

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST JOINT REGIONAL PLANNING PANEL

DATE OF DETERMINATION	11 April 2017
PANEL MEMBERS	Kara Krason (Chair), Michael Leavey, John Gilbert
APOLOGIES	John Griffin, Jason Perica, Sandra Hutton and Justin Hamilton
DECLARATIONS OF INTEREST	None

Public meeting held at Lake Macquarie City Council on Tuesday, 11 April 2017, opened at 12:35pm and closed at 1:54pm.

MATTER DETERMINED

2016HCC033 - Lake Macquarie City Council - DA/731/2016 at Lot 103 DP 1115833, Lot 101 DP 1115833, 46 and 56 Wilsons Road, Mount Hutton (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 decision was unanimous.

REASONS FOR THE DECISION

The Panel largely agreed with the environmental assessment and balance of considerations within the Council Officer's assessment reports. The Panel did not however support the proposed service station concept on land fronting Wilsons Road that is occupied by existing retail shops due to insufficient information to make a decision on the potential impacts of the proposed land use and the proposed building footprint. The Panel's key concerns relating to the proposed service station concept included traffic, parking, pedestrian and safety issues in addition to urban design considerations and compliance with the DCP.

The Panel did not support the recommendation in the Council assessment report to restrict progression of the consent for the demolition stage of the existing retail centre fronting Wilsons Road and construction of new entry (Stage 3B) to either a future development consent for land in the area occupied by the shops to be demolished or require amended Stage 3A plans for refurbishment and partial demolition of the affected retail shops. The main reason for the Panel's decision in this regard was to ensure there was certainty that the important public domain works and new pedestrian entry to service the redeveloped centre will occur at or around the same time as the commenced operation of the new centre. The Panel unanimously agreed that the proposed new pedestrian access path incorporating landscaping and street furniture from Wilsons Road to the centre was intrinsically linked to redevelopment and intensification of the centre and should not be delayed to a potential future stage or redevelopment option for the centre. While the Panel would have preferred the Stage 3B works to be undertaken concurrently with Stage 3A, the Panel considered the Proponent's requirement for construction of the speciality stores to be completed prior to demolition of the existing speciality stores to allow for a seamless transition in trading for those stores that are to move from the existing to new premises within the redeveloped centre. Accordingly the Panel has supported the proposed staging subject to a new condition being imposed requiring the 3B works to be completed within three months of the issue of an occupation certificate for Stage 3A.

While the Panel's decision differed from Council's recommendation in terms of timing of the proposed demolition of existing shops and construction of the new shopping centre entry and public domain works, the Panel acknowledged and agreed with Council's concern that the demolition of the retail shops in Stage 3B while necessary to facilitate the proposed master plan and in particular the new pedestrian access to the centre, could have a negative visual impact when viewed from Wilsons Road and surrounding areas should this land not be redeveloped in the near future. To satisfactorily address such impacts, the Panel included a new condition

requiring that the vacant hardstand area shown on the ground floor master plan be landscaped/grassed until such time as a future development may occur on such land.

The Panel considered the proposed improvements to visual and acoustic screening around the waste and loading areas but maintained concern with the lack of separation between access to the garbage dock and the pedestrian entry path from Scrubby Creek to the centre. The Panel acknowledged the restricted operating hours of the waste dock to minimise any impacts however felt that an observer or alternative signalised crossing consistent with RMS guidelines would also be required to ensure pedestrian safety during operation of the dock. A new condition of consent is included in this regard.

The Panel supported the proposed Clause 4.6 variation to building height and the development of a pedestrian pathway along Scrubby Creek adjoining the site rather than within the site as agreed with Council and subject to a condition of consent.



The Panel considered the social impacts of the proposed development and in particular, the proposed bottle shop, and agreed with the assessment provided by Council's community planner in the assessment report, including compliance with clause 7.11 of Lake Macquarie LEP 2014.

Overall, the Panel found the proposed redevelopment of the shopping centre would result in significant improvements in pedestrian linkages between the current centres and result in improvements to the amenity of the retail centre and the public domain.

