

<b>DATE OF DETERMINATION</b>	1 October 2019
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Bruce McDonald, Nicole Gurrán, Jeff Organ and Judy Clark
<b>APOLOGIES</b>	Nil
<b>DECLARATIONS OF INTEREST</b>	Nil

Public meeting held at Hawkesbury Council on 1 October 2019, opened at 1.10pm and closed at 3.23pm.

### **MATTER DETERMINED**

PPSSWC-8 –DA-235/18 AT 189 Windsor Road, Vineyard (Lot 2 DP 1164124) (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 adjourned during the meeting to deliberate on the matter and formulate a resolution.

### **Development application**

The majority of the Panel (J Doyle, J Clark, J Organ, B McDonald) determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was carried 4:1.

The dissenting Panel member (N Gurrán) voted to defer determination of the development application.

### **REASONS FOR THE DECISION**

The majority of the Panel unanimously agreed:

1. The panel saw no fundamental conflict between the location of a well-designed motel on the subject site with the objectives of the RU4 Primary Production zone, noting that the site fronting Windsor Road and opposite a row of light industrial premises, and adjacent to residential development and a vet is unlikely to be used for agriculture. With suitable setbacks and screening, a motel ought to be able to operate without undue disturbance to adjoining residences. The panel did not form a view about the numbers or guests that could be appropriately accommodated on the site, and any approval would require satisfactory resolution of the matters noted below.

2. The development application in its present form could not be approved because of an inadequacy of documentation and information, including the following matters:
- The application had not adequately responded to the advice from Council that its sewerage treatment plant was unable to accommodate the additional sewerage anticipated to be generated by the proposed development. No sufficient alternative solution was described in the material submitted with the development application nor in the material subsequently submitted to Council for review. Prior to the meeting tanker removal of sullage had been proposed. Clause 7.4 of the Hawkesbury DCP refers to a resolution of the Council to the effect that tanker removal of septic systems will only be approved for individual houses, light industry and single shops with 'normal' domestic connections. No adequate material was submitted which could persuade the panel to depart from that policy position. On the day of the meeting material was presented relating to on site treatment, but such a proposal could not be considered without advice from an appropriately qualified engineer addressing the capacity of the site to absorb the treated water.
  - The Panel could not be satisfied of the matters listed in clause 7 of SEPP 55- Remediation of Land. The contamination report submitted with the DA dating from 2010 related to a subdivision application. It did not address the critical issue of whether "the land will be suitable after remediation for the purpose for which the development is proposed to be carried out". Accordingly, the Panel is unable to consent to the DA.
  - Council's assessment of the relevant material submitted concludes the proposal is unable to demonstrate the proposal is acceptable having regard to Cl.6.3 of Hawkesbury LEP 2012 relating to flood planning. The site is predicted to be flooded to depths of up to a maximum of approximately 2 metres in a 1% Annual Exceedance Probability (AEP) flood. While the ground floor level has been designed above that level of RL 17.3m AHD, the basement level is at 14.4m AHD and no sufficient site specific assessment and report is included in the DA to address practical measures for evacuation or integration with regional flood planning including the Hawkesbury Nepean Floodplain Study. Nor has the effect of and on the building of local flood flows and protection of the building basement level from ingress of floodwaters been considered. It may also be that conditions are required for the engineering of the building to take into account pressures arising from the velocity of flood waters or the effect on flood flows. Accordingly, the prohibition contained in Cl. 6.3(3) of the LEP prevents the Panel from consenting to the proposal.
  - The DA was not accompanied by an arborist's report to address the likely impact of the extensive excavation for the basement carpark on the substantial adjacent eucalypt trees.
  - While the panel did not form any final views about the overall design depicted in the architectural plans given the other barriers to the granting of consent outlined

above, the Panel saw the plans as likely requiring further consideration of architectural presentation of the proposed 69.2 metre façade to Windsor Road and of the corner element on McGrath Road, the adequacy of amenities in the rooms, and the adequacy of storage and associated facilities proposed for a 94 room motel.

