

RECORD OF DEFERRAL

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	Thursday, 14 February 2019
PANEL MEMBERS	Jason Perica (Chair), Michael Leavey, Kara Krason, Mayor Bob Pynsent and Cr Anne Sander
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Cessnock City Council on 14 February 2019, opened at 5.00pm and closed at 6.45pm.

MATTER DEFERRED

2017HCC057 – Cessnock City Council – DA8/2017/662/1 at Palmers Lane, Pokolbin (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 adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to defer the development application for subsequent determination, which may be by electronic means.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel was supportive of the use for the site.

Conceptually, the Panel was supportive of the proposal, for the following main reasons:

- The environmental impacts had been appropriately addressed by the applicant and the Council staff.
- While there were some flooding constraints, the proposed access and siting appropriately balances various environmental considerations applicable to the site. As for many surrounding similar uses, in the event of a flooding event, evacuation is considered manageable, although evacuation procedures are very important in detail and communication (to be approved). Importantly, the location of the accommodation and supporting facilities are on high ground, with flooding affectation limited to access roads. The self-sufficient accommodation and supporting buildings, facilities and uses on high ground would conceptually enable any occupants on site to await abatement, if the prior warning system does not enable avoidance.
- The use is permissible in the zone and consistent with the zone objectives.
- The use has the potential to be a significant asset for the area and region, with very limited impacts upon others.
- No development standards are breached.
- The proposal would have positive economic and social impacts.
- The proposal adopts a very well-considered design and landscape response.
- The siting is appropriate for the topography, setting and constraints of the site.
- The biodiversity outcomes for the site are positive, with removal of a very limited number of trees, retention of all hollow-bearing trees and significant restorative planting.
- There would be very limited visual impacts to surround land (public and private).
- Impacts, where they exist, can generally be mitigated by conditions of consent.

Despite conceptual support, the Panel was of the view the Flooding Evacuation Plan should be provided and reviewed by Council and the Panel prior to determination, rather than via condition of consent, due to its importance. This warranted deferral of the application for subsequent determination, which may be by electronic means.

There was some discussion by the Panel about the need to verify BCA compliance of the sanitary facilities for the function centre, although the majority view was this can be determined at the Construction Certificate stage. Discussion also occurred regarding some detail being in the architectural plans and some on the landscape plans (the latter linked to the ground floor and around buildings). While unconventional, this was not a reason for a lack of support or review. Similarly, some landscape, recreational and service facilities were not fully detailed. However, sufficient details existed to enable environmental assessment of likely impacts and the Panel was satisfied and supportive of the design intent.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The issues of concern were appropriately summarised in the Council assessment report and the Panel generally agreed with the Council staff assessment of the issues raised. In response to some main concerns raised in submissions and at the meeting, the Panel considered:

- the flooding issues were manageable, while appropriate consideration of impacts was undertaken within submitted documentation and review by Council, and the proposal was an appropriate response to this constraint, subject to submission of an emergency evacuation plan and appropriate other conditions;
- the concerns regarding visual impacts to be over-stated and very minor, having regard to the context, topography, vegetation and siting;
- the primary use to be properly characterised as serviced apartments;
- the access arrangements to be appropriate (subject to augmentation as required by conditions);
- the parking and traffic impacts to be acceptable and relatively minor;
- Amenity impacts from noise and lighting to be relatively minor and acceptable (with noise impacts addressed by an expert review and conditions of consent); and
- Infrastructure able to support the proposal, or be augmented through appropriate conditions.

The concerns raised did not warrant refusal of the application, while a concern about safety in evacuation was shared by the Panel and addressed by the decision.

TERMS OF DEFERRAL

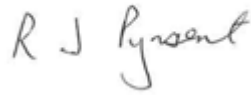
The development application be deferred, and the applicant be invited to submit a Flooding Emergency Evacuation Plan for subsequent review by Council staff and the Panel. This report should be prepared by a qualified flooding expert and be submitted within 4 weeks of publication of this decision. The Plan should address (but not be limited to): flooding along the internal access route as well as on Gillards Road external to the site, methods for monitoring flood levels and thresholds for activation of the evacuation plan, emergency services access to the site during flood event, evacuation procedures, processes, communication to occupants (including multi-lingual), website advice, maintenance of emergency supplies, back-up power and water, signposting, liaison with relevant authorities, monitoring and review. A subsequent report shall be prepared by Council staff for consideration of the Panel, which may be by electronic means. This report shall address the Evacuation Plan submitted and also consider the following matters, if approval is recommended:

- Inclusion of the GTAs by NRAR;
- Prohibition on strata-titling;
- Specifying the approved use, and conditions to limit any long-stay within accommodation;
- Condition(s) to address automatic switch off of lighting in the function centre and common/external areas
- Location of ancillary structures (ie machinery and storage sheds)

PANEL MEMBERS



Jason Perica (Chair)



Mayor Bob Pynsent



Kara Krason



Michael Leavey

Cr Anne Sander

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017HCC057 – Cessnock City Council – DA8/2017/662/1
2	PROPOSED DEVELOPMENT	Construction of tourist accommodation (72) units including a function centre and ancillary works.
3	STREET ADDRESS	Palmers Lane, Pokolbin
4	APPLICANT/OWNER	Hephzibah Hunter Valley Pty Ltd c/o JW Planning
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million (DA lodged prior to 1 March 2018)
6	RELEVANT MANDATORY CONSIDERATIONS	• Environmental planning instruments: ○ State Environmental Planning Policy No 44 – Koala Habitat Protection ○ State Environmental Planning Policy No 55 – Remediation of Land ○ State Environmental Planning Policy No 64 – Advertising and Signage ○ State Environmental Planning Policy (Rural Lands) 2008 ○ Cessnock Local Environmental Plan 2011 • Cessnock Development Control Plan 2010 • 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	• Council assessment report: 22 October 2018 • Written submissions during public exhibition: 7 • Verbal submissions at the public meeting: ○ Objector - Ian Scarborough ○ On behalf of the applicant – Jason Wasiak
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Site inspection and briefing: Thursday, 14 February • Final briefing to discuss council's recommendation, Thursday, 14 February 2019, 3:50pm. Attendees: ○ <u>Panel members</u>: Jason Perica (Chair), Michael Leavey, Kara Krason, Mayor Bob Pynsent & Cr Anne Sander ○ <u>Council assessment staff</u>: Richard Forbes and Jules Bosco
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report