



PORT STEPHENS
C O U N C I L

SUPPLEMENTARY INFORMATION

ORDINARY COUNCIL MEETING
27 JULY 2021

INDEX

SUBJECT

PAGE NO

COUNCIL REPORTS

1. **DEVELOPMENT APPLICATION 16-2021-82-1 FOR A DWELLING AT 7
HIGH STREET, HINTON3**
3. **DRAFT VOLUNTARY PLANNING AGREEMENT - KINGS HILL
DEVELOPMENT22**

Nb. **Bold** Items listed above have not been previously received or viewed by Councillors.

SUPPLEMENTARY INFORMATION

ITEM NO. 1

FILE NO: 21/201040
EDRMS NO: 16-2019-135-1

DEVELOPMENT APPLICATION 16-2021-82-1 FOR A DWELLING AT 7 HIGH STREET, HINTON

REPORT OF: KATE DRINAN - DEVELOPMENT ASSESSMENT AND
COMPLIANCE SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Refuse development application 16-2019-135-1 for a single dwelling on an existing flood mound at 1 Swanreach Road, Hinton (LOT 51 DP 1250604) for the reasons contained in the Planners Assessment Report at **(ATTACHMENT 3)**.

BACKGROUND

The purpose of this report is to clarify the details of the development application 16-2021-82-1 for a dwelling at 7 High Street, Hinton (Lot 1A DP 9901).

Council received amended plans on 21 July 2021 that were not included in the original assessment or referenced in the business paper report. The amended plans included an access ladder that provides entry to the roof void that would be utilised as a flood refuge.

To be accepted as a flood refuge, these areas must be located above the Probable Maximum Flood (PMF) level. The roof void is located at 9.9m AHD, with the PMF level for the site modelled at 8.5m AHD. The flood refuge is therefore compliant with the provisions of Chapter 5.18 of the Port Stephens Development Control Plan (PSCDCP) provisions that aims to limit the risk to life.

It should be noted that the provision of the flood refuge does not alter the staff recommendation to refuse the application as the dwelling is not considered compatible with the High Hazard flood category of the site.

In addition, the applicant also agreed to locate all electrical fittings within the ground floor areas above the 1% AEP level. This will limit the overall risk to property during flood event. Nevertheless, it is still considered that the ground level will be inundated during flood events, resulting in a high level of risk to property as specified under Chapter 5.19 of the PSDCP.

ISSUES

Nil.

COUNCILLORS ROOM

- 1) Amended Development Plans (provided to Councillors separately due to privacy and copyright legislation).

ATTACHMENTS

- 2) Revised Planners Assessment Report. [↓](#)



DEVELOPMENT ASSESSMENT REPORT

APPLICATION DETAILS

Application Number	16-2019-135-1
Development Description	Single Storey Dwelling
Applicant	MR N A WARD
Land owner	Neil Andrew Ward & Bronwyn Patricia Ward
Date of Lodgement	08/03/2019
Value of Works	\$446,480.00
Submissions	Nil

PROPERTY DETAILS

Property Address	1 Swanreach Road HINTON
Lot and DP	LOT: 51 DP: 1250604
88B Restrictions on Title	10.06m wide road.
Current Use	Undeveloped agricultural land
Zoning	RU1 PRIMARY PRODUCTION
Site Constraints	Bush Fire Prone Land (Category 3) OEH Referral – HV Flood Mitigation Scheme Acid Sulfate Soils (3) Koala Habitat Planning Map (Mainly Cleared, 50m Buffer over Cleared & Preferred) Port Stephens Rural Residential Strategy Biophysical Strategic Agricultural Land Housing Investigation Area Exclusionary Criteria SEPP (Coastal Management) 2018 – Coastal Zone Combined Footprint Height Trigger Map – RAAF Base Williamtown and Salt Ash Air Weapons Range – DoD Prime Agricultural Land (Classes 1-3)

	Combined Corridor Map High Hazard Floodway area Wetlands
State Environmental Planning Policies	SEPP (Building Sustainability Index: BASIX) 2004 SEPP (Coastal Management) 2018 SEPP (Koala Habitat Protection) 2020 SEPP No. 55 – Remediation of Land

PLANNERS PRE-ASSESSMENT CHECKLIST

PROPOSAL

The application seeks approval for construction of a dwelling on an existing earth mound located on the subject site. The proposal involves the construction of a single storey dwelling with a total roof area of 426m². The dwelling is divided into areas of 292.54m² living area (four bedrooms, bathroom, powder room, ensuite, kitchen, living/dining area and lounge areas) and verandahs. The dwelling will be constructed on a concrete pad on top of an existing flood mound, at a level located above the site Flood Planning Level (FPL).



