

SUPPLEMENTARY COUNCIL ASSESSMENT REPORT

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| Panel Reference | 2016HCC033 |
| DA Number | DA/731/2016 |
| LGA | Lake Macquarie |
| Proposed Development | Retail Premises – Shopping Centre Redevelopment involving construction of new Coles (demolition of existing Coles) and specialty shops |
| Street Address | Lot 103 DP 1115833, Lot 101 DP 1115833 46 and 56 Wilsons Road, MOUNT HUTTON NSW 2290 |
| Applicant/Owner | CHARTER HALL HOLDINGS PTY LTD |
| Date of DA lodgement | 6 May 2016 |
| Number of Submissions | Seven objections (includes 40 form letters) – Noted that some objectors have made multiple submissions |
| Recommendation | Approval subject to conditions |
| Regional Development Criteria (Schedule 4A of the EP&A Act) | General Development that has a capital investment value of more than \$20 million. |
| List of all relevant s79C(1)(a) matters | <ul style="list-style-type: none"> • Lake Macquarie Local Environmental Plan 2014 • Lake Macquarie Development Control Plan 2014 • Lake Macquarie Development Contributions Plan (Charlestown 2015) <p>External Referrals</p> <ul style="list-style-type: none"> • Water Management Act 2000 • Mine Subsidence Compensation Act 1961 • SEPP Infrastructure 2007 |
| List all documents submitted with this report for the Panel's consideration | Attachment A: Proposed Conditions of Consent Attachment B: Plans of Development |
| Report prepared by | Carlos A Ferguson |
| Report date | 15 March 2017 |

Executive Summary

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| Key Dates: | 6/2/17 – Submission of amended plans by applicant in response to the Panels concerns 19/1/17 – Determination Meeting - DA deferred pending submission of amended plans addressing the Panels concerns 13/10/16 – Submission of Service Station Concept 16/9/16 – Submission of additional information 6/5/16 – Lodgement of DA |
| Submission Period: | 19/10/16 – 2/11/16 - Second submission period 24/5/16 – 1/7/16 - First submission period |
| Zoning: | B2 Local Centre (LMLEP 2014) |
| Approval Bodies: | NSW Office of Water NSW Roads and Maritime Services Mine Subsidence Board |
| Concurrence Body: | Nil |
| Referral Agencies: | Hunter Water Ausgrid |
| CIV: | \$27,975,815 (incl GST) |

Background

At the determination meeting of 19 January 2017, the Hunter and Central Coast Joint Regional Planning Panel deferred Development Application 731/2016, pending submission of amended plans from the applicant addressing the matters specified by the Panel, as detailed below:

- (i) The height of the visual screens around the waste area are to be increased as described by the Proponent at the meeting, to satisfactorily screen the visual appearance of the dock.
- (ii) The acoustic screens adjoining the new specialty loading dock and new Coles loading dock are to be increased in height from 2.2m to 6m and are to incorporate external architectural treatment that achieves a positive visual appearance when viewed from Scrubby Creek and surrounding residential properties.
- (iii) Consider opportunities for providing a screen/partition or similar to ensure a safe separation between the pedestrian entry path from Scrubby Creek with the adjoining waste loading area, without compromising safety.

- (iv) A suitable pedestrian walkway with a minimum of 4m from the bus stop along Wilsons Road into the new shopping centre entry, to be constructed as part of the Stage 3 works. The plan is to include details of location and path dimensions, landscaping, street furniture, safety measures and confirmation that the path meets accessibility requirements. The plan should recognise that the Panel has significant concerns with the Stage 2 Concept Proposal for a service station and accordingly the footpath plan should be designed in conjunction with the actual works contained within the development application.

