

DATE OF DETERMINATION	Thursday 20 December 2018
PANEL MEMBERS	Jason Perica (Chair), Julie Savet Ward & Cr John Mackenzie
APOLOGIES	Michael Leavey, Kara Krason & Cr Jason Dunn
DECLARATIONS OF INTEREST	None

Papers circulated electronically between 18 December 2018 and 20 December 2018.

MATTER DETERMINED

2017HCC020 – Newcastle City Council – DA2018/00787 at 317 Wharf Road Newcastle (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to refuse the development application pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*.




The decision was unanimous.

REASONS FOR THE DECISION

1. The proposal has failed to exhibit design excellence in accordance with Clause 7.5 – Newcastle City Centre Design Excellence of the *Newcastle Local Environmental Plan, 2012* [Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*];
2. The excess in parking is not supported given the proposed use and location, and given the proposal should reasonably provide active uses in the main façade presentation to Wharf Road, having regard to the need to exhibit design excellence and the parking provisions of Section 7.03 of the Newcastle Development Control Plan, 2012 [Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act, 1979*];;
3. The proposal has failed to provide a minimum 6 metre setback from the western allotment boundary for Levels 4 and above in accordance with Section 6.01.02, Part A2 of the Newcastle Development Control Plan, 2012 [Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act, 1979*]. This setback would improve the streetscape presentation, separation between buildings, view sharing and help mitigate the visual impact arising from the length of the building;
4. The design does not support the proposed boarding house/student housing use, with inadequate communal spaces and break out areas throughout the building, which are important due to its size. A previous approval for a different use does not justify the proposal, which must be considered on its own merits; and inadequate natural ventilation and amenity for study students in each room.
5. The proposal has failed to provide an adequate Plan of Management to demonstrate the likely social and economic impacts in the locality [Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act, 1979*];
6. The proposal has failed to provide sufficient information to enable proper consideration of the application and its likely impacts in response to the Terms of Deferral issued by the Hunter & Central Coast Regional Planning Panel issued on Thursday 1 November 2018 including matters

relating to a view impact analysis [Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act, 1979*];

7. Due to the above reasons, the site is not considered to be suitable for the proposed development [Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act, 1979*];
8. Due to the above reasons, the proposal is not considered to be in the public interest [Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act, 1979*].

PANEL MEMBERS	
	
Jason Perica (Chair)	Julie Savet Ward
	
Cr John MacKenzie	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017HCC020 – Newcastle City Council – DA2017/00787
2	PROPOSED DEVELOPMENT	Demolition of structures and construction of an eight-storey student accommodation (boarding house) development, comprising 165 rooms, manager's room, conference rooms, café, lobby and office with on-site parking for 90 vehicles, 35 motorcycles and 38 bicycles
3	STREET ADDRESS	317 Wharf Road Newcastle
4	APPLICANT/OWNER	Hosking Munro Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million (DA lodged prior to 1 March 2018)
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Affordable Rental Housing) 2009 State Environmental Planning Policy No.55 – Remediation of Land State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 Draft State Environmental Planning Policy (Coastal Management) 2016 Newcastle Local Environmental Plan 2012 Newcastle Development Control Plan 2012 Section 94A Development Contributions Plan 2009 Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> 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: 25 October 2017 Written submissions during public exhibition: 31 including 1 support Terms of Panel deferral 1 November 2018 Memo from Newcastle Council dated 11 December 2018
8	PAPERS CIRCULATED ELECTRONICALLY	Papers were circulated electronically between Tuesday 18 December 2018 and Thursday 20 December 2018.
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report