Figure 1: North-west elevation of proposed dwelling

SITE DESCRIPTION

The subject site is legally identified as lot 51 DP 1250604, 1 Swanreach Road, Hinton. The irregular shaped site is located within a rural precinct characterised by large rural allotments. Swanreach Road runs across the eastern section of the site and divides the site into two separate sections. The larger western section of the site comprises an area of 8.771ha; with the smaller eastern section of the site comprising an area of only 0.726ha. The western section of the site is used for agricultural purposes and exists in an undeveloped state. The eastern section of the site holds approved development including a large rural shed, earth mound and sealed access routes for vehicles. This eastern section of the site is bordered by a small creek that runs along its eastern boundary, and is located less than 100m from the Williams River. The lot slopes slightly downhill in a south-east direction directing surface water to the small creek and the larger catchment body. Essential services including vehicular access and electricity are available to the lot, with services including water, wastewater and stormwater required before habitable development can occur.

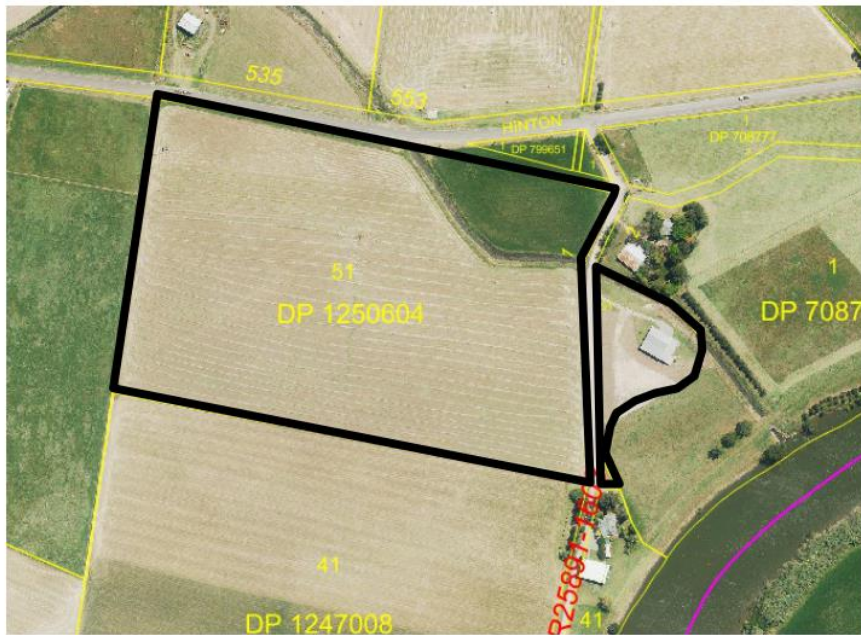


Figure 2: Aerial image of site

SITE HISTORY

The site has historically been used for rural purposes, with approved development limited to structures that may support rural uses.

The following applications have been assessed over the subject site:

- **16-2018-621-1** – Earthworks – flood mound – Approved – 31/01/2019.

Site inspection

A site inspection was carried out on April 2019, June 2019 and 9 March 2021.

The latest images of the subject site can be seen below:



Figure 3: View of eastern section of the site, taken from driveway crossover



Figure 4: View of western section of the site, taken from earth mound



Figure 5: View of small creek that borders eastern section of the site



Figure 6: View to the east of the site, taken from earth mound



Figure 7: Additional fill to be compacted and levelled over earth mound

REFERRALS

The proposed development was referred to Councils Development Engineers and their comments are provided below.

