

DETERMINATION AND STATEMENT OF REASONS
HUNTER AND CENTRAL COAST JOINT REGIONAL PLANNING
PANEL

DATE OF DETERMINATION	12 June 2018
PANEL MEMBERS	Jason Perica (Chair), Michael Leavey and Kara Krason
APOLOGIES	None
DECLARATIONS OF INTEREST	Sandra Hutton, who had a Conflict of Interest (COI) as the firm she works for is the planning consultancy for the applicant and Justin Hamilton, who did an original architectural scheme for the site that was purchased by the owners. NB – since the December deferral Councillor Gilbert is no longer a member of the Panel.

Public meeting held at Lake Macquarie City Council, 126-138 Main Road, Speers St on 7 December 2017, opened at 5pm and closed at 8.10pm. Subsequent determination meeting by electronic means, including updated report dated 26 April 2018 and staff briefing on 8 June 2018.

MATTER DETERMINED

2017HCC010 – Lake Macquarie - DA/675/2017 - 482 The Esplanade, Warners Bay – Mixed Use Development (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 in accordance with Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979.

The decision was 2:1, against the decision was Ms Kara Krason who considered the proposal should be refused.

REASONS FOR THE DECISION

The site is subject to a height limit of 22m, for which there are some relatively minor non-compliances. The variation(s) are supported by a Clause 4.6 Variation request, which Council staff considered was justified and well founded. The Panel viewed the site and considered the applicant's variation request. The proposal does include an additional level beyond the number of storeys nominated in the Council's DCP. Despite this, there are aspects of good or high internal amenity and the height and scale was generally as encouraged by the detailed planning controls within the DCP (with the exception of some setback controls). The Panel was satisfied the Clause 4.6 request was well founded and that there were sufficient grounds to support the proposed height non-compliance having regard to Clause 4.6 of Lake Macquarie Local Environment Plan 2014.

The Panel had regard to the revised proposal following the previous deferral in December 2017. While not all the matters required to be amended had been met, the proposal was considered to reasonably respond to the site, context/setting and applicable planning controls, resulting in an appropriate development of the site.

The Panel generally agreed with the Council staff assessment and had regard to ongoing comments from the Council's Design Review Panel. The Panel noted revision of the RMS position was a positive outcome.

Kara Krason disagreed with the majority decision for the following reasons:

- Proposal does not satisfactorily meet the design quality principles of SEPP 65, including context, built form and scale, landscape, amenity and aesthetics.
- The proposed additional storey to the DCP provision is not supported due to impacts on the amenity of surrounding properties and visual impact from the waterway.
- The proposal fails to adequately respond to the site's proximity and visibility from the waterway both in terms of function and aesthetics.
- The proposal provides insufficient landscaping within the site, particularly side and front setbacks.
- Concern over hours of operation sought for non-residential tenancies and potential noise impacts on neighbouring dwellings.

CONDITIONS

The application be approved subject to the conditions contained in the attachment to the Council staff report dated 26 April 2018.

PANEL MEMBERS	
 Jason Perica (Chair)	 Kara Krason
 Michael Leavey	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017HCC010 – Lake Macquarie - DA/675/2017
2	PROPOSED DEVELOPMENT	Mixed Use Development (Residential Flat Building, Commercial Premises and Associated Works)
3	STREET ADDRESS	482 The Esplanade, Warners Bay
4	APPLICANT/OWNER	YPI Yahov Property Investments (Warners Bay) Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy No 71 – Coastal Protection - State Environmental Planning Policy (Infrastructure) 2007 - Lake Macquarie Local Environment Plan 2014 - Draft environmental planning instruments - Development control plans: - Lake Macquarie Development Control Plan 2014 - Planning agreements: Nil - Section 79C of the EPA Act 1979 - Provisions of the Environmental Planning and Assessment Regulation 2000 - 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 Environmental Planning and Assessment Act 1979 or regulations - The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	- Clause 4.6 Variation Request - Council assessment report - 16 November 2017 - Council's supplementary report - 26 April 2018 - Written submissions during public exhibition: 18 Submissions from 13 Authors - Correspondence from Water NSW (General Terms of approval)
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	- Briefing Meeting 27 July 2017 - Site inspection & Final Briefing Meeting - 7 December 2017 - Public meeting – 7 December 2017

		• Briefing meeting – 7 June 2018 • Electronic Meeting – 12 June 2018.
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment with the report dated 26 April 2018