

SUPPLEMENTARY INFORMATION

ORDINARY COUNCIL MEETING 10 MAY 2016



PORT STEPHENS
C O U N C I L

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SUBJECT

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COUNCIL REPORTS

3. SECTION 82A APPLICATION FOR REVIEW OF DETERMINATION
NO.16-2015-221-1 FOR SINGLE DWELLING AT NO.7 HIGH
STREET HINTON (LOT: 1A DP: 9901).....3

- Nb. Bold Items have not been previously received or viewed by Councillors.

SUPPLEMENTARY INFORMATION

ITEM NO. 3

**FILE NO: 16/329579
RM8 REF NO: 16-2015-221-1**

SECTION 82A APPLICATION FOR REVIEW OF DETERMINATION NO.16-2015-221-1 FOR SINGLE DWELLING AT NO.7 HIGH STREET HINTON (LOT: 1A DP: 9901).

**REPORT OF: MATTHEW BROWN - DEVELOPMENT ASSESSMENT AND
COMPLIANCE SECTION MANAGER
GROUP: DEVELOPMENT SERVICES**

RECOMMENDATION IS THAT COUNCIL:

- 1) Notes the additional information.

BACKGROUND

The Section 82A Application for a review of determination for DA No.16-2015-221-1 (Single Dwelling) is before Council as agenda item no. 3 at the Ordinary meeting of 10 May 2016. The 82A was deferred by Councillors at the 26 April 2016 Ordinary meeting to allow for a site inspection. The site inspection was held on 2 May 2016.

This supplementary report provides further information that has become available since the site inspection and responds to Councillors questions raised at the site meeting.

ISSUES

Councillors that attended the site mostly indicated a preference for the dwelling to be on a pad/fill as opposed to being located on poles with the floor level being 3 metres from the natural ground level. This was due to visual amenity issues.

After the site inspection Council staff have investigated this further to ascertain if the development application (DA) could potentially be conditioned by Councillors with fill as opposed to a pole design. This research indicated:

- Conditioning the site to be filled is significantly different to pole design and could not be reasonably conditioned by Council as it is too different from what has been applied for. There is no information or flood analysis submitted in relation to filling;
- Councillors had concerns about flood debris on the poles or sub floor of the proposed building. To date this has not been engineer certified in terms of structural adequacy;

- Whilst filling the site will improve the visual appearance of the site, any fill brought into the site would adversely impact upon the flood characteristics of the site which could increase the flood levels of the Hinton village given its close proximity to the site. No flood analysis has been completed for filling to date. Council could be in a position of having to legally defend its decision of approving this DA, should other surrounding properties become flooded further in the future; and
- The inability to fill the site presents an issue with provision of wastewater services. The land application area for effluent disposal would require fill to obtain the required levels – otherwise the development would create pollution from effluent. It is therefore likely a pump out system would be required on site, which is not practical. Should the DA be approved by council, the onsite sewerage management system (OSSM) still requires a local government approval under s68 of the *Local Government Act 1993*. Council doesn't typically support pump out systems as a permanent solution given they are undesirable for water quality and maintenance reasons in flood affected areas.

There are still various unresolved issues with the application.

A set of conditions has been requested by a Councillor, in the event Council decides to approve to the application.

It is noted the staff recommendation is still for refusal, however conditions have been provided as **(ATTACHMENT 1)** on a without prejudice basis.

Councillors are reminded that the proposal has not demonstrated compliance with the principles contained in the NSW Floodplain Development Manual 2005. If Council elects to approve the application this may negate the good faith immunity provided to Council under the *Local Government Act 1993*, which could result in individual Councillors being personally accountable and responsible for any subsequent implications resulting from the decision. Further, in the event of any future claim Council's insurers may determine not to cover Council should the application be approved contrary to the recommendation.

MERGER PROPOSAL IMPLICATIONS

Both the current possible merger proposal partner Councils do not typically approve dwellings in high hazard floodways.

ATTACHMENTS

- 1) Conditions.

CONDITIONS WITHOUT PREJUDICE**SCHEDULE 1****REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED**

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.

CONDITIONS THAT IDENTIFY APPROVED PLANS AND LIMITATIONS OF CONSENT

1. The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent or as noted in red by Council on the approved plans:

Plan/Doc. Title	Plan Ref. No.	Sheet.	Date	Drawn By
Site plan and notes	HTP-1501-001 Rev.B	Sheet 1/2	2/12/16	Hoover Group
Floor plans and elevations	HTP-1501-002 Rev.B	Sheet 2/1	2/12/16	Hoover Group
Flood preparation and evacuation plan	-	-	-	-

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail. If there is any inconsistency between the plans and documentation referred to above the most recent document shall prevail to the extent of any inconsistency.