Development Engineer

Refusal for a dwelling is recommended from a floodplain risk management perspective because:

- i) The proposal is incompatible with the land's flood hazard (being a high hazard floodway and surrounded by high hazard floodway), would create a flood island during events smaller than the defined flood event (future 1% AEP), does not incorporate appropriate measures to manage risk to life from flood and would increase the flood risk to life in the floodplain (*refer to Section 4.15(1)(a)(i) of the EP&A Act 1979 and Clause 7.3 Flood Planning of the Port Stephens LEP 2013*).
- ii) The site is not suitable for this development because of the nature of flooding in this area and the flood hazard across the site (*refer to Section 4.15(1)(c) of the EP&A Act 1979 and Clause 7.3 Flood Planning of the Port Stephens LEP 2013*).
- iii) The proposal will result in flood isolation during floods smaller than the defined flood event (future 1% AEP), would place additional people at risk during floods (in contravention of the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005), would place extra burden on the State Emergency Services and is not in the public interest (*refer to Section 4.15(1)(e) of the EP&A Act 1979 and Clause 7.3 Flood Planning of the Port Stephens LEP 2013*).

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

S4.14 - Consultation and development consent (certain bushfire prone land)

Sub-Clause	Compliant	Notes (where needed or if not compliant)
1	<input checked="" type="checkbox"/> Development is within bushfire prone land and conforms to the specifications and requirements of the PBP, or; <input type="checkbox"/> A certificate has been provided by a suitability qualified bushfire consultant of which confirms the bushfire risk assessment rating and identifies relevant specifications and requirements for compliance with PBP.	In the event of an approval, the proposed dwelling will need to be upgraded to the appropriate BAL requirements and will be provided with an asset protection zone.

S4.15 – Matters for Consideration

s4.15(1)(a)(i) – The provisions of any EPI

STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018		
Clause	Compliant	Notes (where needed or if not compliant)
4	<input checked="" type="checkbox"/> Development is within the Coastal Management Areas and the SEPP applies <input type="checkbox"/> Development outside Coastal Management Areas and SEPP does not apply	The proposed development is located within the Coastal Zone Combined Footprint, thus the SEPP applies.
11	<input checked="" type="checkbox"/> The development is located on land in proximity to coastal wetlands or proximity to littoral rainforests, and; <input checked="" type="checkbox"/> The development will not significantly impact the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest	The proposed development is located on land in proximity to mapped coastal wetlands. The development proposes to utilise an already established earth mound, with a hardstand area to be created on this mound. Waste management, sediment control and surface runoff can be managed by conditions of development consent, to ensure the adjacent coastal environment is not adversely impacted. Additionally, a section 68 approval will ensure sewage is managed in an appropriate manner and not discharged into the coastal ecosystem.

ITEM 1 - ATTACHMENT 1 REVISED PLANNERS ASSESSMENT REPORT.

16-2019-135-1

		Given this information, the development is not expected to negatively impact the surrounding biophysical, hydrological and/or ecological integrity of the surrounding wetlands.
13	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> The development is located within the coastal environment area, and; <input checked="" type="checkbox"/> The development is unlikely to cause impact to the integrity and resilience of the biophysical, hydrological and ecological environment, the coastal environmental values and processes or the water quality of the marine estate, and; <input checked="" type="checkbox"/> The development is designed and sited to avoid adverse impact on the above mentioned areas. 	The proposed development is located within the coastal environment area. The proposed development utilises an existing earth mound, and does not significantly disturb the existing landscape. Hence, the development is unlikely to cause negative impact on the surrounding coastal environment.
14	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> The development is located within the coastal use area, and <input checked="" type="checkbox"/> The development is unlikely to cause impact to the integrity and resilience of the biophysical, hydrological and ecological environment, the coastal environmental values and processes or the water quality of the marine estate, and; <input checked="" type="checkbox"/> The development is designed and sited to avoid adverse impact on the above mentioned areas. 	The proposed development is located within the coastal use area. As above, the development utilises an existing earth mound and does not significantly expand the building envelope. The development is unlikely to negatively impact the integrity and resilience of the surrounding coastal environment.

STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX BASIX) 2008

Clause	Compliant	Notes (where needed or if not compliant)
6	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> The proposed BASIX affected development, or buildings that become BASIX affected development (conversion of garage for example) is accompanied by a BASIX certificate <input checked="" type="checkbox"/> Condition of consent relating to BASIX 	A valid BASIX certificate was supplied with the application 955563S_02 issued on 25/02/2019.

STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

Clause	Compliant	Notes (where needed or if not compliant)
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7	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> The proposed development site has no previous record of contamination, nor is it listed on the NSW list of contaminated and notified sites, published by the EPA. <input checked="" type="checkbox"/> The land is not within an investigation area, nor are there any records of potentially contaminating activities occurring on the site. <input checked="" type="checkbox"/> The proposed use is not listed as a possible contaminating use, per Table 1 of the Guidelines. 	
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STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2019

Clause	Compliant	Notes (where needed or if not compliant)
3	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> The proposed development encourages the conservation and management of naturally vegetated areas that provide habitat for koalas. 	The site is located in an area mapped mainly cleared, the rear of the site along the boundary to the waterfront is mapped and 50m buffer over cleared. The development application does not include the removal of natural vegetation for koala habitat. The development is not considered to exacerbate impact to the koala habitat or decline in koala population.

PORT STEPHENS LOCAL ENVIRONMENTAL PLAN 2013

Clause	Compliant	Notes (where needed or if not compliant)
2.1	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Permissible in zone and meets zone objectives. 	The proposed development is defined as a 'dwelling house' and is permissible with consent in the RU1 Primary Production zone. The development addresses the objectives of the zone to minimise the fragmentation and alienation of resource lands.
4.2B	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Dwelling proposed on RU1, RU2, R5, E2 or E3 land where there is no current dwelling on site. <input type="checkbox"/> Site complies with lot size map; OR, <input checked="" type="checkbox"/> Land zoned RU1, RU2, E2 or E3 and created before 22 February 2014 with an area of at least 4,000m² on which a 	A review of the lot's deposited plan (DP); indicates a boundary realignment was undertaken through subdivision 38 of the SEPP (Exempt and Complying Development) 2008. In accordance with clause 4.2B (3)(c)(i); the lot would have been a lot referred to in paragraph (3)(b). Clause 4.2B (3)(b) states a lot receives dwelling entitlement in the RU1 zone

	<p>dwelling was permissible under the previous LEP; OR,</p> <p><input checked="" type="checkbox"/> Would have met the above requirements had it not been affected by a minor realignment that did not create an additional lot, a subdivision for a public purpose or a consolidation with an adjoining lot for a public purpose.</p> <p><input type="checkbox"/> Where an existing consent for a dwelling is valid, the consent will be surrendered.</p>	<p>where the lot is created before the commencement of the LEP 2013, and where the lot has an area of at least 4000m² on which the erection of a dwelling house was permissible immediately before that commencement. A review of the lots former DP, specifies the lot was created under the OLD SYSTEM and further registered with LRS on 13/07/2007. Furthermore, the DP's of adjoining lots were reviewed as part of the assessment process against this LEP clause. The existence of the subject lot was identified in DP's dated 21/04/1995. Based on the creation of the lot prior to commencement of the LEP 2013, and the sizing of the lot (greater than 4000m²) at the commencement of the LEP 2013; the lot receives dwelling entitlement.</p>
4.3	<p><input type="checkbox"/> Proposed development is under maximum building height; OR,</p> <p><input checked="" type="checkbox"/> There is no maximum building height and the development satisfies the objectives of the clause.</p>	<p>There is no maximum building height stipulated in the LEP 2013 for land zoned RU1. Notwithstanding, the proposed height is considered to be in keeping with the height of dwellings in the wider locality. Thus, the requirements of this clause are satisfied.</p>
5.10	<p><input checked="" type="checkbox"/> There are no heritage items / archaeological sites / Aboriginal objects or places / conservation areas located on the subject site</p>	<p>No heritage items, archaeological sites, aboriginal objects or places, and conservation areas have been identified as being located on the subject site.</p>
7.1	<p><input type="checkbox"/> Potential Class 5 Acid Sulfate Soils (ASS); OR,</p> <p><input type="checkbox"/> Potential Class 4 ASS with no works more than 2m below ground level; OR,</p> <p><input checked="" type="checkbox"/> Potential Class 3 ASS with no works more than 1m below ground level; OR,</p> <p><input type="checkbox"/> Potential Class 2 ASS with no works below ground level; OR,</p> <p><input type="checkbox"/> Potential Class 1 ASS and an acceptable management plan has been submitted.</p>	<p>The site is mapped as containing potential Class 3 acid sulfate soils. The proposal has not identified earthworks extending below 1m. It is not expected that acid sulfate soils would be disturbed as a result of the proposal, and therefore no ASS management report is required for assessment.</p>
7.2	<p><input checked="" type="checkbox"/> Earthworks required, but do not have negative impacts on surrounding properties.</p>	<p>Civil engineering drawings supplied for the proposal has identified the location, sections, fall and sediment control methods for all earthworks proposed. Standard conditions of consent can be applied to any development consent requiring standard earthworks methods to</p>