In addition to these changes, the minutes include comments about further matters that should be considered by the applicant and Council prior to the matter being referred back to the Panel for determination, including:

- The Panel would like to see further consideration of design opportunities to separate the pedestrian pathway from the adjoining waste loading area to ensure pedestrian safety while trucks are accessing the waste area.
- The Panel requests that an assessment of late submissions received regarding social impacts form part of the supplementary report by Council staff.
- The Panel suggests that an updated response from Council's Environmental Management Officer form part of the Supplementary Report to the Panel to confirm that Council is satisfied that the proposal will have acceptable acoustic impacts on nearby residential receivers.
- Comments relating to recommended amendments to the draft conditions put forth by Council at the determination meeting.

Amended Plans

In response to the Panel's concerns expressed in the meeting minutes, the applicant submitted amended plans and documentation on 6 February 2017.

It is noted that the Service Station Concept plan has been removed from the amended plans as per the Panel's direction at the determination meeting.

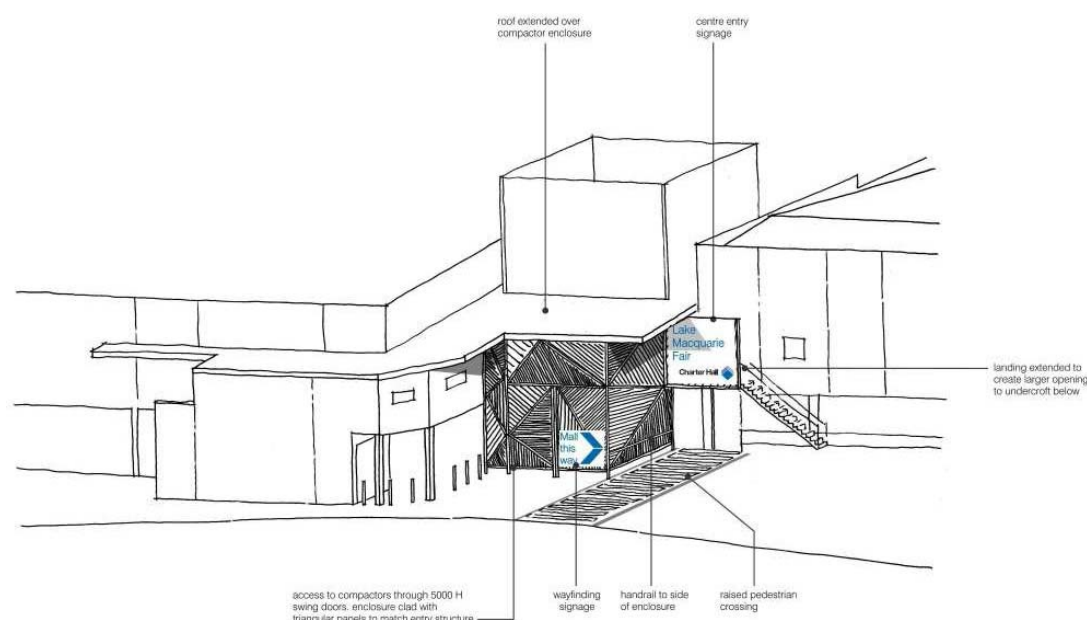
Council has undertaken an assessment of this documentation, and provides the attached supplementary report, addressing the above matters for the Panel's consideration and electronic determination, to be read in conjunction with the original assessment report dated 8 December 2016.

Supplementary Assessment

(i) Visual Screens around waste area

The amended plans detail higher visual screens around the waste area off Scrubby Creek, including the following sketch of the proposed waste area as shown in Figure 1 below.

Figure 1: Scrubby Creek Entry Sketch



Planners Comment

As can be seen in Figure 1 above, the visual screening around the waste compactors has been increased in height from 3.2m to 7.2m as described by the proponent at the determination meeting.

Council considers the additional screening adequately improves the visual appearance of the entry, as it prevents the compactors and chutes from being visible by pedestrians, and would not be easily identifiable as a waste area if the odour can be suitably managed as per the proponents advice at the determination meeting.

