

HILLTOPS COUNCIL EXTRAORDINARY MEETING MINUTES

12 July 2017, commencing at 5.00 PM

Held in the Hilltops Council, Harden Chamber, 3 East Street, Harden

ATTENDANCE

Administrator W Tuckerman

STAFF

A McMahon General Manager
S Langman Director Sustainable Growth

APOLOGIES

Nil

PUBLIC FORUM

- Andree Rowntree
Item 17/01: Development Application T15-078 for the use of Lots 1 and 2 DP623790 (and others), Eulie Road, Harden for Intensive Livestock Agriculture (piggery).
- Julia Atkin
Item 17/01: Development Application T15-078 for the use of Lots 1 and 2 DP623790 (and others), Eulie Road, Harden for Intensive Livestock Agriculture (piggery).

DECLARATIONS OF INTEREST - CONFLICT OF INTEREST

Administrator Wendy Tuckerman declared no pecuniary or conflict of interest.

GENERAL MANAGER'S REPORT

EOM 17/01 – DEVELOPMENT APPLICATION T15-078 FOR THE USE OF LOTS 1 AND 2 DP623790 (and others), EULIE ROAD, HARDEN FOR INTENSIVE LIVESTOCK AGRICULTURE (PIGGERY).

17/01 RESOLVED:

That Council REFUSE Development Application T15/078 for intensive livestock agriculture (piggery) on Lots 1 and 2 DP623790 (and other land parcels identified as the 'Eulie' landholding as stated in the Environmental Impact Statement submitted with the application) for the following reasons:

- 1. The site is not suitable for the development as proposed and in that regard:***
 - The environment at, and downstream of the site (including the individual elements of soil, water, groundwater and biodiversity and the links between them) is likely to be the subject of unacceptable levels of contamination arising from the operation of the piggery;***

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- *Existing phosphorous loadings on the site indicate that the application of additional phosphorous and other nutrients and salts through the application of effluent will exceed the assimilation capacity of the soil and will result in vertical leaching into the aquifer;*
 - *The shallower zones of the underlying aquifer are vulnerable to contaminants with limited opportunity to natural attenuation of contaminants;*
 - *it has not been demonstrated that a viable, reliable and sustainable water source is available for the development;*
 - *It has not been demonstrated that negative impacts on biodiversity, soil, surface water and groundwater can be avoided or sustainably managed, mitigated or ameliorated;*
 - *It has not been demonstrated that odour impacts can be managed on site in accordance with relevant standards and without creating amenity issues for surrounding sensitive receivers;*
 - *It has not been demonstrated that the cumulative impacts of the development will not result in the site and surrounding area being made unsafe or unusable in the future;*
 - *Potential adverse impacts on threatened ecological communities on the site are unacceptable;*
 - *The likely impact of the development on soils, surface and ground waters has longer term potential impacts on the viability of resources on the site itself and therefore on the ability of the development to continue into the longer term.*
2. *The Council must refuse consent to the application because the proposed development requires an Environment Protection Licence under the provisions of the Protection of the Environment Operations Act, 1997 and on 1 February 2017, the NSW Environment Protection Authority informed the Council that it will not grant the approval that is required.*
3. *The Council must refuse consent to the application because the proposed development requires an Aboriginal Heritage Impact Permit under section 90 of the National Parks and Wildlife Act, 1974 and the NSW Office of Environment and Heritage has informed the Council that it will not grant the approval that is required.*
4. *The requirements of clause 7 of State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) have not been met in that the Environmental Impact Statement indicates that potentially contaminating land uses have been undertaken on the site for over 100 years, however, no report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines has been provided nor has a detailed investigation (as referred to in the contaminated land planning guidelines) been carried out and provided to the Council.*

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5. *The proposed development is contrary to achieving four of the five objectives of Zone RU1 Primary Production under the provisions of Harden Local Environmental Plan 2011 in that:*

