address all aspects of the Panel's previous deferral.

The Panel also identified some inconsistency between Landscape Plans and Engineering Plans in respect to interface and boundary treatments. While it is understood some Arboricultural information has been received regarding minimising potential impact on trees within the adjoining national park – this information needs to be better documented, including how it sits with the Landscape Plan and Engineering Plans.

The application has a high level of complexity given it is a Part 4 application arising from a Part 3A Concept Approval. It is subject to a Voluntary Planning Agreement (VPA) and s34 Certification.

The Panel requires more detailed assessment of the following matters to be satisfied about the acceptability of the potential impacts arising from the development:

- i. Detailed consideration of how the reasons for deferral have been addressed.
- ii. Remediation strategy including the containment strategy and further consideration of proposed method of grouting and geotechnical implications.
- iii. Explanation of relevant section 7.11 Contribution Plans and how they are to be applied.
- iv. Details of the VPA applying to the development including timing of works.
- v. Consideration of the provisions of the Concept Approval and Statement of Commitments – specifically a statement regarding consistency or otherwise.
- vi. Specific description of offsite infrastructure works (roads, electricity, water and sewer) and the assessment of impact.
- vii. Detailed description of the mapped wetlands under the SEPP (Resilience and Hazards) 2021 and potential impacts – including height of retaining walls and assessment against the provisions.
- viii. Flowers Drive – a comparison against the controls in the Urban Design Guidelines and what is proposed including details of fencing, width of roadworks and impacts on landscape buffer.

- ix. An assessment of the layout and urban design of the subdivision – including compliance with lot sizes and amount of passive and active space required.
- x. An assessment of how Lemon Tree and Workshop Park contribute to open space requirements and the mechanisms proposed to ensure they function as open space in perpetuity.
- xi. Detail of on-site flood impacts and evacuation routes and how this is addressed or mitigated.
- xii. Completion of the Biodiversity Assessment.
- xiii. Assessment of the social impacts of the proposal with reference to additional information received.
- xiv. Plan showing what is being dedicated to Council, including a dimensioned plan showing the dedication to Flowers Drive.

This additional assessment will require conditions to be revised. The assessment is to include reference to conditions proposed to mitigate or address impacts.

REASONS FOR DEFERRAL

The Panel resolved to defer the determination of the matter for a supplementary report that addresses the matters listed at i. to xiv. above, and a revised set of conditions that reflect the outcomes of the further assessment.

The Panel expects the supplementary report to be finalised within 3-4 weeks from the date of this deferral.

When this information has been received, the Panel will determine the matter electronically.

The decision to defer the matter was unanimous. The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Juliet Grant
 Stephen Leathley	 Roberta Ryan

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-35 – Lake Macquarie– DA/2238/2017
2	PROPOSED DEVELOPMENT	Subdivision of two lots into 210 residential lots, associated infrastructure and heritage walkway
3	STREET ADDRESS	1A, 2B, 41 and 69A Flowers Drive, Catherine Hill Bay
4	APPLICANT/OWNER	Monteath and Powys Pty Ltd / Wallalong Land Development Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Coastal subdivision
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments (October 2021) - State Environmental Planning Policy (State and Regional Development) 2011 - State Environmental Planning Policy (Infrastructure) 2007 - State Environmental Planning Policy 44 - Koala Habitat Protection - State Environmental Planning Policy No. 55 – Remediation of land - State Environmental Planning Policy 71 - Coastal Protection. - Lake Macquarie Local Environmental Plan 2014 - Draft environmental planning instruments (October 2021) - Draft SEPP Coastal Management 2018 - Draft Environment SEPP - Draft Design and Place SEPP - Draft Environmental Planning and Assessment Regulation 2022 - Environmental Planning Instruments (October 2022) - State Environmental Planning Policy (State and Regional Development) 2021 - State Environmental Planning Policy (Transport and Infrastructure) 2021 - State Environmental Planning Policy (Biodiversity and Conservation) 2021 - State Environmental Planning Policy (Resilience and Hazards) 2021 - Lake Macquarie Local Environmental Plan (2014) - Draft environmental planning instruments (October 2022) - Draft amendment RZ/2/2021 to Lake Macquarie LEP 2014 - Development control plans: - Nil - Planning agreements: - Planning agreement entered into under section 93F between Minister for Planning and Infrastructure, Minister administering National Parks and Wildlife Act 1974, Coal & Allied Operations Pty Ltd, and Catherine Hill Bay Land Pty Ltd. - Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> - 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	- Council assessment report: 6 October 2021 - Council memorandum: 7 October 2021 - Council memorandum: 12 October 2021