However, as covered in further detail in point (iii) below, Council still maintains its concerns regarding the lack of separation provided between the waste area and pedestrian path, due to the level of pedestrian amenity, CPTED concerns (concealment opportunities) and safety (waste vehicle movements). It is considered that while the increased screening is an improvement, it does not fully satisfy the concerns previously raised by Council's Integrated Planning Section and Landscape/Urban Design Architect, or the objectives for the Scrubby Creek entry in the Mount Hutton Town Centre Area Plan.

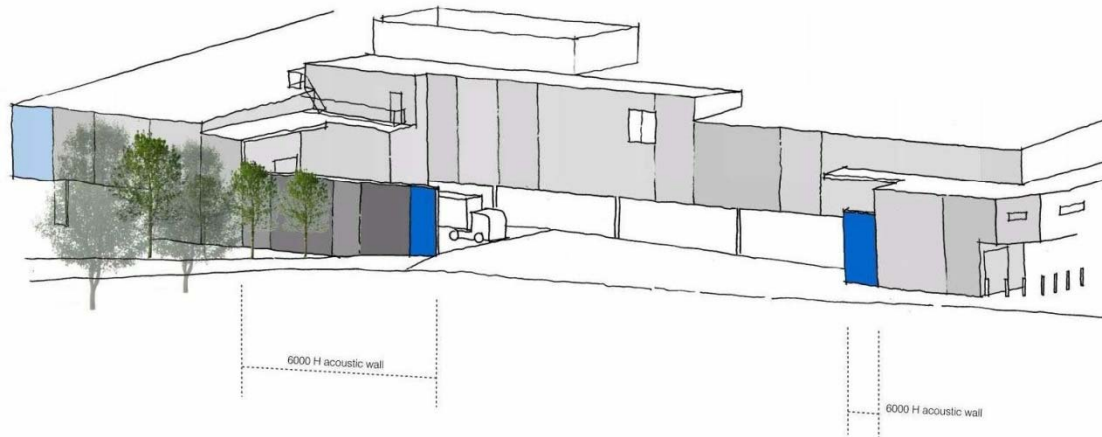
Despite these concerns, Council considers that the amended waste area screening is consistent with the comments provided by the Panel at the determination meeting.

Further, following removal of the Service Station and improvements to the existing shops recommended by this report, it is considered that the proposal will significantly improve overall pedestrian amenity around the shopping centre, and Council's concerns regarding the Scrubby Creek entry do not warrant refusal of the application.

(ii) Acoustic screens adjoining loading docks

The amended plans detail 6m high acoustic screens adjoining the Coles and Specialty loading docks, as shown in the sketch of the loading dock areas (Figure 2) below.

Figure 2: Loading Dock Sketch



Planners Comment

As can be seen from the above sketch, the barriers have been increased in height from 2.2m to 6m and integrated into the external architectural treatment of the shopping centre.

The increased height of the acoustic screens do not present any additional visual impact concerns, nor results in any additional height to the building.

As detailed later in this report, Council has sought independent acoustic advice. The independent review recommended that the barriers be a minimum height of 6m, and extended 5m past refrigeration units located on the front of the trailers (refer to added detail later in this report). The applicant has amended the plans in this regard and Council's Environmental Management Officer is satisfied that the development can achieve the specified noise criteria, subject to conditions.

Council does not have any additional concerns in regarding the increased height of the acoustic barriers, and it is considered that the amended loading dock is consistent with the necessary requirements for acoustic attenuation, and the Panel's comments at the determination meeting.

(iii) Consideration opportunities for partition/screen to provide safety and separation between Scrubby Creek pedestrian entry and waste area

In addition to the above recommendation regarding a partition/screen, the Panel's minutes also specified that:

"The Panel would also like to see further consideration of design opportunities to separate the pedestrian pathway from the adjoining waste loading area to ensure pedestrian safety while trucks are accessing the waste area"

Planners Comment

The amended plans submitted by the applicant following the determination meeting provide:

- Additional opening between the Specialty loading dock and the waste area

- Increased width for the pedestrian crossing off Scrubby Creek to 4m
- Provision of a handrail down the side of the waste area

The additional opening between the Specialty loading dock and waste area, in addition to the higher screening around the waste area, significantly improve the visual appearance and pedestrian amenity around the Scrubby Creek entry.