- it has not been demonstrated that it is sustainable, or that it maintains and enhances the natural resource base, particularly in relation to the risks it presents to soils, ground and surface waters; and*
- it has not been demonstrated that it is appropriate for the area in that it is likely to result in adverse negative environmental and amenity impacts; and*
- it has potential to fragment and alienate resource lands through its environmental impacts, including the potential degradation of natural soil and water systems and biodiversity. The potential adverse environmental impacts of the proposed development, particularly the application of effluent to soils, may irreversibly deplete the subject site as productive land and may impact on soil and water systems such that the productivity of surrounding and downstream lands may be affected; and*
- it does not minimise conflict between land uses within Zone RU1 Primary Production as it is likely to result in unacceptable impacts (such as offensive odour) impacts on other land uses within the Zone; and*
- it does not minimise conflict between land uses within adjoining Zones as it presents potential risks of contamination of drinking waters that supply uses adjoining or nearby on land within Zone R5 Large Lot Residential, Zone R1 General Residential and Zone B4 Mixed Use.*

6. *Insufficient information has been provided with the development application in order for the Council to properly consider the matters in Clause 6.2(3) or to be satisfied of the matters in Clause 6.2(4) of Harden Local Environmental Plan 2011 (HLEP 2011) in relation to maintaining terrestrial biodiversity, as:*

- the site includes land identified as "Significant Vegetation" on the Natural Resources Biodiversity Map under the HLEP 2011; and*
- White-Box-Yellow Box-Blakely's Red Gum Grassy Woodland, which is identified as a threatened ecological community under the NSW Threatened Species Conservation Act, 1995 and as critically endangered ecological community under the Commonwealth Environment Protection and Biodiversity Conservation Act, 1999 is present on the site; and*
- the potential direct and indirect adverse impacts of the proposed development on maintaining terrestrial biodiversity have not been fully identified or adequately addressed in the development application.*

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7. *Insufficient information has been provided with the development application in order for the Council to properly consider the matters in Clause 6.3 (3) or to be satisfied of the matters in Clause 6.3(4) of HLEP 2011 in relation to riparian land and watercourses as:*

- *the site includes land situated within a watercourse, or within 40 metres of the top of the bank of any watercourse, identified on the Natural Resources Water Map under HLEP 2011; and*
- *in relation to Clause 6.3(2), the application fails to consider the proposed development as anything other than Lots 1 and 2 DP623790 and the construction of buildings on those land parcels; and*
- *the development includes the application of effluent to land that extends beyond Lots 1 and 2 DP623790;*
- *the application does not include any information or address the potential impacts on riparian land and watercourses of the proposed application of effluent to the site; and*
- *there is potential for the development as proposed to cause unacceptable impacts to water quality within (mapped and other) watercourses on the site (including Cunningham Creek and Maniac Creek) due to leakage from the proposed treatment ponds, overflow of the treatments ponds in high-rainfall conditions, and leaching of excess nutrients to ground, and ultimately surface waters.*

8. *Insufficient information has been provided with the development application in order for the Council to properly consider the matters in Clause 6.4(3) or to be satisfied of the matters in Clause 6.4(4) of HLEP 2011 in relation to groundwater systems and resources, as:*

- *the site includes land that is identified as "Groundwater Vulnerability" on the Natural Resources Water Map under HLEP 2011.*
- *The groundwater vulnerability of the site relates to its containment in fractured rock aquifers with thin, moderately permeable soil covers that provide potential for leaching of contaminants (such as excess nutrients from effluent application to soils) to groundwater;*
- *No site-specific, hydrogeological and groundwater information and analysis has been provided in the development application to support an assessment of the proposed development and its potential groundwater impacts; and*

9. *Insufficient information has been provided with the development application in order for the Council to properly consider the matters in Clause 6.6(3) of HLEP 2011 in relation to the effect of the development on salinity processes, as:*

