

24 April 2013

Determination of Project Application MP10_0137 for Huntlee Stage 1 Subdivision and Infrastructure Works

1. Delegation to the Commission

The above project application lodged by Huntlee Pty Ltd has been referred by the Department of Planning and Infrastructure (the Department) to the Planning Assessment Commission (the Commission) for determination under Ministerial delegations dated 14 September 2011, as more than 25 submissions were received and Council objected to the proposal.

The referral was received by the Commission on 7 March 2013.

The Commission constituted to determine the project application consists of Gabrielle Kibble AO (chair), David Johnson and David Furlong.

2. Proposal

Huntlee New Town has been established by Part 27 of Schedule 3 of the Major Development SEPP 2005. The relevant area of Huntlee consists of four zones being:

- R1 – General Residential;
- R2 – Low Density Residential;
- R5 – Large Lot Residential; and
- B4 – Mixed Use.

The proposed project application to be determined by the Commission is a transitional Part 3A project under section 75J of the *Environmental Planning and Assessment Act 1979*. The project application is for subdivision and infrastructure works for Stage 1 of the Huntlee New Town over approximately 356 hectares, to accommodate residential and commercial development and landscaped open spaces.

Following exhibition of the Environmental Assessment (EA) the Proponent provided a response to the issues raised in submissions, and modified the scheme to that set out in the Preferred Project Report (PPR). The PPR was subsequently modified in February 2013.

As described in section 3 of the Department's Director-General's Environmental Assessment Report dated 6 March 2013 (the Department's Assessment Report) the current proposal is for the following:

- 1353 lots for up to 1573 dwellings in residential Village 1 and the Entry Village;
- a neighbouring village centre in Village 1 (approximately 5 ha);
- eight (8) super lots over 54.75 ha for a mixed use Town Centre including potential for up to 275 dwellings;
- six (6) residential super lots in Village 1 and the Entry Village that may provide up to an additional 254 dwellings;
- 120 lots of 120 dwellings in the physically separate large lot area to the south;
- 82.5 ha of landscaped area, open space and recreation uses in residential areas; and
- associated road works, utilities and infrastructure provision.

3. Department's Consultation and Assessment Report

The Department publicly exhibited the EA between 16 March 2011 and 18 April 2011. The Department received 73 public submissions and 14 government agency submission on the EA.

The Preferred Project Report (PPR) in response to the submissions was exhibited concurrently with a Voluntary Planning Agreement (VPA) from 3 October 2012 until 2 November 2012. A total of 14 public submissions and 12 government agency submissions were received.

The current project application sits entirely within the Cessnock local government area, but later stages of Huntlee New Town would fall within the Singleton local government area. Maitland Council is also in relatively close proximity to the application site. All three Councils made submissions on the Stage 1 project application.

The Department's Assessment Report considered the proposal's history, the current proposal, the statutory context, ecologically sustainable development principles, and submissions. The Department's Assessment Report also provided an assessment of the Stage 1 project in relation to the following key issues:

- strategic planning;
- biodiversity;
- urban structure and subdivision;
- transport and accessibility;
- flooding, drainage and stormwater management;
- contamination;
- Aboriginal cultural heritage;
- European heritage;
- bushfire risk assessment;
- management and maintenance of open space;
- utilities and services;
- the development control plan;
- economic impact;
- construction impacts;
- amenity impacts; and
- developer contributions.

The Department concluded that the proposal is consistent with the Lower Hunter Regional Strategy which identifies the site as a proposed urban area; the site is zoned for such purposes; and that the proposal (subject to conditions of approval being satisfied) is generally consistent with the recently exhibited Development Control Plan for Huntlee.

The Department recommended approval of the project application, subject to draft conditions.

4. Site Visit and Consultation

The Commission members carried out an unaccompanied site visit prior to the public meeting, and also drove around the area.

Maitland Council was offered a meeting with the Commission and declined.