It is noted that the amended plans do not provide any additional separation between the pedestrian crossing and waste area, nor provides any barrier between the pedestrian path and service vehicle turning area. The applicant's response does not include any justification as to why further separation between the pedestrian crossing and waste area is not achievable.

The amended proposal is not considered to resolve the concerns raised by Council's Integrated Planning Section or Landscape/Urban Design Architect, nor does it fully achieve the objectives of the Mount Hutton Town Centre Area Plan with regard to prioritising pedestrian amenity and access off Scrubby Creek.

Council's preference would be for any additional opening/separation to be provided between the waste area and pedestrian path, and Council maintains its concerns regarding pedestrian amenity, safety and CPTED issues (particularly concealment).

Despite Council's concerns, the amended plans are considered to be consistent with the Panel's comments at the determination meeting, with the exception of the barrier between the pedestrian crossing and turning area for waste service vehicles.

It is also noted that extending a barrier between the pedestrian crossing and waste vehicles services the area may not be practical, as doing so will likely reduce the available turning area for service vehicles. In addition, the benefits of doing so may be minimal as the proposed opening between the waste area and specialty loading dock allows for pedestrian access on both sides of the waste area.

However, the proponent advised at the determination meeting that waste vehicles would service that area once a week, which significantly reduces the potential for conflict between pedestrians and service vehicles. Greater pedestrian safety could also be achieved by requiring waste collection to be undertaken outside peak shopping centre trading hours (but within the 7am to 10pm curfew for the loading docks for acoustic purposes). Condition 30 has been amended in this regard.

The proponent has also advised at the determination meeting that the Scrubby Creek entry will be covered by suitable lighting and CCTV cameras to address Council's concerns regarding concealment opportunities, which is consistent with the recommendations of the CPTED report prepared by Neal Consulting.

It is considered that these measures will suitably address Council's pedestrian safety concerns.

(iv) Suitable 4m pedestrian walkway from Wilsons Road bus stop into new shopping centre entry as part of Stage 3 works

Planners Comment

The amended plans provide a 4m wide pedestrian walkway from Wilsons Road to the new shopping centre entry as part of Stage 3 (completion of Coles and Specialty shops).

The proposed walkway will involve:

- Widening of the existing pedestrian crossing off Wilsons Road

- Access around the existing shops fronting Wilsons Road
- Existing seating to be modified and located along pedestrian path

The proposed 4m walkway is considered to satisfy the Panel's comments at the determination meeting and in the subsequent minutes.

