

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development
Application number and project name	SSD-8999 35 Honeysuckle Drive, Newcastle
Applicant	KDC Pty Ltd
Consent Authority	Minister for Planning

Decision

The Executive Director, Key Sites and Industry Assessments, under delegation from the Minister for Planning has, under section 4.38 of the *Environmental Planning and Assessment Act 1979 (the Act)* granted consent to the development application subject to the recommended conditions.

A copy of the development consent and conditions is available [here](#).

A copy of the Department of Planning and Environment's Assessment Report is available [here](#).

Date of decision

21/06/2019

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- all information submitted to the Department during the assessment of the development application;
- the findings and recommendations in the Department's Assessment Report; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for granting consent to the development application are as follows:

- *Benefits* – the project would provide a range of benefits for the region and the State as a whole, including \$41,707,787 in investment and 220 jobs;
- *Consistent with NSW Government Policy* – the project is permissible with development consent, and is consistent with NSW Government policies as demonstrated in Appendix C of the Department's Assessment Report.
- *Impacts can be managed* - the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards;
- *Community views considered* - the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent (see Attachment 1); and
- *Public interest* – weighing all relevant considerations, the project is in the public interest as it would provide increased opportunities for pedestrian activity, active street uses, public domain works and passive surveillance to contribute to the establishment of a thriving community in the Honeysuckle Precinct.

Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement for the project from 23 August 2018 until 19 September 2018 (28 days) and received 16 submissions, including 11 submissions from Government agencies, one submission from council and four submissions from the public, two of whom objected.

The Department also undertook the following consultation activities:

- one site visits
- held one meeting with community members that lodged submissions

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker include building height, GFA, operation of pavilion, urban design, flooding, contamination, noise and excavation. Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<u>Height</u> • building height and non-compliance with the NLEP 2012 • overlooking • overshadowing	• The proposed 13.9 m variation to the northern section of the site will not result in any significant additional overshadowing to the south or result in any view loss, noting this portion of the site is located forward the southern part of the site. • The Department acknowledges that in isolation the proposed 13.9 m variation is numerically significant, however the Department is satisfied that the proposed variation of the height control is appropriate when viewing the proposed building height as a transitional element of the building in the context of the varied height controls that apply to the site. • The Government Architect NSW and UDCG support the proposed built form with the UDCG noting the proposed height distribution over the site achieves a better urban design outcome than the planning guidelines suggest. • The arrangement and variation is also consistent with the approved built form at the adjoining property to the west at 50 Honeysuckle Drive, Newcastle. • In regard to the 3.9 m variation associated with the seventh storey and the rooftop elements of Building A and B, the Department considers this is a minor 16% variation. The proposed development has also demonstrated it will not have any significant additional impacts in terms of visual privacy and overshadowing (Section 6.3) to neighbouring properties or the public domain and is consistent with the built form objectives for the site in the context of the Honeysuckle Precinct.
<u>GFA</u> • calculation of Gross Floor Area is to include the additional car spaces proposed (beyond what is required under the DCP), resulting in a GFA non-compliance	• While not originally calculated, the Applicant has included additional car parking as part of the overall GFA. • As the car parking is in the basement it would not contribute to any additional visual bulk or massing impacts.
<u>Operation of pavilion</u> • further information is required regarding the use and operational details of the proposed pavilion and ground floor retail uses	• Council requested further information regarding the use and operational details of the proposed pavilion and ground floor retail uses. • The Applicant noted the that any impacts from future retail uses can be managed through the regulatory and compliance powers of Council after the commencement of operation. • Council requested the use is addressed through the imposition of appropriate conditions of consent. <i>Recommended Conditions/Response</i> Conditions include: • No consent is granted for the use of the retail premises, including the pavilion and outdoor seating areas. • Separate DAs for the fitout and operation of these premises are to

	be lodged with Council.
<u>Urban design</u> the proposal is to respond to the design issues raised by the City of Newcastle Urban Design Consultative Group (UDCG)	- The Applicant provided an amended Design Statement that included further renders showing how the proposed building will appear from different viewpoints and how the rooftop space will operate. - GANSW noted and accepted the additional information, providing support for the proposed development.
<u>Flooding</u> Council provided recommendations for flood management	- The site is located within the Cottage catchment and is affected by stormwater flooding and riverine flooding. A revised Flood Risk & Impact Assessment (FRIA) was been provided that reviews existing flood studies and outlines flood risks to the site, including the assessment of flood impacts arising from the proposed development. - Council provided support for the revised FRIA and consider the flood planning has been satisfactorily addressed subject to conditions of consent. - The Department considers the proposed development will not result in any adverse impacts with regards to flooding, including risks to the proposed development or impacts to the surrounding area subject to conditions of consent. <i>Recommended Conditions/Response</i> Conditions include: - All stormwater runoff from the proposed development is to be managed in accordance with the requirements of the NDCP 2012. - On site refuge is to be provided for the propose development and the minimum refuge level is to be the Local Catchment Flood Level RL 4m. - Floor Emergency Response Plan is to be prepared.
<u>Contamination</u> Council recommended a condition of consent to impose the recommendations contained within the contamination consultant reports	- The application is supported by a RAP, Site Audit Statement and Contamination Assessment that will manage contamination on site. - The Department considers the proposed development is suitable for the site after remediation (consistent with the RAP and RAP Addendum and site audit statements), and the land will be remediated before it is used for retail and residential uses. <i>Recommended Conditions/Response</i> Conditions include: - Prepare a RAP Addendum and obtain a Site Audit Statement issued by EPA accredited site auditor. - All remediation works to be undertaken in accordance with RAP, RAP Addendum. - Site Validation at the completion of works.
<u>Noise</u> Council recommended a condition of consent to impose the recommendations contained within the Acoustic Assessment prepared by Muller Acoustic Consulting, dated July 2018	- The Department considers any potential noise impacts can be managed through the recommended conditions of consent contained with the Acoustic Assessment. <i>Recommended Conditions/Response</i> Conditions include: - The proposed development is to be carried out in accordance with the recommendations contained within the Acoustic Assessment. - Plant and equipment to have a maximum noise emission of background plus 5dBA, and no greater than the background noise level between 12 midnight and 7 am, consistent with the Industrial Noise Policy.
<u>Excavation</u> Council recommended a condition of consent to require an Excavation Management	- The proposed development involves the excavation of approximately 6.6 m to accommodate two levels of basement. - A Groundwater Inflow Analysis (GIA) submitted with the EIS advised widespread lowering of the unconfined aquifer is unlikely.

Plan and Dewatering Management Plan	The results suggest that a change in groundwater head of up to about 1 m is expected at a distance of 5 m to 10 m from the perimeter wall. • The Department of Industry (DoI) advised that a temporary groundwater extraction licence is to be obtained by the Natural Resource Access Regulator, within the Department of Industry – Lands and Water. • The Department is satisfied groundwater impacts can be appropriately managed subject to conditions of consent. <i>Recommended Conditions/Response</i> Conditions include: • Authorisation to extract groundwater is to be obtained. • The building is to be designed so that it does not take up groundwater post-construction. • Drainage surrounding the watertight structure is to be of non-corrosive construction methods and materials. • Preparation of a Groundwater Management Plan and Dewatering Plan.
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