4.1 Department of Planning and Infrastructure – First Meeting

On 13 March 2013 the Department briefed the Commission on various matters including:

- background to the site including the rezoning and application;
- the status of the offsets, the draft Huntlee development control plan (draft Huntlee DCP) and the state infrastructure Voluntary Planning Agreement;
- consultation undertaken with the Councils and community and matters raised;
- issues raised with regard to biodiversity; and
- section 94 and management and timing of infrastructure provision (e.g. roads).

4.2 Singleton Council

The Commission met with Singleton Council on 4 April 2013. At this meeting Singleton Council confirmed that the project application does not sit within its local government area, but that aspects of the current proposal would affect Council and potentially establish a precedent for later stages that would fall within its jurisdiction.

Matters raised included:

- lack of communication and consultation;
- inadequacy of the draft DCP and the draft DCP's inconsistencies with the Council's policies that will lead to future liability and maintenance implications for Councils;
- lack of certainty and specificity on numerous issues and reliance on broad conditions;
- need to resolve s94 for the entire Huntlee development including with Singleton Council;
- environmental issues with the site including management of water courses, riparian areas, potential for flooding, and clearing of endangered ecological communities (EECs);
- potential for poor amenity for future residents and land use conflicts; and
- potential impact on the economic viability of existing town centres.

4.3 Proponent – Huntlee Pty Ltd

The Commission met with the Proponent on 4 April 2013 where the following matters were discussed:

- history of the site and of the proposal;
- measures to protect *Persoonia pauciflora*;
- consultation with stakeholders including the Council on the draft Huntlee DCP and s94, and the Roads and Maritime Service (RMS) on road upgrades and timing;
- North Rothbury's lack of services and interface with the site;
- water servicing and Hunter Water's capacity;
- traffic and rail connections and restrictions; and
- status of the DCP.

4.4 Public Meeting

As set out in its *Procedures for Decision Making* the Commission will hold a public meeting to hear views on the Department's assessment and recommendation prior to making a determination, if more than 25 public submissions have been received by the Department.

In this instance, the Department received a limited number of public submissions (14) on the PPR when compared to the number of public submissions (73) received in response to exhibition of the EA. The Commission decided in this instance that, on balance, the lack of responses to the PPR may not necessarily reflect a lack of community interest in the assessment and recommendation and it convened a public meeting.

The public meeting was held on 4 April 2013. Ten individuals/groups (including the Director, Planning and Sustainable Environment Group of Singleton Council) made verbal representations to the Commission and some handed up documents. The key points raised are summarised below:

- lack of consultation with Councils and the community;
- key issues still need addressing including suitable planning controls, infrastructure planning and management and mitigation of impacts (e.g. salinity);
- issues with the draft Huntlee DCP including timing for provision of key infrastructure upgrades, uncertainty around the yield, and lack of detailed urban design controls;
- section 94 not adequately resolved, and impact on roads and Council services;
- car-oriented development that does not capitalise on the site's proximity to Branxton Station and shops, with no pedestrian/cycleways connecting the site to Branxton and an inadequate and infrequent train passenger service that is focussed towards Maitland;
- sufficient residential zoned sites and lack of demand;
- impacts on biodiversity, flora and fauna (including the *Persoonia pauciflora*), and habitat, and inadequacy of offsets;
- flood risk;
- contamination;
- history of the site including legal matters;
- servicing of the site;
- Crown Lands should not have given landowners consent;
- lack of ecological sustainable development principles, inappropriate within the context of climate change and need to apply the precautionary principle;
- population density and car ownership/traffic generation vastly underestimated;
- animal welfare including native and domestic pets; and
- support for the facilities and infrastructure associated with the proposal, subject to appropriate timing for infrastructure provision.