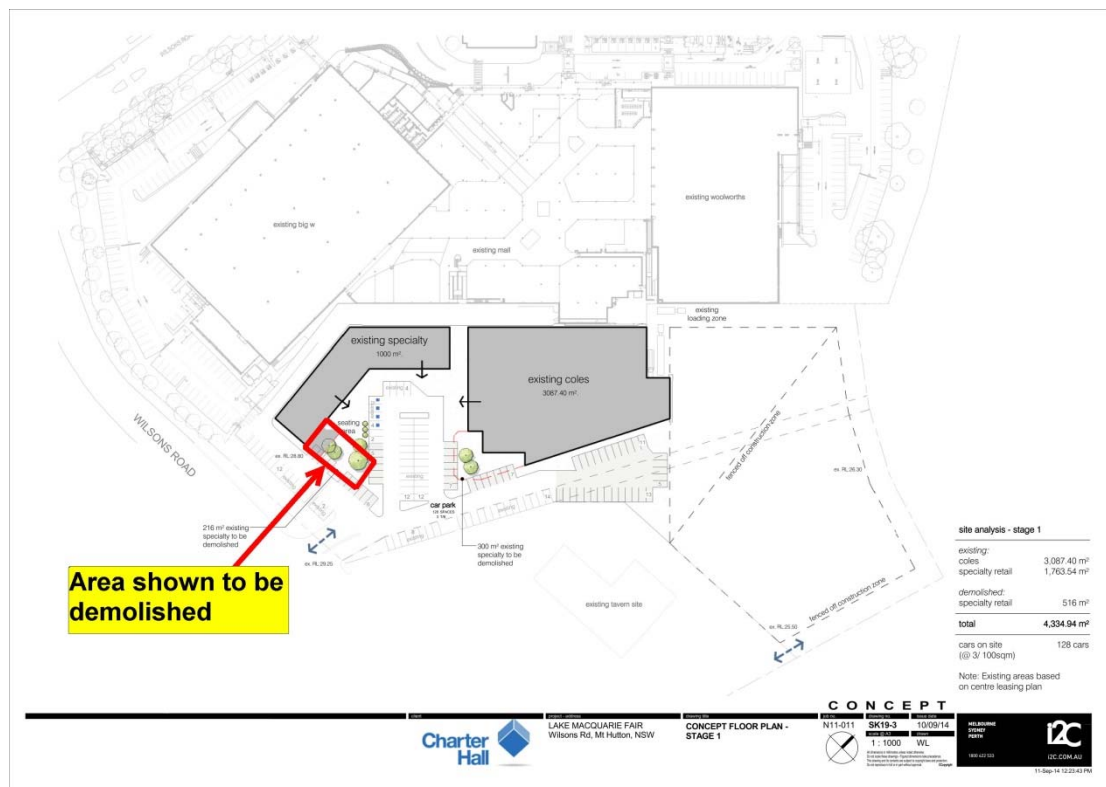
It is noted that the existing shops fronting Wilsons Road are not proposed to be modified as part of Stage 3, with their demolition being proposed as Stage 4.

The applicant has expressed their intention to lodge a separate application for the Service Station in the near future, which has likely impacted the extent of works proposed as part of Stage 3 and Stage 4.

It is noted that Stage 3 could end up as a long term outcome, given this application no longer includes the Service Station concept plan, and Council's concerns and recommended restrictions regarding the Stage 4 demolition detailed later in this report.

In this regard, Council's preference would be for part of the existing shops to be demolished to allow for a more direct entry and visual link between Wilsons Road and the new shopping centre entry, similar to advice provided to the applicant prior to addition of the Service Station concept plan, and what was proposed in the original plans discussed with Council at the pre-lodgement meeting on 28 October 2014, shown below.

Figure 3: Pre-Lodgement Plans discussed on 28 October 2014



Partial demolition of the existing shops fronting Wilsons Road as shown above would significantly improve the pedestrian amenity and the streetscape appearance, and would be more consistent with the objectives of the Mount Hutton Area Plan.

Council also recommends that improvements to the appearance of this building are justified given the potential for it to be retained long term. In this regard, it is recommended that the retained section facing the street be rendered (or similar) with

suitable architectural treatment, with screening to be provided for plant located on the roof.

These outcomes (partial demolition and façade improvement) will result in a significantly improved streetscape outcome and can be achieved without implications for the rest of the development. A recommended condition is included in this regard requiring partial demolition and upgrade to the existing shops in line with the above plan, with amended details in this regard to be submitted prior to the issue of a Construction Certificate for Stage 3 (Specialty Shops). This condition also requires the demolition to occur prior to the issue of any Occupation Certificate for Stage 3, to ensure that the improvement works are undertaken prior to occupation of the Specialty Shops.

Additional Matters for Consideration

The Panel's comments and subsequent minutes from the determination meeting raised a number of additional matters for consideration, which are listed and addressed below:

Assessment of late submissions

The Panel's comments from the determination meeting, and subsequent minutes, request further consideration of late submissions and Social Impact comments raised by speakers during the determination meeting.