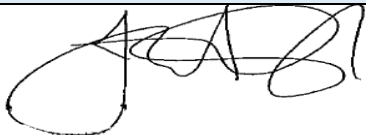



3. Cumulatively, the panel were not satisfied that approval of the development application in its current form would be in the public interest. When asked to address the issue of whether deferral of the DA was appropriate, the applicant did not satisfy the majority of panel members that there was sufficient commitment to provide the requisite outstanding material, to allow the panel to be confident that the deficiencies identified above would be redressed in a timely manner.
4. One panel member voted in favour of deferral to allow the applicant a period of time to ascertain whether the concerns in relation to sewerage are able to be resolved, and if so to also address the remaining issues outlined above.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the written submissions made during public exhibition. The following issues were raised:

- Insufficient sewer capacity;
- Increase in traffic noise along the local roads;
- Impacts on the amenity of adjoining residential and commercial properties, in terms of noise, privacy, character, bulk, scale and traffic conflict;
- Disturbance with the animals being kept at the veterinary hospital;
- Potential discharge of stormwater onto adjoining properties;
- Lack of information accompanying the application in relation to proposed quality of finishes, potential site contamination, traffic, noise impacts, construction impacts;
- Interference with the evacuation of the surrounding locality in the event of a flood;
- Need for additional accommodation in the locality;
- Impact on existing vegetation.

These matters would need to be resolved before a development application for a motel could be approved.

<b>PANEL MEMBERS</b>	
 Justin Doyle (Chair)	 Bruce McDonald
 Nicole Gurrán	 Jeff Organ



Judy Clark

### SCHEDULE 1

SCHEDULE 1		
1	<b>PANEL REF – LGA – DA NO.</b>	PPSSWC-8 – Hawkesbury – DA-235/18
2	<b>PROPOSED DEVELOPMENT</b>	Motel – Demolition of existing structures, construction of a two storey motel building containing 94 rooms, basement car parking and landscaped areas.
3	<b>STREET ADDRESS</b>	189 Windsor Road, Vineyard (Lot 2 DP 1164124)
4	<b>APPLICANT/OWNER</b>	Applicant – Homeplan Architects Owner – Swankin Pty Limited
5	<b>TYPE OF REGIONAL DEVELOPMENT</b>	The development application has not been determined within 120 days and the application was referred to the Sydney Western City Panel under Clause 9 of Schedule 3 to State Environmental Planning Policy (State and Regional Development) 2011
6	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"><li>• Environmental planning instruments:<ul style="list-style-type: none"><li>○ State Environmental Planning Policy (Infrastructure) (SEPP) 2007</li><li>○ State Environmental Planning Policy (State and Regional Development) 2011</li><li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li><li>○ State Environmental Planning Policy No. 64 – Advertising and Signage</li><li>○ Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River</li><li>○ Hawkesbury Local Environmental Plan 2012</li></ul></li><li>• Draft environmental planning instruments:<ul style="list-style-type: none"><li>○ Draft State Environmental Planning Policy (Remediation of Land)</li><li>○ Draft State Environmental Planning Policy (Environment)</li></ul></li><li>• Development control plans:<ul style="list-style-type: none"><li>• Hawkesbury Development Control Plan 2002</li></ul></li><li>• Planning agreements: Nil</li><li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li></ul>

		<ul style="list-style-type: none"> <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: Nil</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Council assessment report: 17 September 2019</li> <li>• Written submissions during public exhibition: 14 submissions with original notification and 4 submissions with second notification.</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Support – Nil</li> <li>○ Object – Nil</li> <li>○ On behalf of Council – William Pillon and Cristie Evenhuis</li> <li>○ On behalf of the applicant – Andrew Grieve and John Burke</li> </ul> </li> </ul>
8	<b>MEETINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Site Inspection – 30 September 2019</li> <li>• Final briefing meeting to discuss council’s recommendation, 30 September 2019, 12 August 2019, 12.00pm.</li> <li>• Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald, Nicole Gurrán, Jeff Organ and Judy Clark</li> <li>○ <u>Council assessment staff</u>: William Pillon and Cristie Evenhuis</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Refusal
10	<b>DRAFT CONDITIONS</b>	N/A