

<b>DATE OF DETERMINATION</b>	15 December 2023
<b>DATE OF PANEL DECISION</b>	15 December 2023
<b>DATE OF PANEL BRIEFING</b>	11 December 2023
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Louise Camenzuli, David Kitto, Judy Clark, Jeff Organ
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 11 December 2023.

#### **MATTER DETERMINED**

PPSSWC-362 – Hawkesbury– DA0266/23 – ‘Jacaranda’ Spinks Road, 103 Spinks Road, 213 Spinks Road, 361 Spinks Road, 3 Derby Place and James Street, Glossodia - Concept Masterplan and Stage 1 works for Jacaranda Estate. The concept masterplan details the staged subdivision of 580 residential lots and associated infrastructure. The proposal also involves Stage 1 preparatory works of the concept masterplan comprising dam dewatering, remediation works, removal of trees and vegetation, bulk earthworks, and the establishment of asset protection zones.

#### **PANEL CONSIDERATION AND DECISION**

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings and the matters listed at item 8 in Schedule 1.

#### **Designated development**

The proposal includes the development of an artificial waterbody which triggers the criteria for designated development under Part 2 of Schedule 3 of the *Environmental Planning & Assessment Regulation 2021*. However, the panel agrees with Council’s advice that this artificial waterbody is ancillary to the development of the broader Jacaranda Estate and integral to the development of the estate – rather than for an independent purpose - and is therefore not designated development (see Part 3 of Schedule 2 of the Regulation).

#### **Removal of trees**

The panel asked Council to clarify whether the proposed removal of trees on the “retained land” on site would be offset. Council confirmed this would be the case and that the recommended conditions (see condition 9) require this to be done.

#### **Voluntary planning agreement**

Following the rezoning of the site under the *Hawkesbury Local Environmental Plan 2012* in 2014, a VPA was executed for the development of the Jacaranda Estate in September 2016. The VPA remained unchanged following the amendments to the original rezoning in 2021.

Council is currently in negotiations with the applicant to revise the VPA to increase the contributions for each lot in the estate by \$10,000.

The panel queried whether a condition should be included requiring the revised VPA to be executed prior to the approval of any subsequent development applications under the Concept Plan DA.

Council advised the panel that it was treating the revision to the VPA as a strategic planning matter, separate to the consideration of this development application, and that it did not support the inclusion of such a condition or believe it was necessary. Further, it noted that under section 7.7(2) of the *Environmental Planning and Assessment Act 1979* a “consent authority cannot refuse to grant development consent on the ground that a planning agreement has not been entered into.”

The panel accepted Council’s advice on the matter.

### **Development application**

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

### **REASONS FOR THE DECISION**

The panel determined to approve the application for the reasons outlined in Council’s assessment report

In particular, the panel concluded that:





- The development is permissible with development consent under the *Hawkesbury Local Environmental Plan 2012*;
- The development is not designated development;
- The development is consistent with the provisions of the relevant environmental planning instruments, including the requirements in the *Hawkesbury Local Environmental Plan 2012* and the relevant controls in the *Hawkesbury Development Control Plan 2002*;
- Heritage NSW, the Rural Fire Service, Water NSW and DPE Water had provided their general terms of approval for the development under the integrated development provisions of the EP&A Act, and that these GTAs had been suitably incorporated into the recommended conditions of consent;
- The impacts of the development are acceptable and can be suitably controlled with the recommended conditions;
- With the remediation required under the recommended conditions, the site can be made suitable for the development;
- The development will result in a significant increase in housing in the Hawkesbury region, consistent with strategic planning objectives; and
- The development is in the public interest.


### **CONDITIONS**

The development application was approved subject to the conditions in Council’s assessment report.

### **CONSIDERATION OF COMMUNITY VIEWS**

The panel notes there no written submissions received during the public exhibition of the development application and therefore no community views to consider.

PANEL MEMBERS	
Justin Doyle (Chair) 	Louise Camenzuli 
David Kitto 	Judy Clark 

 Jeff Organ	
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SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-362 – Hawkesbury– DA0266/23
2	PROPOSED DEVELOPMENT	<p>Concept Masterplan and Stage 1 works for 'Jacaranda.' The concept masterplan details the staged subdivision of 580 residential lots and associated infrastructure. The proposal also involves Stage 1 preparatory works of the concept masterplan comprising dam dewatering, remediation works, removal of trees and vegetation, bulk earthworks and establishment of Asset Protection Zones.</p> <p>The application has been lodged as 'Nominated Integrated Development' under Section 4.49 of the Environmental Planning and Assessment Act 1979 as the proposal requires general terms of approval under Section 100B of the Rural Fires Act 1997, Section 90 of the National Parks and Wildlife Act 1974 and Section 91 of the Water Management Act 2000.</p>
3	STREET ADDRESS	'Jacaranda' Spinks Road, 103 Spinks Road, 213 Spinks Road, 361 Spinks Road, 3 Derby Place and James Street Glossodia
4	APPLICANT/OWNER	<p>Applicant: Jacqueline Lukins – Celestino Developments Pty Limited</p> <p>Owner: EJC Glossodia Pty Ltd, Feecha Pty Ltd, Himba Pty Ltd, Rashka Pty Ltd, Printsilk Pty Ltd and Pace Landholdings Pty Ltd</p>
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 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 – (Biodiversity &amp; Conservation) 2021</li> <li>State Environmental Planning Policy (Resilience &amp; Hazards) 2021</li> <li>State Environmental Planning Policy (Transport &amp; Infrastructure) 2021</li> <li>Hawkesbury Local Environmental Plan 2012</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Hawkesbury Development Control Plan 2002 (HDCP 2002)</li> <li>Hawkesbury Council Flood Policy 2020</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil</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: 11 December 2023</li> <li>Written submissions during public exhibition: 0</li> <li>Total number of unique submissions received by way of objection: 0</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Preliminary Briefing: 16 October 2023</li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Judy Clark, Jeff Organ</li> <li>○ <u>Council assessment staff</u>: Matthieu Santoso, Matthew Golebioski, Steven Chong</li> <li>○ <u>Applicant representatives</u>: Jacqueline Lukins, Vy Allen, Matt Cooper , Katie Waters, Aaron Gray, John, Judie McKittrick, Matthew Scards</li> </ul> <ul style="list-style-type: none"> <li>• Final briefing to discuss council's recommendation: 11 December 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Judy Clark, Jeff Organ</li> <li>○ <u>Council assessment staff</u>: Matthieu Santoso, Matthew Golebioski, Steven Chong</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report