		• Supplementary Council assessment memorandum: 12 October 2022 • Written submissions during public exhibition: eight (8) • Documents tabled during submitter briefing: 13 October 2021
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Briefing: 3 June 2020 - o <u>Panel members</u>: Alison McCabe (Chair) and Juliet Grant - o <u>Council assessment staff</u>: David Pavitt, Heath Robertson, Elizabeth Lambert, Amy Regado and Michael Little • Applicant briefing: 9 September 2020 - o <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and Scott Anson - o <u>Council assessment staff</u>: David Pavitt and Elizabeth Lambert - o <u>Applicant representatives</u>: Darren Nicholson, Jason Wasiak, Greg Williams and Kosta Flamiatos <u>Note</u>: Applicant briefing was requested to provide the Panel with clarification and to respond to issues • Briefing: 14 July 2021 - o <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and Roberta Ryan - o <u>Council assessment staff</u>: Elizabeth Lambert, Amy Regado, David Pavitt and Alex Bennett - o <u>Department staff</u>: Leanne Harris, Carolyn Hunt and Lisa Foley • Site inspections: - o <u>Alison McCabe</u> (Chair): 9 September 2020 - o <u>Juliet Grant</u>: 9 September 2020 • Briefing to discuss Council's recommendation: 13 October 2021 - o <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan - o <u>Council assessment staff</u>: Elizabeth Lambert, Amy Regado, David Pavitt and Alex Bennett - o <u>Department staff</u>: Leanne Harris and Lisa Foley • Submitter Briefing: 13 October 2021 - o <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan - o <u>Council assessment staff</u>: Elizabeth Lambert, Amy Regado, David Pavitt and Alex Bennett - o <u>Department staff</u>: Leanne Harris and Lisa Foley - o <u>Submitters</u>: Sue Whyte, Paul Myors, Jann Kinsela and Sandy Bourke <u>Note</u>: Submitter briefing was requested to respond to the recommendation in the Council assessment report • Applicant Briefing: 13 October 2021 - o <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan - o <u>Council assessment staff</u>: Elizabeth Lambert, Amy Regado, David Pavitt and Alex Bennett - o <u>Department staff</u>: Leanne Harris and Lisa Foley - o <u>Applicant representatives</u>: Kosta Flamiatos, Geoffrey Rock, Darren Nicholson, Greg Williams and Jason Wasiak <u>Note</u>: Applicant briefing was requested to respond to the recommendation in the Council assessment report

		• Briefing: 1 June 2022 - o <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan - o <u>Council assessment staff</u>: Elizabeth Lambert, Amy Regado and David Pavitt - o <u>Department staff</u>: Leanne Harris, Carolyn Hunt and Lisa Foley • Briefing: 4 August 2022 - o <u>Panel members</u>: Alison McCabe (Chair) and Stephen Leathley - o <u>Council assessment staff</u>: Amy Regado, David Pavitt and Alex Bennett - o <u>Department staff</u>: Leanne Harris, Carolyn Hunt, Maitree Bhowmick and Lisa Foley • Briefing to discuss Council's recommendation: 19 October 2022 - o <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan - o <u>Council assessment staff</u>: Amy Regado, David Pavitt and Alex Bennett - o <u>Department staff</u>: Leanne Harris, Carolyn Hunt and Lisa Foley • Submitter Briefing: 19 October 2022 - o <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan - o <u>Council assessment staff</u>: Amy Regado, David Pavitt and Alex Bennett - o <u>Department staff</u>: Leanne Harris - o <u>Submitters</u>: Sue Whyte on behalf of Catherine Hill Bay Progress Association and Damien Hawcroft <u>Note</u>: Submitter briefing was requested to respond to the recommendation in the Council assessment report • Applicant Briefing: 19 October 2022 - o <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan - o <u>Council assessment staff</u>: Amy Regado, David Pavitt and Alex Bennett - o <u>Department staff</u>: Leanne Harris - o <u>Applicant representatives</u>: Kosta Flamiatos, Geoffrey Rock, Greg Williams and Jason Wasiak <u>Note</u>: Applicant briefing was requested to respond to the recommendation in the Council assessment report
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council assessment report