

## DETERMINATION AND STATEMENT OF REASONS

### HUNTER AND CENTRAL COAST JOINT REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	14 December 2017
<b>PANEL MEMBERS</b>	Jason Perica (Chair), Kara Krason, Michael Leavey, Jane Smith, Kyle MacGregor
<b>APOLOGIES</b>	Chris Burke
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Central Coast Council, 2 Hely St, Wyong on 14 December 2017, opened at 4.10 pm and closed at 5.35 pm.

#### MATTER DETERMINED

2017HCC003 – Central Coast - DA/7/2017 at 5-8 Beach Parade Canton Beach (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(3) (Deferred Commencement) 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 4:1 in favour, against the decision was Mayor Jane Smith.

#### REASONS FOR THE DECISION

The Panel generally agreed with the environmental assessment and balance of considerations within the Council staff assessment report. The site had constraints due to flooding and a relatively high watertable, as well as longer term potential water table rises. This generally disfavoured provision of parking greater than one basement level, while parking above ground was undesirable for aesthetic and urban design reasons. There was an overall shortfall of parking, although with amendment through the terms of a deferred commencement, the majority of the Panel was satisfied the parking provision was acceptable, and not of such concern to warrant refusal of the application, given other benefits.

The site planning was sound. In particular, the proposal achieved high quality open areas and public domain, providing a wider public benefit and meeting both the zoning intent and the surrounding attractive area. The design of the building was also of a high quality.

The Panel had regard to the applicants' Clause 4.6 variation request regarding the maximum height limit within Clause 4.3 of the Wyong Local Environmental Plan 2013 ('the LEP'). Given the location, the height allowable with key site provisions, the degree of non-compliance, the lack of negative impacts associated with the proposed height, the scale being consistent with that allowed by the controls, the appropriate site planning, the consistency with the zoning objectives and height objectives, and some public benefits, the Panel was satisfied regarding the proposed height. The Panel formed the view the applicant's written request satisfactorily addressed required matters within clause 4.6 of the LEP and it was considered compliance with the height limit was unnecessary and unreasonable in this case.

The setback non-compliances were relatively localised. In terms of the front setback, this allowed greater setbacks to the rear where there was a more sensitive interface with neighbours, and the smaller setback was mitigated by larger areas of the building significantly exceeding the setback control. This also articulated the form, with a consequential improvement compared to a uniform yet complying front setback. In terms of the south-eastern side setback, this is to a part of the site that is not likely to lead to privacy, visual and interface issues with likely redevelopment of the adjoining site. The setbacks elsewhere also allowed reasonable amenity to be provided within the site, without relying on “borrowing” amenity from other sites.

The loss of trees was unfortunate, but to be expected given the planning controls and vision for the area within the planning controls. This could be mitigated by street planting and additional planting elsewhere, through additional conditions imposed by the Panel.

While supportive of the positive elements of the proposal, Mayor Jane Smith disagreed with the majority decision due to non-compliance with parking requirements, concerns about the resulting shortage of parking, the potential adverse precedent and as parking demand was likely to increase with outdoor dining, which was not factored into the parking generation rates used.

### **CONDITIONS**

The development application was approved as a deferred commencement consent Section 80(3) of the EPA Act 1979, subject to the following terms:

The applicant shall submit plans and accompanying information to Council within 12 months of the date of the deferred commencement consent, which addresses, to the written satisfaction of Council, the following matters:






1. The provision of 5 additional parking spaces in the eastern corner of the basement carpark (where the current storage areas are).
2. The retention of 47 cars for residents, and the additional 5 spaces being added to the other 7 visitor spaces for residents to provide a total of 12 shared residential/commercial visitor spaces. These spaces shall be provided with the 14 commercial spaces in the area at the base of the entry ramp, with consequential changes to the entrance and security arrangements.
3. Details of alternative storage arrangements for units to compensate for the loss of storage.
4. The rearrangement required from 2 above shall be accompanied by an operational plan of management to outline security and access arrangement, hours of access, line marking, signage, ability to enter and leave carpark in a forward direction including provision for turning if carpark is full upon entry, disability access and the like.
5. The submission of an arborists report to verify that all trees on adjoining sites will be able to survive during and after construction of the proposed carpark (noting at least one tree adjoining the northern corner did not appear to be addressed by the submitted report), with any recommendations regarding the basement to ensure this is achieved.
6. Provision of details regarding glazing (to be clear, not tinted) and finishes to avoid any high reflectivity, with otherwise neutral and not stark colours.