		<p>be implemented throughout construction phases.</p>
<p>7.3</p>	<p><input type="checkbox"/> Development within flood planning area but no anticipated flood risk to life and property, or change in flood characteristics.</p>	<p>The majority of the site is located at or below the site's 6.2m Flood Planning Level (FPL); therefore requiring an assessment against this clause.</p> <p>As per Section 7.3(3) of the LEP; development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development meets assessment criteria (a-e).</p> <p>A Flood Assessment Report prepared on the 11.09.2018 by a suitably qualified professional, was supplied for the existing flood mound located on the site (16-2018-621-1). Furthermore, a Flood Assessment Report prepared on the 15.02.2021 by a suitably qualified professional, was supplied for the proposed dwelling (16-2019-135-1) to be located on the existing flood mound.</p> <p>Findings from these respective reports concluded both proposals satisfy the assessment criteria of Section 7.3 (3) (a-e) of the LEP.</p> <p>All supporting documentation prepared for the proposal, was independently assessed by Council Flood Engineers and Development Engineers using the latest flood mapping information available to Council. Findings from these engineering referrals concluded, <i>'the proposal has failed to satisfy the following items of 7.3 (3)'</i>:</p> <ul style="list-style-type: none"> a) <i>Is compatible with the flood hazard to the land.</i> c) <i>Incorporates appropriate measures to manage risk to life from flood.</i> e) <i>It is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</i> <p>The proposal cannot be supported as the proposed dwelling is not considered compatible with the flood category of the site. With no safe access provided for future residents of the site, the proposal</p>

ITEM 1 - ATTACHMENT 1 REVISED PLANNERS ASSESSMENT REPORT.

16-2019-135-1

		would place an unreasonable burden on the State Emergency Services and cannot be supported by Council.
7.6	<input checked="" type="checkbox"/> Essential services are available to the site where required.	Essential services including vehicular access and electricity are available to the lot. The applicant has listed appropriate methods for the provision of water, sewer and stormwater; as reticulated services are not available.

s4.15(1)(a)(ii) – Any Draft EPI

		Notes (what draft EPI if needed and comments where not compliant)
	<input checked="" type="checkbox"/> There are no draft EPI's that are relevant to the proposed development	
	<input type="checkbox"/> A draft EPI is relevant to the proposed development however the application is consistent with the aims and objectives of the document.	

s4.15(1)(a)(iii) – Any DCP

PORT STEPHENS DEVELOPMENT CONTROL PLAN 2014		
Clause	Compliant	Notes (where needed or if not compliant)
B3	<input checked="" type="checkbox"/> Development would not disturb acid sulphate soils or an acceptable ASSMP has been prepared. <input type="checkbox"/> Earthworks would have minimal environmental impacts with conditions on VENM fill and erosion and sediment controls.	The objective of this DCP Chapter is to ensure that developments do not disturb, expose or drain Acid Sulfate Soils (ASS) and cause environmental damage. As detailed within Clause 7.1 discussion above, the proposed development could be undertaken, subject to conditions of consent, without resulting in adverse impact to ASS. In this regard the development is consistent with the objective and requirements of the DCP.
B4	<input checked="" type="checkbox"/> Non-permeable area not significantly increased and development consistent with figure BD, on-site detention not required; OR, <input checked="" type="checkbox"/> Non-permeable area above figure BD and acceptable on-site detention / infiltration proposed or condition for details added.	

