PP-2021-4455/RR-2021-89 – Saltwater - Swift Place, South West Rocks

This report is an addendum to the Pre-Gateway Determination Report prepared by the Planning Proposal Authority (PPA) team for the Northern Regional Planning Panel (The Panel) for their meeting on 24 October 2024 and is to be read in conjunction with the report.

The PPA team recommended that the planning proposal should not progress at this time because it still has significant unresolved Government agency issues despite being initially considered by the Panel in May 2021. The key issues were:

- ecological concerns raised by Conservation Programs, Heritage and Regulation (CPHR) (previously known as Biodiversity Conservation and Science (BCS)) due to the presence of High Environmental Value land (HEV) on the site; and
- uncertainty as to when or to what extent upgrades to the STP will be required, creating uncertainty around the required extent of buffer zones and the associated implications for the extent of residential development.

On 4 November 2024, after considering the PPA team's report and the proponent's response and presentation, the Panel deferred their decision on whether to progress the proposal for a Gateway determination until 30 April 2025, to allow:

1. The planning proposal to address issues raised by BCS (now CPHR) in their 24 January 2024 submission, including:
    a. Providing an adequate Wallum Froglet Survey;
    b. Confirming the proposed management mechanisms for the Koala compensation area, with agreement from BCS and Council; and
    c. Applying a C2 Environmental Conservation (C2) zone to all HEV land on the site.
2. Consultation with Council regarding the sewage treatment plant and its capability to accommodate alternate sludge handling.

The Panel's Record of Briefing can be found at addendum **Attachment A**.

On 18 November 2024, the PPA team wrote to the proponent to confirm they would proceed in accordance with the Panel's decision (addendum **Attachment B**). This letter also requested information from the proponent on timings for providing the required updates and how the Panel's requirements would be addressed.

The proponent's letter to the Panel

On 27 November 2024, the proponent wrote to the Panel requesting reconsideration of its 4 November 2024 decision (addendum **Attachment C**). The proponent's letter included concerns that:

- conditions 1a, 1b, and 1c require agreements with CPHR, which the proponent considers unrealistic;

- CPHR remain unresponsive to the scientific arguments detailed in the submission on HEV prepared by Biodiversity Australia; and
- existing zoning and planning assessments sufficiently protect and respond to biodiversity and habitat on the site and surrounding land.

The proponent also highlights escalating costs, decision-making delays, and the urgency of addressing housing needs. They urge the Panel to revise its decision by replacing the requirement for CPHR approval as requirements that the PPA would need to be satisfied have been adequately addressed, while still allowing CPHR to provide input during public exhibition.

CPHR further review and comment

In response to the proponent's letter, the Panel requested that CPHR review the correspondence and provide updated feedback.

On 17 December 2024, CPHR responded (addendum **Attachment D**) with recommendations including:

- Revise the planning proposal to map all High Environmental Value (HEV) land as per the revised NSW Biodiversity Values Map and apply the C2 Environmental Conservation zone.
- As confirmed the Wallum froglet survey undertaken by AWC is adequate for informing the planning proposal, the confirmed Wollum froglet be mapped as HEV land and apply the C2 Environmental Conservation zone to that land.
- Map all areas of Plant Community Type 4004 as HEV land and apply the C2 Environmental Conservation zone.
- Protect koala habitat by mapping all relevant HEV land and applying the C2 Environmental Conservation zone.

PPA Team Analysis

The PPA team has been working with CPHR and the proponent to address these ecological issues through the pre-Gateway process which has been ongoing since the Panel's rezoning review decision on 15 October 2021.

CPHR's December 2024 submission confirms the previous matters considered by the Panel remain and are unresolved. In preparing its latest submission, CPHR have considered documents, including:

- the proponent's responses to their January 2024 comments;
- the proponent's documentation presented to the Panel at the October 2024 briefing;
- the Panel's 4 November 2024 decision; and
- the proponent's 27 November 2024 letter.

It should be noted however that they have now confirmed the Wollum froglet survey is adequate which identifies the entire site as froglet habitat. CPHR previously submitted that further work on this report was required. This may have allowed for further refinement of habitat area and the potential for a limited portion of the site along the eastern boundary being suitable for some residential development. There appears no opportunity for this solution now.

Advancing the proposal for a Gateway determination, as suggested by the proponent, does not resolve nor provide a pathway to resolving the issues raised by CPHR in either its January and December 2024 submissions. As previously identified in the Pre-Gateway Report to the Panel (October 2024), the planning proposal does not focus land use intensification away from HEV assets on the site nor provide appropriate zoning mechanisms to protect HEV land as required by the North Coast Regional Plan 2041. This is demonstrated by the CPHR comments dated January and December 2024. Similarly, the uncertainty around the upgrades to the Sewerage Treatment Plant remain.

PPA Team Recommendation

The PPA team maintains that the planning proposal should not progress and retains its recommendation made to the Panel in its Pre-Gateway Determination Report (October 2024).

The Panel as PPA should resolve to not proceed with the proposal because of the significant unresolved Government agency issues despite being initially considered by the Panel in May 2021.

A new planning proposal could be pursued where it adequately responds to the matters raised which would be demonstrated by pre-Gateway consultation with relevant agencies, including Council and CPHR.

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Attachments

Attachment A – Panel's Record of Decision - 4 November 2024

Attachment B – PPA Team letter to the proponent following Panel decision - 18 November 2024

Attachment C – Proponents Letter to the Northern Regional Planning Panel - 27 November 2024

Attachment D – CPHR's letter - 17 December 2024

Attachment E – Pre-Gateway Report to the Panel – October 2024