(Reason: to ensure additional parking given the undersupply against Council’s DCP rates, rational sharing of visitor spaces and details to ensure retention of adjoining trees and an appropriate finish to the building).

Upon the satisfaction of the above matters, an operational consent will be issued, subject to the conditions in the Council assessment report, subject to amendment arising as a reasonable consequence of considering the above information and details and subject to the following changes to conditions required by the Panel:

- Condition 11 be amended to require the undergrounding of overhead electricity wires around the full frontages of the site, at the applicant/owner’s full expense, and reconstruction of footpaths to meet Council specifications (Reason: as this would improve the setting of the site and views from units and is reasonable given the nature and scale of the proposal);

- A new condition requiring the applicant to plant a total of double the number of trees to be removed from the site, as part of the street tree planting required by Condition 11 and further planting in a public area (subject to Council's agreement), prior to issue of the first Occupation Certificate (Reason: to appropriately offset the loss of trees). These plantings to consist of mature local provenance, native trees;
- A new condition to require the ventilation of ground level shops to be ducted to the roof level, to be detailed in the application for a Construction Certificate (Reason: as this was advised was proposed and assists in dispersal of fumes and smells);
- Condition 21 be amended to require the details to be included in the application for a Construction Certificate (Reason: to ensure the CC details show the recommended access measures within the DA);
- Condition 85 include a statement that any changes to hours would need a development application along with the proposed use of ground level spaces (Reason: for clarity and for the hours to be considered together with the proposed uses).

PANEL MEMBERS	
 Jason Perica (Chair)	 Cr. Jane Smith
 Kyle MacGregor	 Kara Krason
 Michael Leavey	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017HCC003 – Central Coast - DA/7/2017
2	PROPOSED DEVELOPMENT	Mixed use, shop top housing development including food and drink premises and a neighbourhood shop (4 tenancies), 36 residential dwellings and basement parking.
3	STREET ADDRESS	5-8 Beach Parade Canton
4	APPLICANT/OWNER	Real Built P/L
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy No. 65 – Design quality of Residential Apartment Development</li> <li>State Environmental Planning Policy No 71 – Coastal Protection and Draft SEPP (Coastal Management) 2016</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy No 55 – Remediation of Land</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>Draft State Environmental Planning Policy (Coastal Management) 2016</li> <li>Wyang Local Environment Plan 2013</li> </ul> </li> <li>Development control plans: <ul style="list-style-type: none"> <li>Wyang Development Control Plan 2013</li> </ul> </li> <li>Provisions of the Environmental Planning and Assessment Regulation 2000</li> <li>Section 79C of the EPA Act 1979</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the Environmental Planning and Assessment Act 1979 and Regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 30 November 2017</li> <li>Written submissions during public exhibition: Two</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>Support – Nil</li> <li>Object – Adrian Abbott</li> <li>On behalf of the applicant – Goran Stojanovic, Jason Young, George Mather</li> </ul> </li> </ul>
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing meeting 27 April 2017</li> <li>Site inspection and briefing meeting 14 December 2017</li> <li>Final briefing meeting to discuss Council's recommendation, 14 December 2017 at 1:30 pm. Attendees: <ul style="list-style-type: none"> <li>Panel members: Jason Perica (Chair), Kara Krason, Michael Leavey, Cr. Jane Smith, Cr. Kyle MacGregor</li> <li>Council assessment staff: Tanya O'Brien, Emily Goodworth, Salli Pendergast, Masa Kimura</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report