At the determination meeting, a speaker (K Tepper on behalf of S Barr), raised concern regarding the adequacy of the Social Impact Assessment, and the method used to calculate liquor licence density.

Council has also received further submissions from S Barr emphasising their previously stated concern regarding social impacts dated:

- 27 January 2017
- 26 February 2017
- 10 March 2017

The submission received on 10 March 2017 also included a letter from Laycock Burke Castaldi Lawyers, which also raised concern regarding the calculation of liquor densities and Council's consideration of the "surrounding area" as specified in Clause 7.11 of LMLEP 2014. The letter also emphasises the concerns in the submissions from S Barr regarding social impacts from the proposed bottle shop and potential impact on disadvantaged parts of the community.

Planners Comments

These submissions have been reviewed by Council's Community Planner, and it is considered that the submissions do not raise any additional social impact issues beyond those previously addressed by Council's Community Planner and Council's Section 79C assessment report.

With regard to the calculation of liquor licence density, Council is satisfied with the details provided in the Social Impact Assessment (SIA) prepared by BBC Consulting Partners.

The submissions and comments from K Tepper at the determination meeting argued that the SIA identified three existing liquor licences within a 1km radius of the proposal, and that a fourth (Ice Box Liquor on Lake Street, Windale) is located within

1.3km of the site. They argue that the Ice Box Liquor premises should be factored into the liquor density assessment, and that the use of a 1km radius is not reflective of the “surrounding area” as specified in Clause 7.11 of LMLEP 2014.

Council is satisfied that the application of the 1km radius study area is appropriate for the purposes of assessing the “surrounding area” and that the density of liquor licence within this radius does not exceed the recommended threshold of 0.75 licences (off-licence retail) per 1,000 population.

Council has also investigated the concerns raised in the submissions regarding liquor licence densities in a broader 1.3km radius. This would need to factor in the additional population within this radius, which would conservatively add 900 dwellings (approx. 1,800 residents) in the suburbs of Tingara Heights, Windale, Gateshead, Charlestown and Mount Hutton. With the addition of the proposed Coles Liquor, the existing Ice Box Liquor (Windale) and the additional population, the off-licence retail density within the extended 1.3km catchment would be 0.48 per 1,000 population, which is similar to the proposed liquor licence density of 0.46 per 1,000 population identified in the SIA for the 1km radius.

Council further re-iterates that further consultation, analysis of liquor licence densities and potential social impacts will be undertaken by Liquor and Gaming NSW for any future liquor licence application.

Council is satisfied that the submitted documentation is suitable for DA purposes, and that the proposal is consistent with the matters for consideration listed in Clause 7.11 of LMLEP 2014.

Updated response from Council’s Waste, Environment and Rangers Section

The Panel suggested that an updated response considering the updated Acoustic documentation be provided from Council’s Waste, Environmental and Ranger (WER) Section form part of the Supplementary Report.

Planners Comments

Following the determination meeting on 19 January 2017, Council’s WER Section reviewed the additional acoustic documentation provided by Acoustic Logic, including an amended Acoustic Assessment dated 22 February 2017.

Following this review, Council’s WER section maintained concerns regarding the level of detail provided in the report, particularly with regard to consideration of cumulative impacts and noise source inputs (especially noise from truck refrigeration units located on the front of the trailer which have not been detailed in the report).

In considering these concerns, it is noted that the general location for the proposed loading dock is deemed appropriate, and consistent with the Mount Hutton Town Centre Area Plan, which identifies the Scrubby Creek elevation as being a suitable location for a loading dock area. The relocation of the proposed loading dock activities to the eastern side of the development (adjoining 72 Wilsons Road) or the existing Wilsons Road loading dock would reduce the available separation distance and increase the acoustic impact on both existing and future residential development.

