

DATE OF DETERMINATION	Thursday 27 July 2017
PANEL MEMBERS	Jason Perica (Chair), Kara Krason, Michael Leavey, Ken Greenwald
APOLOGIES	Bob Ward
DECLARATIONS OF INTEREST	None

Public meeting held at Council Chambers, Central Coast Council - Wyong Branch at 2 Hely Street, Wyong on 27 July 2017, opened at 4:00 pm and closed at 5:30 pm.

MATTER DETERMINED

2016HCC027 – Central Coast – DA/433/2016 at 43 Howarth Street, Wyong (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at Item 6, the material listed at Item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The decision was 3:1 in favour, against the decision was Ken Greenwald.

REASONS FOR THE DECISION

In terms of wider considerations, the Panel generally agreed with the environmental assessment and balance of considerations within the Council staff assessment report.

The Panel considered the applicant's written variation request to the maximum Height of Buildings development standard for the site (contained in the Business papers) and considered that compliance with the standard in this instance was unnecessary, and that there were sufficient environmental planning grounds to support the proposed variation, as the proposal was considered consistent with the zone objectives and consistent with the objectives of the height standard within Clause 4.3 of Wyong Local Environment Plan (LEP) 2013. Regard was given to an existing Masterplan referenced in the applicable Development Control Plan. The specific nature of the site, including surrounding development, topography and adjoining railway line and nearby station, nearby approved development, relative large site size, appropriate setbacks, appropriate street front address, and a reduction in building form down to the rear, resulted in a development that suited the site and did not cause any significant impacts on neighbouring land from the height non-compliance.

The Panel noted the provision of a boarding house plan of management and agreed that an updated one was appropriate, although this should occur and be approved by Council prior to Construction Certificate.

The Panel considered the issue of Acid Sulphate Soils and particularly Clause 7.1 of Wyong LEP 2013. Given the levels of the site, topography/drainage and the proposed limited excavation, the Panel was satisfied that the development would not be likely to cause the lowering of the water table to below 1 AHD on higher class land.

The Panel considered SEPP 55 (Remediation of Land) and based on assessment advice given by staff at the meeting was satisfied the site was not likely to be contaminated. However, conditions were appropriate in the event that unexpected finds occurred.





The proposal was considered to have a number of potential positive economic and social benefits, with acceptable natural and built form impacts, subject to mitigation measures addressed through conditions of consent, as amended.

Ken Greenwald disagreed with the majority decision for the following reasons: does not support the boarding house development as it should have been designed in full compliance between number of rooms, retail premise and carparking.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report, with the following amendments.

- A new condition 1A requiring an updated landscape plan to provide street planting of an appropriate size and species having regard to encumbrances, which is to be approved by Council prior to the issue of a Construction Certificate. Reason: to provide improved landscape greenery with the development.
- A new Condition 1B reviewing the design of rooms R109-R111 to convert three rooms into two, to ensure the manager's unit is at least 25 square metres in size internally, excluding the kitchen and balcony, whilst also allowing possible communal storage space or the like. Plans are to be submitted to the satisfaction to Council prior to the issue of a Construction Certificate. Reason: The manager's residence is small and the success of the development (a large boarding house) will be aided by seeking and retaining a manager by providing reasonable internal amenity for the manager's residence. The location of the managers unit is generally appropriate. The review of the rooms would also allow possible storage space for communal items.
- A new Condition 1C which specifies the exact nature of the approved boarding house use, by reference to the definition in the Wyong LEP 2013. Reason: So tenants and the operator is aware of the nature of the approval in any due diligence process and to ensure that the use does not operate as uses specifically excluded from this definition such as backpackers accommodation, serviced apartments, group home, seniors housing and hotel/motel accommodation
- A new Condition 1D which requires the Plan of Management to be revised to ensure it is consistent with the conditions of consent and to include a Section on the allocation and monitoring of rooms/tenants to ensure the rental levels and tenants meet the definition within the Affordable Rental Housing SEPP 2009. Reason: Some provisions of the PoM are inconsistent with conditions of consent. This should be rectified, while allocation and monitoring is important to ensure the boarding house meets definitions of affordable housing, given the benefits (e.g. FSR bonus, reduced car parking) it has received.
- A Paragraph be added to the end of Condition 5 stating: "The specific requirements of the above may be varied if an alternative put forward by the applicant meets the intent of the requirements, subject to the written acceptance NSW Transport (Sydney Trains)." Reason: To allow possible alternatives to prescriptive provisions, which may be met by an alternative approach yet still to the satisfaction of Sydney Trains.
- Delete Condition 6, as the issue of Acid Sulphate Soils does not give rise to the need for the condition.
- Add the word 'external and communal' to the beginning of Condition 77, as this better reflects the intent of the condition.
- Expand Condition 87 to reference the definition of affordable housing in the Affordable Rental Housing SEPP 2009, for the sake of clarity and reference.
- Add new standard Council conditions relating to the possibility of any contaminated lands being found during works and excavation, classification of soils and importation of VENM (if soil is imported).
- Add a new operational condition requiring the external breezeways on each level of the rear building to only be used for the purpose of access only and not for private or communal open space.

PANEL MEMBERS	
 Jason Perica (Chair)	 Kara Krason
 Michael Leavey	 Ken Greenwald

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016HCC027 – Central Coast – DA/433/2016
2	PROPOSED DEVELOPMENT	Boarding house comprising 62 rooms under SEPP (Affordable Rental Housing) 2009 and commercial ground floor premises including demolition of existing structures
3	STREET ADDRESS	43 Howarth Street Wyong
4	APPLICANT/OWNER	Michael Kitmiridis Architect
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Affordable Rental Housing) 2009 State Environmental Planning Policy No. 71 – Coastal Protection State Environmental Planning Policy 55 – Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 Wyong Local Environment Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Wyong Development Control Plan 2013 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or Regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 16 June 2017 Written submissions during public exhibition: 3 plus 1 petition with 46 signatures Verbal submissions at the public meeting: <ul style="list-style-type: none"> Support – Nil Object – Nil On behalf of the applicant – Michael Kitmiridis
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection and briefing meeting 13 October 2016 Final briefing meeting to discuss council's recommendation, 27 July 2017 at 3:20pm to 4:00 pm. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Jason Perica (Chair), Kara Krason, Michael Leavey, Ken Greenwald <u>Council assessment staff</u>: Julie Garratley, Tanya O'Brien, Emily Goodworth
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report