Page 12 of 17

	<ul style="list-style-type: none"> <input type="checkbox"/> Insignificant increases to adversely impact on water quality; OR <input type="checkbox"/> Stormwater management plan proposed in accordance with this Chapter and Council's standard drawings. 	
B5	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Proposed development is on flood prone land; AND, <input type="checkbox"/> A flood certificate has been submitted with the application and the finished levels are consistent with Table 2: Development Suitability Table; AND, <input type="checkbox"/> The submitted documents are consistent with Table 2: Development Suitability Table. 	<p>Chapter B.5 of the DCP 2014 provides controls for development on flood prone land. DCP 2014 states that dwelling houses on land categorised as High Hazard Floodway may be considered where the proposal can address set performance based solutions. The solutions include an assessment of the development against the risk to life (B5.18), risk to property (B5.19) and the compatibility of development with the site specific flood hazard (B5.20).</p> <p>Chapter B5.18, in considering the risk to life, requires that evacuation access to an area free of risk from flooding must be provided. The site and its surrounds are significantly flood affected and it is not possible to design an egress from the proposed dwelling to flood free areas offsite. A PMF flood refuge has not been included in the DA as an alternative to a safe egress in a flood event. As the DA cannot provide a suitable egress from the site and a suitable flood refuge has not been provided, the DA does not meet the performance based solutions contained in Chapter B5.18 of DCP 2014.</p> <p>Chapter B5.19 requires development to address the risk to property during various flood events. The top pad of the existing flood mound is above the 1% AEP level and the FPL for the site. The design of the DA is therefore compatible with the performance based solutions contained in Chapter B5.19 of DCP 2014 and the risk to property has therefore been suitably mitigated. The height of the existing flood mound has also been assessed to not have a cumulative impact on the larger flood plain storage. The DA can therefore be supported from a risk to property perspective.</p>

		<p>Chapter B5.20 requires the development to be compatible with the flood hazard category of the site. A Flood Certificate issued by Council for the site on the 27/02/2018, categorized the site as 'High Hazard Flood Storage'. A current Flood Certificate issued for the site, categorizes the site as 'High Hazard Floodway'. As the site does not have access to flood free areas, the proposed dwelling will become isolated during large flood events, which increases the risk to life and potentially places an unreasonable and unnecessary strain upon emergency services in a major flooding event.</p> <p>With consideration of the above, the proposal cannot be supported by Council. The proposal is inconsistent with the provisions of the DCP 2014, and presents an unacceptable risk to life.</p>
B6	<input checked="" type="checkbox"/> Essential services are available to the site, where required.	<p>Essential services including vehicular access and electricity are available to the lot. The applicant has listed appropriate methods for the provision of water, sewer and stormwater; as reticulated services are not available.</p>
B9	<input checked="" type="checkbox"/> The development would not generate significant increases in traffic. <input type="checkbox"/> On-site parking provision meets the requirements of figure BQ or merit based assessment; AND, <input type="checkbox"/> Suitable disabled parking is provided in line with figure BQ.	
C4	<input checked="" type="checkbox"/> Proposal ensures development provides continuity to the street and setbacks comply with C4.10-C4.19. <input checked="" type="checkbox"/> Development appropriately activates the street with habitable rooms where applicable. <input checked="" type="checkbox"/> The proposed development would be sympathetic to the streetscape as it is consistent with the existing development in its form, height, bulk, design and materials. <input checked="" type="checkbox"/> The development would not adversely affect the amenity of neighbouring properties or the public domain.	<p><u>Building height</u></p> <p>There is no maximum building limit under the LEP, as such a merit based assessment has been undertaken. The proposal is for a single storey dwelling, to be constructed on top of a flood mound. The dwelling is consistent with dwelling heights in the locality.</p> <p><u>Setbacks</u></p> <p>The proposal is appropriately setback from all the side and rear boundary setbacks. The proposal is located to the side of the existing metal shed. The</p>

