

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	20 September 2018
PANEL MEMBERS	Michael Leavey (Acting Chair), Kara Krason, Stuart McDonald, Jason Pauling and Justin Hamilton
APOLOGIES	Nil
DECLARATIONS OF INTEREST	Jason Perica declared a non-pecuniary interest as he is working on a DA in Sydney involving Bunnings, and while they are not his client it could lead to a perception of conflict.

Public meeting held at Lake Macquarie Council on 20 September 2018, opened at 2.00pm and closed at 4.30pm.

MATTER DETERMINED

Panel Ref: 2017HCC021 - LGA – Lake Macquarie Council – DA/251/2013/A AT 20 Pacific Highway, Bennetts Green (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 meeting and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to allow the applicant to confer with Council staff to clarify the staging and boundaries of the development, and also adjourned to deliberate on the matter and formulate a resolution.

The Panel determined to modify the development consent as described in Schedule 1 pursuant to section 4.55(2) of the Environmental Planning and Assessment Act 1979, subject to conditions.

The decision was Unanimous.

REASONS FOR THE DECISION

The Panel generally agreed with the environmental assessment within the Council staff assessment report.

The Panel was satisfied the modified proposal is substantially the same development as the development for which consent was originally granted, and that the considerations under section 4.55(2) of the Act have been satisfied.

The Panel was satisfied the proposal has merit and will provide additional services for the surrounding areas. The proposal is consistent with planning controls applying to the site, and relevant authorities have been consulted as part of the application. In particular, Roads and Maritime Services has agreed to the proposed access arrangements and appropriate conditions of consent have been included. The Panel noted the proposed pedestrian access between the Pacific Highway and South Street, and supports this. The Panel also had regard to the environmental assessment that was undertaken, and the support and concurrence of the Office of Environment and Heritage for the new translocation zone for the *Grevillea parviflora* subsp. *Parviflora* (Gpp).

The Panel considered the northern interface of the Bunnings development that adjoins residential zoned land, and was satisfied with the proposed treatment of this frontage, including setbacks and materials, and having regard to proposed screen landscaping in the setback area and road reserve.

The Panel made changes to recommended conditions to clarify the staging and boundaries of the development, to reflect RMS supported changes to the roundabout off the Groves Road intersection, to ensure suitable service vehicle access is available to Lot 2 ahead of approval of works on Lot 3 and to ensure that service delivery vehicles do not impact on the amenity of adjoining residential properties in South Street outside of the hours of operation of the loading dock.

In terms of considering community views, the Panel agreed with the staff assessment of the issues raised. The Panel had regard to the further submission from the Mount Hutton & Windale Residents Action Group, and felt that no change was required to recommended condition 26A on the basis of the differences in trolley use between the proposal and uses such as a supermarket, and given that a coin/ token operated system is only one of the options available and is not being mandated by the condition.





CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report (as amended) with the following amendments:

- Amendment of Condition 3 to:
 - (i) amend the Overall Site Plan reference to Drawing Number ATP-200 Version 2, Issue P00, dated 22 May 2017;
 - (ii) insert the following new condition 3(a): *“Prior to the issue of any construction certificate the Overall Site Plan is to be amended such that the Table refers to the correct lot numbers, and having regard the development description in Condition 8”*; and
 - (ii) insert the following new condition 3(b):
Amended Plans
The person having the benefit of this consent is to:
 - (a) *submit to Council for approval amended Architectural, Civil and Landscape plans that incorporate the changes to the internal roundabout off the Groves Road intersection as detailed in Drawing Number ATP – 200 – Option 2, Revision P00, dated 22 May 2017 in project number 316137 by Buchan, and*
 - (b) *submit to Council and Roads and Maritime Services for approval Architectural, Civil and Landscape plans that provide a temporary vehicular access between the internal roundabout off the Groves Road intersection and the service road to the rear of the Lot 2 Bulky Goods and Family Restaurant to enable suitable service access to be provided for Lot 2 until such time as any consent is issued for access works on Lot 3 consistent with Drawing Number ATP – 200 – Option 2, Revision P00, dated 22 May 2017 in project number 316137 by Buchan.**The first or any Construction Certificate, excluding a Construction Certificate for site clearing and bulk earthworks, shall not be released by the Principal Certifying Authority without evidence of Council having approved the amended Architectural, Civil and Landscape plans.*
- Amendment of Condition 8 to:
 - (i) insert the following words after “Lot 3 Bulky Goods Units” in Stage 1A: *“including intersection upgrade at Lake Street, Service Road at the rear of Lot 3 Bulky Goods units,*

Car parking, Access ways and Landscaping associated with lot 3 Bulky Goods Units, and public domain works for the frontage of Lot 3 (concept approval only – see Stage 1B)”; and

- (ii) To delete the listed “Stage 1C” works, and insert instead the following words: “The Service Station and Take Away Food & Drink Premises is specifically excluded from this Development Consent, and is subject to separate Development consent.
- Deletion of condition 13A (now incorporated in new Condition 3b) and re-number condition 13B to condition 13.
- Amendment of Condition 51 to add the following new paragraph at the end of the condition: “*Delivery trucks are not to park in South Street outside of the approved loading dock operating hours with engines or mechanical plant running.*”

PANEL MEMBERS	
 Michael Leavey (Acting Chair)	 Kara Krason
 Stuart McDonald	 Justin Hamilton
Approved by email 21/9/2018 Jason Pauling	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	Panel Ref: 2017HCC021 - LGA – Lake Macquarie Council
2	PROPOSED DEVELOPMENT	Building products warehouse and showroom, bulky goods premises, restaurant, signage, demolition and consolidation/subdivision as a staged development.
3	STREET ADDRESS	Lot 1 DP 1214343 (formerly 4B South Street, Windale – Lot 10 DP 1013486, Lot 11 DP 1013486, Lot 12 DP 1013486, Lot 13 1013486, Lot 14 DP 1013486 DA/251/2013/A AT 20 Pacific Highway, Bennetts Green
4	APPLICANT/OWNER	Applicant – Bennetts Green Spotlight 2 Pty Ltd C/O Urbis Owner – Bennetts Green Spotlight Property 2 Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	The Section 4.55(2) application relates to development approved under 2013HCC002 which was assessed by the JRPP based on a CIV of \$38 million and the owner of the land at the time being Lake Macquarie City Council (hence being above the \$5 million threshold for Council Related Development)

6	RELEVANT MANDATORY CONSIDERATIONS	<p>Environmental planning instruments:</p> <ul style="list-style-type: none"> • Lake Macquarie Local Environmental Plan 2014 • State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55) • State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) • State Environmental Planning Policy No 65 – Advertising and Signage • Lake Macquarie Development Control Plan 2014 • 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 • Any 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: September 2018 • Written submissions during public exhibition: 2 • Further submission from the Mount Hutton & Windale Residents Action Group, provided to Panel Members on 17 September 2018 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Support – Nil ○ Object – Nil ○ On behalf of the applicant – Travis Reid, Alison Brown and Josh Hollis
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site Inspection – 20 September 2018 • Final briefing meeting to discuss council’s recommendation, 20 September 2018 from 1.00pm to 2.00pm. • Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Michael Leavey (Acting Chair), Kara Krason, Stuart McDonald, Jason Pauling and Justin Hamilton ○ <u>Council assessment staff</u>: Brian Gibson, Robyn Pollock, Steven Cowen, Timothy Mitchell, Ruth Hallett, Elizabeth Lambert. Briefing Only: Chris Baker, Chris Dwyer, Glen Mathews, Kirra Williams
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Updated conditions (Amendment A), provided to Panel Members by email on 19 September 2018.