As a result of the on-going concerns, Council has obtained an independent acoustic review of the proposal from Reverb Acoustics, who recommended that the proposal should implement a 6m high acoustic wall (constructed of powerpanel, concrete or similar) and extend at least 5m past the front of the refrigeration units. Additionally, it

was recommended that internal walls be lined with weather resistant acoustic absorbent materials/cladding (without fibrous infill) to reduce sound reverberation within the loading dock.

These recommendations have been discussed with the applicant, who has agreed to these measures and submitted amended plans showing the extended acoustic barriers.

Following review of the amended plans, Council's WER Section has advised on 15 March 2017 that the proposal has resolved outstanding concerns subject to recommended conditions to ensure the development achieves compliance with the specified noise criteria in the Acoustic Logic report, being 50dB during daytime periods (7am-10pm, 8am-10pm on Sunday) and 45dB during the evening (6pm to 10pm).

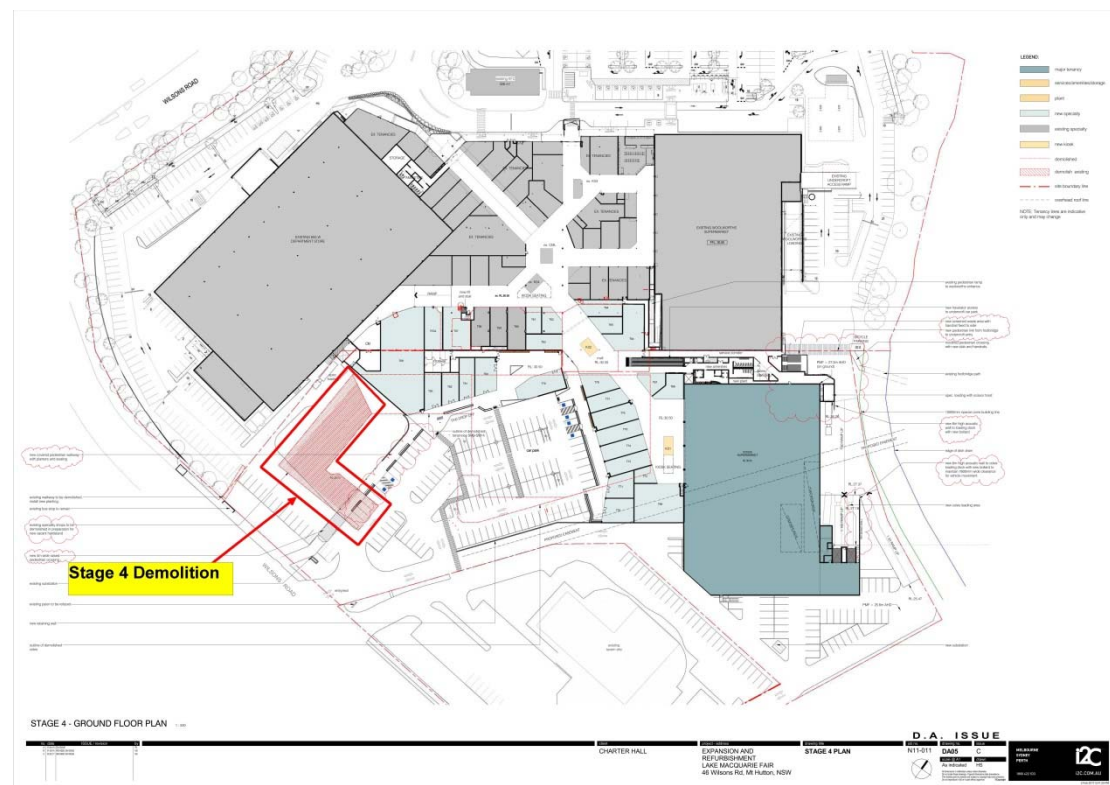
In particular, the conditions will require trucks to be turned off during unloading activities, and acoustic certification provided at Occupation Certificate stage, with further acoustic monitoring undertaken following 90 days of occupation.

