

DATE OF DETERMINATION	Thursday 29 November 2018
PANEL MEMBERS	Jason Perica (Chair), Michael Leavey, Lindsay Fletcher, Cr John MacKenzie & Cr Matthew Byrne
APOLOGIES	Kara Krason & Cr Jason Dunn
DECLARATIONS OF INTEREST	Lindsay Fletcher and Cr Matthew Byrne made discretionary disclosures regarding matters that did not constitute a Conflict of Interest or reasonably perceived conflict of interest

Public meeting held at Travelodge Newcastle 12 Steel Street, Newcastle West on 29 November 2018, opened at 4:00pm and closed at 6.20pm.

MATTER DETERMINED

2017HCC059 – Newcastle City Council – DA2017/01546 at 6 & 8 Lingard Street Merewether (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 refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

DECISION

The Panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*, for the following reasons:

1. The proposed height and scale of the development is not consistent with the standards and objectives of the Newcastle Local Environmental Plan 2012 with respect to building height and floor space ratio. [Section 4.15(1)(a) Environmental Planning and Assessment Act 1979]. The Panel has not been satisfied the applicant has demonstrated there are sufficient environmental planning grounds to justify the proposed contraventions to the development standards.
2. The proposed development is not acceptable in terms of land contamination as it has not been demonstrated the site is suitable for the development having regard to the provisions of State Environmental Planning Policy 55 (Remediation of Land). [Section 4.15(1)(a) Environmental Planning and Assessment Act 1979].
3. The proposed development is not consistent with the provisions of Newcastle Development Control Plan 2012 with respect to parking and parking impacts. [Section 4.15(1)(a) & (b) Environmental Planning and Assessment Act 1979].
4. The proposed development is not consistent with the provisions of Newcastle Development Control Plan 2012 with respect to servicing, loading and waste provisions and impacts. [Section 4.15(1)(a) & (b) Environmental Planning and Assessment Act 1979].
5. Submissions received in response to public notification of the development application have raised issues of a nature and extent that establish that the proposed development will have unreasonable impacts in terms of character, height, bulk, scale and parking. [Section 4.15(1)(d) Environmental Planning and Assessment Act 1979].

6. The proposed variations to the height and FSR is considered to not be in the public interest.
[Section 4.15(1)(e) Environmental Planning and Assessment Act 1979].





REASONS FOR THE DECISION

The reasons are provided in the decision above.

The Panel was supportive of the use and the overall suitability of the site for the proposed use. The Panel noted and accepted the contribution medical uses and services have within the local and regional community. However, this needed to be differentiated from the proposed building form, scale, height and design of the specific development proposal.

It was noted that an objective for both the FSR and height standard related to the scale of a proposed building making a positive contribution to the area. The Panel noted that the bulk and scale was magnified by the provision of ground level parking, which also cause a less-than-ideal interface and activation of the public domain (along with a long servicing area on Lingard Street). The building had minimal modulation and setbacks and would appear bulky in its surrounds from front and side views.

The Panel noted and supported any efforts by the hospital to plan for growth in a coordinated and master planned way. An SSD application had been made for adjoining sites (SEARs issued) and this may assist in longer term planning. However, with any substantial growth and potential revision or substantial changes to core planning controls, this should rationally involve a wider perspective of the area and precinct, so the coordinated growth of medical uses in the area and precinct along with other uses and future growth, could be considered holistically. These comments are made as observations and are not determinative to the decision made on the merits of the development proposal decided above.

PANEL MEMBERS	
 Jason Perica (Chair)	 Michael Leavey
 Lindsay Fletcher	 Cr John MacKenzie
Approved via email 5/12/18 Cr Matthew Byrne	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017HCC059 – Newcastle City Council – DA2017/01546
2	PROPOSED DEVELOPMENT	Alterations and additions to car park to include medical centre.
3	STREET ADDRESS	Lot 1 DP 1027546, Lot 2 1027546, Lot 3 DP102756 and Lot 7 DP 741487 6 & 8 Lingard Street Merewether
4	APPLICANT/OWNER	Applicant/Owner: Vital Healthcare Australian Property Pty Ltd; KDC Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
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 (Infrastructure) 2007 State Environmental Planning Policy No.55 – Remediation of Land State Environmental Planning Policy No. 71 – Coastal Protection Newcastle Local Environmental Plan 2012 Draft environmental planning instrument Development control plans: <ul style="list-style-type: none"> Newcastle Development Control Plan 2012 Section 94A Development Contributions Plan 2009 Planning agreement Provisions of the <i>Environmental Planning and Assessment Regulation 200</i> Coastal zone management plan 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: 15 November 2018 Written submissions during public exhibition: Four Verbal submissions at the public meeting: <ul style="list-style-type: none"> Support – None Object - None On behalf of the applicant – Rohan Dickson, Benjamin Young, Stephen Sinclair, Paul Laich, Warwick Crosby & Mark Sweeney
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection and briefing Thursday 29 November 2018 Final briefing to discuss council's recommendation, Thursday 29 November 2018, 3:30pm. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Jason Perica (Chair), Michael Leavey, Lindsay Fletcher, Cr John MacKenzie & Cr Matthew Byrne <u>Council assessment staff</u>: Damain Jarger
9	COUNCIL RECOMMENDATION	Refusal