- *The site includes land that identified as "Dryland Salinity" on the Natural Resources Land Map under HLEP 2011;*

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- *the claim in the documents submitted with the development application that “there are no known occurrences of dryland salinity” is not substantiated with any data, information or analysis; and*
 - *the application of effluent to the site is likely to have an adverse impact on salinity processes and effects; and*
 - *The application of effluent to the site has the potential to impact on the development itself, by reducing the ability of soils to sustainably manage the ongoing application of effluent produced by the development; and*
 - *no information has been provided with the development application to identify appropriate measures to reduce or avoid the effects of salinity.*
10. *The safety, efficiency and ongoing operation of the Eulie Road will be adversely affected and unacceptably compromised by the development as a result of the nature, volume and frequency of vehicles using the road to gain access to the land and in that regard:
Eulie Road is not suitable for the volume and nature of the traffic generated by the development as it has blind bends, poor sight access at points, steep grades that have not been shown to cater for laden semi-trailers, and has a narrow and varying pavement width that does not enable vehicles to pass;*
- *three watercourse crossings on Eulie Road, including one across Maniac Creek, are subject to sudden water inundation or ‘flash-flooding’ in storm and prolonged rain events. No information has been provided on the potential impacts of vehicles not being able to access or leave the subject site in such situations, nor the potential for physical damage to road infrastructure in such situations, resulting from the volume and type of vehicles serving the development;*
 - *the development proposes substantial increases in traffic volumes of in the order of 64% on existing daily volumes and is considered to present increased risks to road users;*
 - *the full impacts of the volume, nature and extent of operational traffic movements have not been made clear, as the traffic volumes provided do not include for activities such as the transfer of pigs between the Breeder and Grower sites, nor their impacts on Eulie Road;*
 - *the proposed measures to mitigate and manage the increased traffic and safety risk are inadequate and do not address the physical risks such as blind bends and narrow pavement widths present on Eulie Road identified in the risk assessment report;*
 - *insufficient information has been provided in relation to potential road works and their impacts on possible Aboriginal heritage in the road reserve;*
 - *the application has not addressed, or provided any reasonable mechanism to resolve the multiple encroachments of Eulie Road into*

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private land or to demonstrate that legal access to the land is or will be made available;

- *potential upgrades to and works on the road would likely require the removal of trees along the road reserve in the vicinity of the existing dwelling on Eulie Road, that would reduce amenity to the residents of that dwelling.*

11. *Insufficient information has been provided with the development application in order to properly consider the impacts on the Murrumbidgee catchment area, including impacts from potential pollution of ground and surface waters that are likely to result from the application of effluent to the site and from discharges from the proposed recycle dams on the Breeder and Grower sites. In that regard:*

- *no modelling of downstream impacts of the development has been provided; and*
- *no information to enable an assessment of possible pollution risks to drinking water supplies has been provided.*

12. *Insufficient information has been provided with the development application in order to properly consider potential impacts on biodiversity, flora and fauna from the proposed development and whether the proposed development is likely to significantly affect threatened species, populations or ecological communities including the White-Box-Yellow Box-Blakely's Red Gum Grassy Woodland which is listed as an endangered ecological community under the NSW Threatened Species Conservation Act, 1995 and a critically endangered ecological community under the Commonwealth Environment Protection and Biodiversity Conservation Act, 1999.*

13. *The application has failed to identify, assess and consider appropriate measures to manage, mitigate, avoid or ameliorate the all potential impacts of the proposed development on the existing environment including cumulative impacts.*

14. *Insufficient information has been provided to enable a proper assessment of the impacts of the electricity generating works that are proposed as part of the development and in that regard:*

- *Insufficient detail has been provided as to the location and works involved in establishing the electricity generating works; and*
- *No information has been provided in relation to the environmental impacts of the proposed electricity generating works.*

Moved and declared carried by: Administrator W Tuckerman

TERMINATION

There being no further business the meeting closed 5.20pm

General Manager

Administrator