Demolition of existing shops fronting Wilsons Road

The amended plans have removed the Service Station Concept Plan from the proposal. However, the Stage 4 demolition of the existing shops fronting Wilsons Road is still proposed, as shown in red in the figure below.

This has been discussed with the applicant, who has advised that consent is still sought for the demolition as part of this development due to benefits in organising tenders and contracts for the works.

Figure 4: Stage 4 as shown on amended plans



Planners Comments

Council has concerns that allowing demolition of the shops fronting Wilsons Road prior to any consent being obtained for replacement development in that location will result in the area being a vacant concrete slab for a significant length of time. This is not considered to be an acceptable outcome from a streetscape and pedestrian amenity perspective.

The applicant has advised that it is intended for a separate application to be lodged for a Service Station in that location as soon as possible after determination of this application. However, there is no certainty regarding the lodgement or determination of any such application.

Given these circumstances, it is considered reasonable in this instance to impose a condition on the demolition proposed by Stage 4, and not permitting any works associated with Stage 4 to be undertaken until such time as a separate application for development in this location is approved, and a construction certificate subsequently issued.

This will allow for the applicant to factor the Stage 4 demolition into their works program, without potentially resulting in the Stage 4 demolition without any future development being approved for that location.

Summary

Following review of the amended plans, it is considered that the proposal is generally consistent with the Panel's recommendations at the determination meeting and in the subsequent minutes. The additional screening and signage around the waste area also improve the visual appearance of the Scrubby Creek entry.

Council maintains concerns regarding the location of the waste area next to the pedestrian entry off Scrubby Creek, particularly with regard to pedestrian amenity and safety (both from concealment opportunities and service vehicle movements), and it is considered that the proposal does not fully achieve the objectives of the Mount Hutton Town Centre Area Plan.

The applicant has proposed measures (restricting hours of waste collection and lighting/CCTV) to address these concerns.

Although Council's preference would be for additional separation between the waste and pedestrian entry areas to be provided, it is noted that the proposed pedestrian access off Wilsons Road has been improved due to the removal of the service station. It is considered on balance that the concerns regarding the Scrubby Creek entry does not warrant refusal of the application, given the significant improvement the development will make to the overall existing shopping centre,.

Council also has concerns with the Stage 4 demolition of the existing Specialty Shops, which would result in a vacant slab area facing Wilsons Road, which is not an acceptable streetscape outcome. However, conditions are recommended that the demolition is not to occur until further approval is obtained for development in that location.

In this regard, it is considered that the amended proposal adequately addresses Council's concerns and those raised by the Panel, and it is recommended that the application be approved subject to recommended conditions.

Recommendation

Approval subject to the recommended conditions attached to this Supplementary Report.

Amended conditions

The recommended conditions put forth by Council are attached to this report and have been amended with regard to the Panel's comments at the determination meeting and the subsequent minutes, and as detailed above in this supplementary report.

The following conditions have been amended as per the Panel's minutes:

- Removal of the Service Station Concept Plan (Condition 6)
- Requirement for shared path/cycle way prior to occupation of Stage 3 - Specialty Shops (Condition 7)
- Inclusion of bottle shop and existing shopping centre hours into Condition 21
- Specification that the Shopping Trolley Management Plan and requirement for wheel locks apply to major retailers (Condition 7)
- Additional landscaping details in car park (Condition 28)
- Amended temporary pedestrian pathways during construction (Condition 7)
- Inclusion of graffiti and lighting CPTED requirements (Condition 38)
- Allowance for minor fit-outs (non-construction) outside standard construction hours (Condition 47).

The following conditions have been amended with regard to the recommendations of this Supplementary Report:

- Requirement for part demolition and external improvement to the existing Specialty Shops fronting Wilsons Road (Condition 7)
- Restriction on demolition of existing shops proposed by Stage 4 (Condition 6)
- Restrictions on waste collection times and frequency (Condition 30)