	<p><input type="checkbox"/> Ancillary development complies with C4.31-C4.43.</p>	<p>proposal does not detract from the rural character of the area.</p> <p><u>Streetscape and privacy</u></p> <p>The development is appropriately setback to ensure the rural character and streetscape and privacy of the area is maintained.</p> <p><u>Private open space</u></p> <p>The development is proposed on a rural property and is adequately setback to facilitate ample private open space for the proposed dwelling.</p> <p><u>Landscaping</u></p> <p>The subject site is a rural property with sufficient space for landscaping and plantings. There are no matters of privacy which would require landscape screening to be planted. The subject site has sufficient space to achieve landscaping requirements.</p> <p><u>Site Facilities and Services</u></p> <p>The proposed dwelling location and flood mound area create suitable area to support facilities and services such as waste storage and clothes drying.</p>
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s4.15(1)(a)(iiiia) – Any planning agreement or draft planning agreement entered into under section 7.4

Notes (where needed)	
<input checked="" type="checkbox"/> There are no planning agreements that have been entered into under section 7.4 relevant to the proposed development.	

s4.15(1)(a)(iv) – The regulations

Notes (where needed)	
<input checked="" type="checkbox"/> There are no matters within the regulations that are relevant to the determination of the application.	

s4.15(1)(b) – The likely impacts of the development

Notes (where needed)	
<input checked="" type="checkbox"/> Social and Economic Environment: There would be beneficial impacts as a result of the development.	The proposal will result in flood isolation during floods smaller than the defined flood event (future 1% AEP), would place additional people at risk during floods and would place extra burden on the State Emergency Services and is not in the public interest.
<input checked="" type="checkbox"/> Built Environment: The proposed development would not cause harm to the existing character.	The proposed development would not cause harm to the existing built character. The proposed dwelling is to be erected on the existing flood mound, given the area is characterised by some rural residential development, the dwelling would be built at a similar height to the surrounding properties. The dwelling has been designed in a manner to be consistent with the rural character of the area. Overall, the development is not considered likely to result in adverse impacts to the built environment.
<input checked="" type="checkbox"/> Natural Environment: There are no adverse impacts expected as a result of the proposed development and appropriate conditions have been added.	The proposed development is not considered to be compatible with the flood risk associated with the land and may result in an unacceptable impact to life. The proposed development is located within close proximity to the Williams River to the east. The development is not considered to be a suitable use of the site with regard to the environment and does not align with Councils endorsed policies.

s4.15(1)(c) – The suitability of the site

The subject site is zoned RU1 – Primary Production, whereby the proposed dwelling is a permissible land use under the zoning. The site is identified as high hazard flood-way and the proposed development and use does not align or address all of the necessary requirements under current Council endorsed policy and legislation. Due to the identified flood hazard, the proposal has been assessed as not being a suitable outcome for the site.

s4.15(1)(d) – Any submissions

No submissions have been received in relation to the proposed development.

s4.15(1)(e) – The public interest

The proposed development is not considered to be in the public interest as the proposed development is not consistent or suitable with the flood category applicable to the subject site. The impact and increase in risk to life as a result of the development in a significant flood event is not supported in this instance.

s7.11 – Contribution towards provision or improvement of amenities or services (developer contributions)

Nil.

DETERMINATION

The application is recommended to be refused by Council in accordance with the reasons contained in the notice of determination.

ISAAC LANCASTER
Development Planner

SUPPLEMENTARY INFORMATION

ITEM NO. 3

FILE NO: 21/203153
EDRMS NO: PSC2019-00822

DRAFT VOLUNTARY PLANNING AGREEMENT - KINGS HILL DEVELOPMENT

REPORT OF: JANELLE GARDNER - STRATEGY & ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the draft voluntary planning agreement to secure conservation land and works related to Development Application 16-2018-722-1 for land at Kings Hill **(ATTACHMENT 1)**.
- 2) Exhibit the draft agreement and explanatory note for 28 days in accordance with the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000.
- 3) If no submissions are received, approve the voluntary planning agreement as exhibited for execution.

BACKGROUND

The purpose of this report is to enable Council to consider an additional recommendation:

- 3) If no submissions are received, approve the voluntary planning agreement as exhibited for execution.

ISSUES

If the recommendation is adopted, the voluntary planning agreement will be able to be executed as exhibited if no submissions are received.

If submissions are received, the voluntary planning agreement will be reported to Council prior to execution.

ATTACHMENTS

Nil.