CONDITIONS

The development application was approved, subject to the revised conditions dated 11 April 2017 provided by Council Officers at the panel meeting, with the following amendments:

- Condition 6 – Retain wording Stage 1, 2, 3a and 3b and no approval for service station concept, but remove 2 x dot points linking occupation of stage 3A and progression to stage 3B to either a future development consent or amendment to Stage 3A plans. Add in wording to reflect that the Stage 3b works (as to be amended in accordance with condition 7), must be completed within 3 months of the issue of occupation certificate for the Stage 3A specialty shops.
- Add a new condition requiring an amended landscape plan, prior to the issue of a construction certificate for Stage 3b, to show grass or landscaping on vacant hardstand area.
- Condition 7 – add references to Stage 3A to wording.
- Condition 28 – wording to clarify that amendments are to be made to the landscape plans specified on Condition 1 to reflect the amended conditions and revised plans and to require amended plans/details to be submitted to council for approval prior to issue of construction Certificates for relevant stage of works.
- Condition 30 – Amend wording to address greater safety requirements while trucks are accessing waste and loading areas including requirement for an observer/signalised warning system for pedestrians to be included within Waste Management Plan
- Condition 37 – Bottle Shop Management Plan amend wording to require plan be prepared in consultation with the Police and alter wording that once Plan is approved, bottle shop to operate in line with the approved plan at all time.

PANEL MEMBERS	
 Kara Krason (Chair)	 Michael Leavey
Approved by email 27 April 2017 John Gilbert	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016HCC033 - Lake Macquarie City Council, DA/731/2016
2	PROPOSED DEVELOPMENT	Retail Premises - Shopping Centre redevelopment involving demolition of existing Coles supermarket and construction of new Coles and specialty shops
3	STREET ADDRESS	Lot 103 DP 1115833, Lot 101 DP 1115833, 46 and 56 Wilsons Road, Mount Hutton
4	APPLICANT/OWNER	Charter Hall Holdings Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	CIV over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ol style="list-style-type: none"> State Environmental Planning Policy Infrastructure 2007 Lake Macquarie Local Environmental Plan 2014 Draft environmental planning instruments: Nil Development control plans: <ol style="list-style-type: none"> Lake Macquarie Development Control Plan 2014 Lake Macquarie Development Contributions Plan (Charlestown 2015) Planning agreements: Nil Environmental Planning and Assessment Act 1979 Environmental Planning and Assessment Act Regulation 2000 Water Management Act 2000 Mine Subsidence Compensation Act 1961 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. Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> and <i>Environmental Planning and Assessment Regulation 2000</i>. 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 received 20 December 2017 Council Memo received 17 January 2017 Council Supplementary Report received 24 March 2017 Council Memo received 7 April 2017 Revised plans received 7 April 2017 Updated conditions dated 11 April 2017 Written request for variation under Clause 4.6 of LEP Written submissions during public exhibition: Seven objections including form letters with 40 signatures and a submission from Mount Hutton/Windale Resident Actions Group Late submissions received from S Barr, Laycock Burke Castaldi Lawyers and the Mount Hutton/Windale Residents Action Group Verbal submissions at the panel meeting 19 January 2017: <ul style="list-style-type: none"> Object – One (Kirsty Tepper on behalf of Steve Barr) On behalf of the applicant – Rob Hain, Kevin Schraader, Andre Cowan, Maggie Steele, Rob Severino) Verbal submissions at the panel meeting 11 April 2017: <ul style="list-style-type: none"> Object – One (Ellen Davis Meehan) On behalf of the applicant – Rob Hain, Kevin Schraader, Andre Cowan, Maggie Steele, Rob Severino, Jeff Curnow, Benjamin White, Joshua Hollis, Joanna McClelland)

8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing Meetings: 28 July 2016, 10 November 2016, 19 January 2017, 11 April 2017 • Site Inspection: 19 January 2017 • Public Meeting (matter deferred): 19 January 2017 • Public Meeting: 11 April 2017
9	COUNCIL RECOMMENDATION	Approval subject to conditions
10	DRAFT CONDITIONS	Updated set of conditions dated 11 April 2017 provided by Council Officers