4.5 Cessnock Council

The Commission met with Cessnock Council on 5 April 2013, and the Council raised a number of issues including:

- broad issue of where information is being held (across SEPP, DCP and applications) and pushing major issues identified with the proposal into highly conceptual conditions;
- lack of communication and consultation;
- inadequacy of the draft DCP, and the draft DCP's inconsistencies with the Council's policies that will lead to future liability and maintenance implications for Councils;
- lack of certainty on population density and timing for infrastructure provision necessary to enable contributions planning;
- lack of mapping of watercourses which affect identified riparian corridors and the subdivision pattern;
- concern there is an expectation that the Council accepts dedication of works/land (particularly the riparian corridors) with associated financial and maintenance risks that can not be afforded by the Council;
- uncertainty as to the engineering, detailed design or traffic management measures in areas to be dedicated;
- the AECOM review (Appendix E of the Department's Assessment Report) is of a VPA that the Council previously rejected;
- condition (E4) restricts the Council's ability to negotiate on section 94;
- potential economic impact on surrounding town centres; and
- structure and conditions of approval will result in a significant time, cost and resource burden on the Council.

4.6 Department of Planning and Infrastructure – Second Meeting

On 22 April 2013 the Commission met with the Department to discuss a number of issues that had arisen during its consideration including:

- consultation with the Councils;
- status of the development control plan and concerns that had arisen;
- draft conditions;
- dedication of works/land to Councils;
- interface with North Rothbury;
- servicing; and
- clarification of relevant plans.

Following this meeting, the Department made a number of minor amendments to the draft conditions, then added to by the Commission, which is discussed below in section 5.

5. Commission's Comments

The site has had a very long and difficult history, but it has been rezoned to accommodate residential and commercial land uses. The project application before the Commission for determination is for subdivision and infrastructure works for Stage 1 only.

A draft development control plan has been prepared for Huntlee (draft Huntlee DCP) which has been publicly exhibited, and the Department is to make a recommendation to the Director General in due course.

The Commission has not been requested to provide advice on the draft Huntlee DCP and under clause 5(2) of Schedule 3 – Part 27 Huntlee New Town a DCP (otherwise required under clause 25) is not required to have been prepared when it is a transitional Part 3A project.

However, from its consultation process it is evident to the Commission there is significant dissatisfaction with the draft Huntlee DCP from Singleton and Cessnock Councils and from some members of the community. The Commission recommends that further discussion take place between the Department and the relevant Councils (being both Cessnock and Singleton) on the draft Huntlee DCP with the aim of achieving consistency with Councils' policies.

In coming to a decision on the project application, the Commission has carefully considered the documents and plans provided by the Department including submissions made, the Department's Assessment Report and the draft conditions. The Commission generally agrees with the Department's recommendation, subject to amendments to the draft conditions to require:

- consolidation and clarification in relation to contamination in Condition C1, resulting in deletion of draft Condition C13;
- a copy of the Construction Management Plan to be supplied to the Council (Condition C2), and for this Plan to be implemented during construction (Condition D2);
- the remediation measures to be undertaken in accordance with the Subsidence Management Plan which requires approval of the Mine Subsidence Board (Condition C4(b));
- consideration be given to the interface between North Rothbury and the application site in terms of existing stormwater or effluent run-off (Condition C5(j));
- consultation with OEH on matters directly relating to protection of the *Persoonia pauciflora* plants (Condition C9(c) and Condition C10(b));

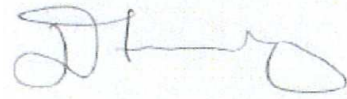
- engineering design of the earthworks, roads and infrastructure to be generally in accordance with the Council's relevant guidelines (Condition C11);
- any design of works or areas that are to be dedicated to the Council under Condition E3 to be in accordance with the Council's standards (Condition C8, C11, C13, E7);
- any land/works to be dedicated to the Council under Condition E3 to take place prior to issue of the Subdivision Certificate for each substage; and
- compliance to be demonstrated in relation to water quality, and for mitigation measures to be provided to rectify any non-compliance (Condition F1).



Gabrielle Kibble AO (chair)
PAC Member



David Johnson
PAC Member



David Furlong
PAC Member