2. The approved plans listed in this consent are modified as follows:
 - a. Landfill is not approved under this application. The areas of proposed landfill have been deleted from the plans as amended in red.
 - b. Landscape screening is to be provided as amended to screen the dwelling pylons as indicated in red on the approved plans.
3. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority.

CONDITIONS WITHOUT PREJUDICE

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION

4. **Prior to the commencement of work** a 3 metre wide all weather vehicle access shall be provided from the kerb and gutter to the building under construction for the delivery of materials and trades to reduce the potential for soil erosion. Sand shall not be stockpiled on the all-weather vehicle access.
5. **Prior to the commencement of works** approved under this consent, a waste containment facility is to be provided on the site and is to be maintained until the completion of works.
6. **Prior to the commencement of works**, erosion and sediment control measures shall be put in place, and maintained post completion until the site is fully stabilised, to prevent the movement of soil by wind, water or vehicles onto any adjoining property, drainage line, easement, natural watercourse, reserve or road surface, in accordance with *Managing Urban Stormwater – Soils and Construction, Volume 1* (Landcom, 2004).
7. **Prior to undertaking any road opening works within the road reserve**, a Road Opening Permit is to be obtained prior to any works on the verge, footpath, public road reserve or public reserve being undertaken. A Road Opening Permit is not required for driveways and layback construction, or connection of stormwater systems to the street gutter.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

8. **Prior to the issue of the Construction Certificate** the submission to the Principal Certifying Authority of the following information;
 - a. Detailed structural engineering design of the proposed dwelling, having regard for the SES Building Guidelines and ABCB Construction of Buildings in Flood Hazard Areas Standard. The design shall be certified by a Chartered Professional Structural Engineer that the proposed dwelling is capable of withstanding the effects of flooding, including immersion, structural stability, buoyancy and impact from debris up to and including the Probable Maximum Flood (PMF) Event. The PMF flooding characteristics are 7.5m AHD and 0.8metres per second velocity.
 - b. All building materials used or located below the 1% AEP flood level of 6.7m AHD must be flood compatible. Plans and specifications detailing the building materials are to be submitted to the Principal Certifying Authority.
 - c. Certification from a Structural Engineer is to be submitted to the Principal Certifying Authority which demonstrates that the rainwater tank will be designed with adequate bracing to withstand the forces of floodwater in events up to the 100 year event including hydrostatic pressure, hydrodynamic pressure and buoyancy forces.
9. **Prior to the issue of the Construction Certificate** a separate wastewater application for the installation of a waste treatment device/human waste storage facility shall be submitted and approved by Council. The wastewater management system proposed for the development shall be in accordance with Council's On-site Sewage Management Policy and the relevant provisions of the

CONDITIONS WITHOUT PREJUDICE

Local Government Act 1993. The application is to be accompanied by full details of the proposed system and site assessment complying with the relevant section of the Development Assessment Framework (DAF).

NOTE: The wastewater system should be designed having regard for the fact that landfill activities are not approved or supported on the site.

CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES

10. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
11. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:
 - Monday to Saturday, 7am to 5pm;
 - No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L10 level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.

12. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
13. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete.
14. No construction or demolition work shall obstruct pedestrian or vehicular traffic in a public place, a hoarding or fence must be erected between the construction site and the public place.
15. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on the site.
16. The minimum floor level of all habitable rooms is to be **RL7.2 metres AHD**. A Certificate prepared by a Registered Surveyor certifying that the minimum floor levels have been achieved must be submitted to the Principal Certifying Authority when the dwelling reaches floor level stage.

CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

17. All electrical circuits below the 1% flood level are to have a residual current device installed. Electrical certification shall be submitted to the Principal Certifying Authority **prior to the issue of any Occupation Certificate**.
18. **Prior to the issue of an Occupation Certificate**, an appropriate sign having minimum dimensions of 600mm x 600mm, is to be installed within a prominent location indicating the expected 1% AEP (6.7m AHD) and PMF (7.5m AHD) flood levels.

CONDITIONS WITHOUT PREJUDICE

19. Certification from a Chartered Professional Structural Engineer confirming that the building has been completed in accordance with the detailed structural engineering design shall be submitted to the Principal Certifying Authority **prior to the issue of any Occupation Certificate.**
20. **Prior to the issue of the Occupation Certificate** an Approval to Operate shall be obtained by Council in accordance with the *Local Government Act 1993* (section 68A) following the satisfactory installation of the waste treatment device/human waste storage facility.
21. **Prior to the issue of the Occupation Certificate** landscaping capable of reaching a minimum height of 3.5metres shall be installed to screen the subfloor approved dwelling as indicated in red on the approved plans. Mature specimens are to be utilised for plantings with a minimum 450mm pot size. Landscaping shall be maintained in perpetuity.
22. The development shall take place in accordance with the stated values of the BASIX certificate (and as detailed on the approved plans). **Prior to the issue of any Occupation Certificate** an appropriately qualified person shall certify compliance with these requirements, as applicable.